

2006

LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

**SUPPLEMENTARY
EXPLANATORY STATEMENT**

CIVIL LAW (PROPERTY) BILL 2005

**Circulated by the authority of
Simon Corbell MLA
Attorney General**

GOVERNMENT AMENDMENT TO THE CIVIL LAW (PROPERTY) BILL 2005

Supplementary Explanatory Statement

This supplementary explanatory statement relates to Government amendments to consequential amendments in Schedule 1 at clauses 1.4, 1.5 and 1.8 in the Civil Law (Property) Bill 2005 as introduced into the ACT Legislative Assembly.

Outline of Provisions

The Government amendments relocate section 62 of the *Law Reform (Miscellaneous Provisions) Act 1995* (to be repealed by the Civil Law (Property) Bill 2005) to new section 81 of the *Court Procedures Act 2004*. New section 81 empowers the Court to inquire into the truth of the matters set forth in a writ of habeas corpus when it is returned to the Court.

Notwithstanding that the new *Court Procedures Rules 2006* have dealt with the way in which a writ of habeas corpus is processed, it is appropriate to retain section 62 as principal legislation, in addition to the Rules, because of its historical and legal significance.

Clause 1.4 Sections 80A to 82

This clause replaces clauses 1.4 and 1.5 of Schedule 1 of the Civil Law (Property) Bill 2005 with new clause 1.4. Clause 1.4 renumbers sections 80A to 82 as sections 81 to 83 of the *Court Procedures Act 2004* to facilitate the relocation of former section 62 of the *Law Reform (Miscellaneous Provisions) Act 1995* which is being repealed by this Bill.

Clause 1.8 Section 62

This clause replaces clause 1.8 of Schedule 1 of the Civil Law (Property) Bill 2005 with new clause 1.8 which relocates section 62 of the *Law Reform (Miscellaneous Provisions) Act 1995* to new section 80A which will be renumbered as section 81 of the *Court Procedures Act 2004*.