included an evaluation of the administrative protocols and processes between ACT government directorates and an assessment of whether any of the legislative provisions need adjustment.

The Land Rent Amendment Bill 2012 contains a number of legislative amendments that will improve the operation and effectiveness of the scheme. The proposed amendments will maintain the principles of the scheme by keeping a focus on the desired end result, which is to provide greater access to affordable housing in the territory.

The key amendment is to widen the role of Community Housing Canberra in the scheme. Under the current legislation, CHC are only able to participate in the scheme at the standard or four per cent rate. CHC are recognised as an affordable housing provider in the territory and it makes sense that they are able to access the scheme at the discount or two per cent rate, usually available to lower income applicants, to achieve their broader objectives. Allowing CHC to access the scheme at the discount rate will allow them to offer a homeownership product to their tenants, with a target of transition from tenancy to full ownership.

The bill proposes that Housing ACT be excluded from accessing the scheme. For a government-owned agency, the government has more direct and transparent means available to provide finance and support for Housing ACT through the annual budget process.

A key principle of the scheme is to maintain flexibility and allow for changes in the individual circumstances of Canberra households. Under current legislation, households will only have the discount rate applied immediately if they can demonstrate hardship. The bill proposes that any delay in having the discount rate applied is removed. This would mean that all households who apply for the discount rate are able to access it from the date of application, should their circumstances change and they are assessed to be eligible.

The bill also contains other minor amendments in relation to the discount rate that will streamline processes and reduce the administrative burden on the ACT Revenue Office. The proposed amendments to the Land Rent Act 2008 are aimed at improving the operation of the scheme and will allow it to continue to provide a way for Canberrans to own their own home. I commend the bill to the Assembly.

Debate (on motion by Mr Seselja) adjourned to the next sitting.

Human Rights Amendment Bill 2012

Mr Corbell, pursuant to notice, presented the bill, its explanatory statement and a Human Rights Act compatibility statement.

Title read by Clerk.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services and Minister for the Environment and Sustainable Development) (10.20): I move:

PROOF
That this bill be agreed to in principle.

Today I am honoured to introduce groundbreaking human rights legislation into the Assembly. This bill, the Human Rights Amendment Bill 2012, introduces the right to education into the Human Rights Act—a right that we know is highly valued in our community.

This bill reflects the government's responses to the five-year review of the Human Rights Act and the Australian Capital Territory economic, social and cultural rights research project report. It also gives effect to the government's support for many of the carefully considered recommendations in both documents.

Before I speak to the bill, I would again like to express my thanks to all of those involved in preparing the high quality reports that inform these amendments.

The five-year review was positive about the first five years of operation of the Human Rights Act, noting that the act "has operated in subtle ways to enhance the standing of human rights in the ACT". The review made 30 recommendations, intended to "assist the process of strengthening the operation of the Human Rights Act to enhance the operation of the Human Rights Act as a dialogue model". The government fully supports three of those recommendations and supports in part or in principle another 13.

The majority of the agreed recommendations are of a general, administrative nature. These recommendations will inform and shape the policies and operations of public authorities, but it was not considered necessary or appropriate to legislate for these in this bill, given their administrative nature.

The major substantive change to the Human Rights Act deriving from recommendation 4 of the five-year review is that the act will be amended to omit the word "Territory" from section 28(1). Section 28(1) will now read: "Human rights may be subject only to reasonable limits set by laws that can be demonstrably justified in a free and democratic society."

This means that the human rights in the act may potentially be limited by the operation of not only laws passed by the Assembly but also any relevant common law and federal and international laws applicable to the territory, if that limitation can be justified after an analysis of all the relevant factors. As a result, this provision will be more analogous to and consistent with similar limitation provisions in the Victorian Charter of Rights and Responsibilities Act 2006.

The second major amendment in the Human Rights Amendment Bill 2012 arises out of the government's response to the ACT economic, social and cultural rights research project report. This amendment is the inclusion of the right to education, limited to the two immediately realisable aspects we have identified in the bill.

In making this amendment, the ACT will again lead the way on human rights in Australia, being the first and only Australian jurisdiction to recognise an economic,
social or cultural right. The government is committed to a step-by-step approach in realizing this right, an approach that will ensure that the ACT continues to benefit from a coherent and principled human rights framework.

The right to education is found within article 13 of the international covenant on economic, social and cultural rights. The right to education is fundamental to the full enjoyment of many other rights which we have already recognised in the Human Rights Act, such as the right to vote and the right to participate in public life.

Education is essential to gaining and sustaining meaningful employment which is crucial not only to ensure that individuals can fulfil their individual right to housing, food and health, but also in the development of the community as a whole. As the United Nations general comment 13 states:

Education is both a human right in itself and an indispensable means of realizing other human rights. As an empowerment right, education is the primary vehicle by which economically and socially marginalized adults and children can lift themselves out of poverty and obtain the means to participate fully in their communities. Education has a vital role in empowering women, safeguarding children from exploitative and hazardous labour and sexual exploitation, promoting human rights and democracy, protecting the environment, and controlling population growth. Increasingly, education is recognized as one of the best financial investments States can make. But the importance of education is not just practical: a well-educated, enlightened and active mind, able to wander freely and widely, is one of the joys and rewards of human existence.

