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**THE LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

ELEVENTH ASSEMBLY

CITY AND ENVIRONMENT LEGISLATION AMENDMENT BILL 2026

REVISED EXPLANATORY STATEMENT

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CITY AND ENVIRONMENT LEGISLATION AMENDMENT BILL 2026

INTRODUCTION

This revised explanatory statement (the **statement**) relates to the City and Environment Legislation Amendment Bill 2026 (the **bill**) as presented to the ACT Legislative Assembly. It has been prepared to assist the reader of the bill and to help inform debate. It does not form part of the bill and has not been endorsed by the Assembly.

The statement must be read in conjunction with the bill. It is not, and is not meant to be, a comprehensive description of the bill. What is said about a provision is not to be taken as an authoritative guide to the meaning of a provision, this being a task for the courts.

The bill **is not** a Significant Bill. Significant Bills are bills that have been assessed as likely to have significant engagement of human rights and require more detailed reasoning in relation to compatibility with the *Human Rights Act 2004* (the **HR Act**).

This explanatory statement has been revised to address comments made by the Standing Committee on Legal Affairs (Legislative Scrutiny Role) in Scrutiny Report 18.

OVERVIEW OF THE BILL

This bill is an omnibus bill to enable minor policy, technical and administrative amendments to legislation administered by the City and Environment Directorate and the Justice and Community Safety Directorate. Omnibus bills enable the government to keep the statute book up-to-date and clear.

This bill makes amendments to the:

- *Cemeteries and Crematoria Act 2020*;
- *Electoral Act 1992*;
- *Heavy Vehicle National Law (ACT) Act 2013*;
- *Road Transport (Offences) Regulation 2005*; and
- *Road Transport (Safety and Traffic Management) Regulation 2017*.

The bill makes amendments to:

- clarify requirements of crematorium licensees under the *Cemeteries and Crematoria Act 2020* for notifying the collection of cremated remains. This will safeguard the storage and handling of cremated remains in a manner that is respectful of the grieving period for families suffering the loss of a loved one;
- clarify record-keeping requirements for crematorium licensees;

- implement recommendation 3 of the ACT Electoral Commission's [Report on the ACT Legislative Assembly Election 2024](#) by amending the *Electoral Act 1992* to allow public consultation on the redistribution of electoral boundaries to commence 2 years and 1 month prior to an ACT ordinary election;
- omit a provision in the *Heavy Vehicle National Law (ACT) Act 2013* that is obsolete because it refers to a repealed provision in the Heavy Vehicle National Law;
- omit a reference in the *Road Transport (Offences) Regulation 2005* to a traffic offence detection device for infringement notice offences by corporations. This futureproofs the provision to allow for technological advances in offence detection. This does not extend to parking offences; and
- clarify requirements in the *Road Transport (Safety and Traffic Management) Regulation 2017* for accuracy tolerance of speed measuring devices used by ACT Policing. This will allow for both 2% and 2km/h accuracy tolerance, depending on device specifications.

CONSULTATION ON THE PROPOSED APPROACH

Consultation on the bill was conducted within the City and Environment Directorate, and with other ACT Government directorates including the Civil Law and Criminal Law Branches and Human Rights Unit in the Justice and Community Safety Directorate. The Regulator of Cemeteries and Crematoria and ACT Policing were also consulted on relevant amendments.

CLIMATE IMPACT

This legislation has been assessed as having no material impact on climate change. None of the amendments contribute to emissions production or abatement within the ACT community nor are there any adaptation impacts against key climate risks to the ACT.

CONSISTENCY WITH HUMAN RIGHTS

During the development of the bill, due regard was given to its compatibility with the rights set out in the HR Act. The bill is not a Significant Bill. Significant Bills are bills that have been assessed as likely to have significant engagement of human rights and require more detailed reasoning in relation to compatibility with the HR Act.

