

2003

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

**STATUTE LAW AMENDMENT BILL 2003 (No 2)
EXPLANATORY STATEMENT**

**Circulated by the authority of
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Background

The objective of this bill is to further enhance the ACT's statute book to ensure that it is of the highest standard. The bill does so by amending and repealing Acts and regulations for statute law revision purposes only.

This bill forms part of the technical amendments program for ACT legislation. Under guidelines for the technical amendments program approved by my Government, the essential criteria for the inclusion of amendments in the bill are that the amendments are minor or technical and non-controversial.

The development of a technical amendments program for ACT legislation was in response to the need for greater flexibility in the drafting of amendments for statute law revision purposes and to minimise costs associated with keeping ACT legislation up-to-date. Statute law amendment bills are an important part of maintaining and enhancing the standard of ACT law. They provide an opportunity to make amendments and repeals that, taken alone, would be insufficiently important to justify separate legislation and are inappropriate to make as editorial amendments under the *Legislation Act 2001*, chapter 11 (which provides for the republication of Acts and statutory instruments). However, the cumulative effect of the amendments and repeals made through a technical amendments program and statute law amendment bills can have a substantial impact on the ACT statute book and the overall quality of ACT law.

The ACT statute book is all ACT legislation taken as a body of law. A statute book that is well maintained significantly enhances access to legislation by making it easier to find in an up-to-date form and easier to read and understand. Statute law amendments under the technical amendments program can greatly assist the process of modernisation of the statute book. Laws need to be kept up-to-date to reflect ongoing technological and societal change.

The bill contains 4 schedules and has been structured to assist the transparency of the amendments and the repeal made by it.

When enacted, this bill will help to improve the quality of the ACT's statute book by making it simpler, more consistent and more coherent, and will help to keep it up-to-date.

Notes on clauses

Clause 1 — Name of Act

This clause provides for the bill's name.

Clause 2 — Commencement

This clause provides for the bill's commencement 14 days after the day it is notified under the *Legislation Act 2001*. This will enable the Parliamentary Counsel's Office to have up-to-date republications of the affected legislation ready for the legislation register on the day the amendments commence.

Clause 3 — Purpose

This clause states the bill's purpose.

Clause 4 — Notes

This clause confirms that an explanatory note in the bill does not form part of the Act when it is enacted.

Clause 5 — Legislation amended—schs 1-3

This clause gives effect to the amendments made by schedules 1 to 3.

Clause 6 — Legislation repealed—sch 4

This clause gives effect to the repeals made by schedule 4.

The clause also declares the *Institute for the Study of Man and Society Incorporation Act 1968* and the instruments mentioned in part 4.4 to be laws to which the Legislation Act, section 88 (Repeal does not end transitional or validating effect etc) applies. This removes any doubt about any ongoing effect of the repealed legislation.

Notes on schedules

Each amendment and the repeal is explained in an explanatory note in the relevant schedule.

Schedule 1 — Minor amendments

Schedule 1 provides for minor, non-controversial amendments initiated by agencies.

The schedule amends the *Building and Construction Industry Training Levy Act 1999* to ensure that the actions of the Building and Construction Industry Training Fund Board for the period 1 November 2002 to 18 July 2003 are not invalid because the notification and tabling requirements under the Legislation Act were not satisfied for all of the appointments made to the board during that period. The members were reappointed by an instrument of appointment beginning on 19 July 2003.

Schedule 2 — Structural amendments of Legislation Act

Schedule 2 provides for non-controversial structural amendments of the *Legislation Act 2001* initiated by the Parliamentary Counsel's Office. All the amendments in schedule 2 are of the *Legislation Act 2001*.

Structural issues are particularly concerned with making the statute book more coherent and concise, and therefore more accessible. Strategies to achieve these objectives include such things as avoiding unnecessary duplication and the maximum degree of standardisation of legislative provisions consistent with policy requirements and operational needs.

Shortening legislation results in less clutter and increased simplicity. Reliance on the standard provisions achieves simplification by eliminating the need to repeat standard technical definitions and other provisions in every Act. Awareness of standard provisions, particularly in the *Legislation Act 2001*, is being promoted by the inclusion of notes in Acts drawing attention to them.

The amendments in the schedule also reflect the process of continuous review and improvement of the operation of the Legislation Act and the enhancement of access to ACT legislation.

The amendments of the commencement provisions clarify, rather than alter, the operation of the provisions. To assist users of the legislation register to know what the law is at any time, the

register provides information about when a law or instrument, or a particular version of a law or instrument, became effective or ceased to be effective. In the absence of a general rule about retrospective commencements, it can be difficult to work out whether a retrospective commencement of a registrable instrument is intended or a registrable instrument is simply notified later than the time that was envisaged. If it is simply notified late the instrument will commence on the day after its notification day. By requiring a clear indication if a retrospective commencement is intended, the amendment will enable questions of that kind to be decided more easily and with greater certainty.

Schedule 3 — Technical amendments

Schedule 3 contains minor or technical amendments of legislation initiated by the Parliamentary Counsel's Office.

The amendments include the correction of minor errors, updating language, improving syntax and other minor changes to update or improve the form of legislation. The schedule also provides for the inclusion of notes for the benefit of users of legislation. This, together with notes in dictionaries, is part of the overall strategy to raise awareness of the impact of the Legislation Act on other legislation.

Schedule 4 — Repeal of redundant legislation

Schedule 4 provides for the repeal of the *Institute for the Study of Man and Society Incorporation Act 1968* (the institute never became a reality) and the *Judgment Creditors Remedies Act 1933* (which was made redundant by an amendment of the *Judiciary Act 1903* (Cwlth)).

The schedule also repeals the *Spent Convictions Regulations 2003* (which are made redundant by a technical amendment in schedule 3 of the bill) and a number of disallowable instruments (which are spent but are not repealed by the automatic repeal provisions of the *Legislation Act 2001* because, for example, of a substantive provision in the instrument). The instruments will be retained on the legislation register but moved to the repealed part of the register. The removal of the spent instruments from the current instruments part of the legislation register will assist users to find the current law more easily by removing unnecessary clutter.