Rights engaged

The bill does not engage human rights to a significant extent. However, the bill does broadly promote the following rights under the HR Act:

- Section 17 – Right to take part in public life
- Section 9 – Right to life
- Section 11 – Right to protection of the family and children

Rights Promoted

Right to take part in public life – *Electoral Act 1992* amendments

The amendments to the *Electoral Act 1992* will allow the process for redistribution of electoral boundaries in the ACT to be commenced 2 years and 1 month prior to when the next ordinary election is due to be held. This will allow the ACT community to have a longer lead time to prepare for the election, particularly for the process of selecting candidates. This facilitates the ability of individuals to stand for office and campaign, and for voters to inform themselves of the candidates. The effect of this amendment promotes the right to take part in public life by ensuring that ACT residents are better able to participate in public affairs and elections.

Right to life and right to protection of the family – *Cemeteries and Crematoria Act 2020* amendments

The amendments to the *Cemeteries and Crematoria Act 2020* are intended to provide greater clarity on the obligations of crematorium licensees in relation to cremated remains; in particular, the requirements for notifying the family of a deceased person whose remains have been cremated and ensuring the cremated remains are available to be collected in a timely period.

These amendments have been made to ensure that cremated remains are treated in a dignified and respectful way and are not lost or inadvertently discarded. The process of having a loved one's remains cremated can be distressing and usually occurs at a time of grief. These amendments provide safeguards for the family of a deceased person, to ensure they have adequate time to deal with the collection of cremated remains and certainty around what will happen to the remains if they are not immediately collected.

In doing so, the amendments promote the right to protection of the family and children by supporting the family's grieving process. These amendments intend to prevent arbitrary disposal of remains. This is achieved by ensuring family members are adequately notified and given sufficient time to collect cremated remains.

The amendments also promote the right to life by supporting improved conduct and processes for people who have died, ensuring that cremated remains are treated with care and respect.

CLAUSE NOTES

Part 1 Preliminary

Clause 1 Name of Act

This clause names the Act as the *City and Environment Legislation Amendment Act 2026*.

Clause 2 Commencement

This clause provides that the Act will commence on the 7th day after its notification day.

Clause 3 Legislation amended

This clause lists the legislation amended by the Act. The Act will amend the:

- *Cemeteries and Crematoria Act 2020*;
- *Electoral Act 1992*;
- *Heavy Vehicle National Law (ACT) Act 2013*;
- *Road Transport (Offences) Regulation 2005*; and
- *Road Transport (Safety and Traffic Management) Regulation 2017*.

Part 2 Cemeteries and Crematoria Act 2020

Clause 4 Section 25

This clause redrafts existing section 25 of the *Cemeteries and Crematoria Act 2020* to provide clarity to ensure the family of a cremated person has adequate time to collect the cremated remains and certainty of what will happen if the remains are not immediately collected.

Section 25 sets out notification obligations of crematorium licensees. The purpose is to ensure that crematorium licensees provide sufficient notice to, and make reasonable efforts to contact, the family of a cremated person to collect the cremated remains. The provision is also intended to ensure that a reasonable amount of time is allowed for the family of the deceased to collect the cremated remains, before the cremated remains can be disposed of.

Section 25 (2) defines the **retention period** for cremated remains as the 3-year period the licensee must make the remains available for collection, commencing after the applicant has been notified under section 25 (1). If the licensee never notifies the applicant, the retention period will never commence. This in turn means that any of the offences that refer to the retention period would not apply. However, the offences of failing to notify an applicant of the availability of cremated remains, in new sections 25A (1) and 25B (1) will still apply. If the licensee notifies the applicant later than 7 days after the cremation, then the retention period will commence from that notification (see *Legislation Act 2001*, section 152).

New section 25A sets out the offence provisions for crematorium licensees for failing to comply with their obligation under section 25, to notify an applicant or suitable person about collection of cremated remains. New section 25A (1) creates a new offence for crematorium licensees for failing to notify an applicant within 7 days after cremation. New section 25A (2) creates a new offence for crematorium licensees for failing to notify an applicant or suitable person in the method specified in new section 25 (4). These new offence provisions reflect the importance of the obligation on crematorium licensees to ensure that the family of the deceased is properly notified following a cremation.

New section 25B sets out the circumstances where disposal of cremated remains will be an offence for crematorium licensees. This section reframes the existing section 25 to provide certainty for licensees around their obligations to retain cremated remains and the offences attached to failing to do so.

Clause 5 Section 27 heading

This clause substitutes the heading of existing section 27 to correct the heading from 'Offences' to the singular 'Offence'.

Clause 6 Section 27 (2), penalty

This clause corrects a minor drafting error, omitting the statement of the maximum penalty at the end of section 27 (2), as it is already provided in section 27 (1).

Clause 7 Sections 59 to 61

This clause omits the term *keep* and substitutes it with the term *comply with* in sections 59, 60 and 61. This is to better reflect the intent of the provisions that licensees of cemeteries and crematoria must not only make and maintain written procedures but also comply with these procedures.

Clause 8 Section 63A

This clause substitutes existing section 63A to provide recordkeeping requirements for crematorium licensees in relation to their notification obligations under new section 25. This clause creates a new obligation for crematorium licensees to record the date that cremated remains are disposed of, if that action is undertaken. These amendments are consequential to the redrafting of section 25.

Clause 9 Offences—keeping registers Section 64 (1) (b) (iii) and (3) (b)

This clause omits reference in sections 64 (1) (b) (iii) and (3) (b) to *section 63A (Register—cremation collections)* and substitutes it with *section 63A (Register—collection of cremated remains)* as a consequential amendment to reflect the updated heading of section 63A.

Part 3 Electoral Act 1992

Clause 10 Timing of redistributions Section 37 (1) (a)

This clause inserts **and 1 month** after 2 years in section 37 (1) (a) of the *Electoral Act 1992* to provide for the commencement of the electoral distribution process to begin as soon as practicable ahead of when the next ordinary election is due to be held.

This amendment implements recommendation 3 of the ACT Electoral Commission's Report on the ACT Legislative Assembly Election 2024, which recommended that the Electoral Act be amended to provide for the commencement of the next redistribution process 25 months prior to when the next ordinary election is due to be held.

This amendment will implement a practical change which will support the conduct of the Electoral Commissioner and improve public engagement with the consultation process informing redistributions.

Part 4 Heavy Vehicle National Law (ACT) Act 2013

Clause 11 Offences against Heavy Vehicle National Law (ACT)— application of Criminal Code Section 6

This clause omits the reference to section 21 as a consequence of the amendment made by clause 12.

Section 6 now clarifies that the *Criminal Code 2002* applies in relation to offences against the *Heavy Vehicle National Law (ACT) Act 2013*.

Clause 12 Offences for which person charged does not have benefit of mistake of fact defence—the Law, s 14 Section 21

This clause is a technical provision to tidy the statute book. This clause omits section 21 of the *Heavy Vehicle National Law (ACT) Act 2013 (HVNL ACT Act)* as it is no longer required.

The *Heavy Vehicle National Law (ACT) Act 2013* applies the *Heavy Vehicle National Law (HVNL)*, a model national law, in the ACT. The HVNL was passed by the Queensland Parliament and is set out in the schedule to the *Heavy Vehicle National Law Act 2012 (Qld)*.

This clause omits section 21 of the HVNL ACT Act as it contains a reference to section 14 of the HVNL, which no longer exists. Section 14 of the HVNL was removed from the Queensland legislation in 2016.

Section 21 of the HVNL ACT Act currently provides that the mistake of fact defence in the *Criminal Code 2022*, sections 35 and 36 does not apply to a

person charged with an offence under the (former) section 14 of the HVNL ACT Act.

To clarify, the bill does not remove the mistake of fact defence for an offence under the HVNL ACT Act; rather it removes the prohibition on using the mistake of fact defence for a repealed section of the Act and thus has no practical effect and only serves to tidy the statute book.

Part 5 Road Transport (Offences) Regulation 2005

Clause 13 Infringement notice penalties—Act, dict, def *infringement notice penalty*, par (a) Section 6 (2)

This clause substitutes section 6 (2) of the *Road Transport (Offences) Regulation 2005* to omit the reference to a **traffic offence detection device** in section 6 (2) (b).

Currently, section 6 (2) (b) of the *Road Transport (Offences) Regulation 2005* limits the operation of the provision to offences detected by a traffic offence detection device.

Traffic offence detection device is a defined term in section 23 of the *Road Transport (Safety and Traffic Management) Act 1999*. As a result of this specific reference, offences detected by other means, including dashboard cameras or mobile phones, fall outside the scope of the provision.

By removing the reference to the specific detection mechanism, the amendment broadens the application of the provision to offences detected by means other than a traffic offence detection device. This ensures that the provision is not confined to a single type of detection technology and can operate in conjunction with a wider range of accepted evidentiary sources, such as dashboard cameras or mobile phone footage. By allowing for technological advances in traffic offence detection, this amendment is intended to futureproof the provision, as detection methods evolve.

Traffic offences by individuals incur demerit points. If an individual commits a traffic offence while driving a corporate vehicle, to avoid demerit points, the corporation may incur the penalty for the offence instead of identifying the individual driver. The corporate multiplier found in section 6 (2) (b) of the *Road Transport (Offences) Regulation 2005* is intended to impose a prohibitive cost on corporations for traffic offences, deterring corporations from incurring an infringement on behalf of an individual. The corporate multiplier therefore incentivises corporations to identify the individual driver responsible for the traffic offence. This allows demerit points to be applied to the driver, which has the policy intent of deterring unsafe driving practices and encouraging safe road use.

It is noted that, as parking offences do not incur demerit points for individuals, where parking offences are committed in a corporate vehicle, there is not the same disincentive required to identify the individual driver. As a result, it is not

currently necessary to apply the corporate multiplier to parking offences. Parking infringement offences have been expressly excluded to ensure the provision operates as intended, applying only to traffic offences, and not inadvertently expanding the scope of the corporate multiplier.

Part 6 Road Transport (Safety and Traffic Management) Regulation 2017

Clause 14 Testing and maintenance requirements—Act, s 24 (2) (b) Section 16 (2) (a) (i)

This clause amends section 16 (2) (a) (i) of the *Road Transport (Safety and Traffic Management) Regulation 2017* to standardise the accuracy tolerance for speed measuring devices to either 2% or 2km/h accuracy.

Section 24 (2) (b) of the *Road Transport (Safety and Traffic Management) Act 1999* allows a regulation to provide for the testing of a traffic offence detection device. Sections 16 and 17 of the *Road Transport (Safety and Traffic Management) Regulation 2017* provide for these testing and maintenance requirements. The amendments to the regulations prescribing the technical specifications of speed measuring devices does not change the application of provisions related to traffic offence detection devices in the *Road Transport (Safety and Traffic Management) Act 1999*.

Currently, the speed-based distinction in section 16 (2) (a) (i) of the *Road Transport (Safety and Traffic Management) Regulation 2017* requires ACT Policing to assess and test the same device differently depending on operating conditions. This amendment therefore removes uncertainty created by the current speed-based accuracy tolerance framework and replaces it with a device-based framework.

Some speed measuring devices have specifications that make them better suited to a 2km/h accuracy tolerance regardless of speed, while other devices have specifications that make them better suited to a 2% accuracy tolerance in relation to speed. This amendment will therefore provide ACT Policing with greater clarity for accuracy tolerance testing of speed measuring devices, as not all devices are designed for the same level of accuracy tolerance.

While the legislation may appear broader than the current drafting, this will allow for an appropriate level of operational flexibility in the application and use of accuracy tolerance testing for speed measuring devices.

Clause 15 Testing and maintenance requirements for police vehicle speedometer—Act, s 24 (2) (b) Section 17 (2) (a)

This clause amends section 17 (2) (a) of the *Road Transport (Safety and Traffic Management) Regulation 2017* to provide that police vehicle speedometers approved as speed measuring devices must be tested to within an accuracy tolerance of either 2% or 2km/h accuracy.

This amendment, together with the amendment in clause 14, will standardise the accuracy tolerance for all speed measuring devices.

As discussed above in the note to clause 14, some devices have specifications that make them better suited to a 2km/h accuracy tolerance regardless of speed, while other devices have specifications that make them better suited to a 2% accuracy tolerance in relation to speed.

As a result, the amendment will allow ACT Policing to test to the most appropriate accuracy tolerance for the type of speed measuring device.