The scope of the right is well defined within international law and, when included in the Human Rights Act, will require the government to continue to provide free, high quality, primary school education to all children living in the territory.

Recognition of the right to education also means that the government must continue to provide education options for all people living in the territory and maintain the high quality of education currently provided.

Education must be provided in a way that does not discriminate, facilitating greater access to the opportunities education provides for people from all backgrounds.

Inclusion of the right to education does not mean the government has to provide free education to every person in the ACT or to provide free books, uniforms and excursions for every student in public schools. Recognition of the right to education instead ensures access to education without any discrimination that prevents that access.

This means all children can attend primary school and others in our community can access further education and vocational training or continuing training, the key to opportunities for any individual to improve his or her quality of life. It also affirms the right of parents or guardians to choose schooling for their children which is consistent with their religious or moral convictions, provided this schooling is of an appropriate standard.
The government currently fulfils these obligations through the Education Act 2004. The Education Act provides that every child has the right to receive a high quality education and that education in government schools is free. In this respect, the ACT exceeds the requirements agreed on by the international community within the international covenant, as it provides free education for children at both the primary and high school levels.

These amendments will reinforce the provision of quality education provision in the territory which has resulted in the ACT achieving the highest levels of adult literacy in Australia.

This proud history and the significance of our efforts in the human rights arena will be acknowledged as the ACT becomes the first Australian jurisdiction to formally recognise the importance of education in a human rights context. In the words of the self-made American President James A Garfield, “Next in importance to freedom and justice is popular education, without which neither freedom nor justice can be ... maintained.”

As is the case with existing rights under the act, once these amendments are enacted, the government will ensure that ACT legislation is consistent with this right.

Section 28 of the Human Rights Act will provide the framework for determining whether any limitations on rights can be demonstrably justified in a free and democratic society. Any law that may limit the right to education must be a reasonable limitation that can be “demonstrably justified in a free and democratic society”, and the least restrictive means available to achieve the purpose of the limitation.

The immediate obligations of the right to education will require that I consider the right to education in meeting my obligations under section 37 of the Human Rights Act to present a written statement about a bill’s compatibility with the act. In addition, the right to education will need to be taken into account by the Standing Committee on Justice and Community Safety when it is performing the duties of a scrutiny of bills and subordinate legislation committee, when considering the human rights compatibility of any bill tabled by the executive.

To assist agencies to understand the scope of this additional right, the human rights unit is developing a fact sheet which will be publicly available and promoted across government. Education for public authorities on the Human Rights Act will, of course, also include information on the right to education. This is in addition to the human rights unit’s practice of early engagement with all relevant government agencies to ensure that human rights issues are identified and considered as part of the policy development and law-making process.

Section 30 of the Human Rights Act, the general interpretation provision, will also extend to the operation of the right to education, ensuring that, to the extent possible, territory law is interpreted in a way that is consistent with this additional right.
Part 5A, which imposes obligations on public authorities to act consistently with human rights and provides a power to take action, will not apply to the right to education at this point in time. This means that individuals will be not be entitled to start legal proceedings in the Supreme Court if they believe that a public authority has acted inconsistently with their rights.

The rationale for this distinction and the absence of obligations on public authorities has been arrived at after much deliberation and broad consultation across the community. The government’s view is that to impose obligations on public authorities at this stage would not allow adequate opportunity for public authorities to fully understand the scope of the right and its implications, or plan for any policy or budgetary changes which may be required.

ACT government agencies work hard to stay abreast of developments in best practice, improve service delivery and meet the needs of the Canberra community. However, in the interests of consistency in service delivery and coherent policy development, it is sometimes the case, as it is here, that to rush the imposition of significant new obligations for public authorities could compromise current operations and long-term resource allocation plans of those authorities. It also reduces the prospects of non-compliance with the reform by allowing more time for officials to become familiar with the right.

For this same reason, in relation to significantly affecting current operations and long-term resource allocation, the international law doctrine of progressive realisation will not apply to the right to education at this time. In order to establish and foster the right to education within the ACT, all relevant public officials at every level and in every directorate must be appropriately informed and trained about the implications of the new right.

The human rights unit is in the process of developing an updated plain English toolkit for public authorities aimed at providing information about the Human Rights Act across the territory government. This toolkit will be a publicly available document, so all ACT residents can access information about their rights.

A review of the operation of the right to education and other reforms will be conducted after two years of its operation. The review will assess the operational impact of the reforms and determine the next steps forward to continue to foster the human rights culture within the territory. This review will consider not only the operation of the right to education, but also whether it would be appropriate to include further rights.

Given our progress since the Human Rights Act was first introduced in 2004, we can be confident that the hard work of the territory’s officials, the passion of our community sector and academics and the values of Canberrans will further protect our inherent human rights.

There were people who criticised the government’s decision to introduce the first Human Rights Act in 2004 and predicted the sky would fall in. Some of our
colleagues went so far as to say that they would repeal the act given the chance. Eight years later, we would surely all agree that the Human Rights Act is a vital part of our processes which makes a significant contribution towards developing and strengthening the rule of law and democracy in the territory.

The reality is that while Australia is a great country, most of the time, human rights protections in Australia are ad hoc and incomplete. We owe it to the most vulnerable to stand up and say, “You will not be forgotten; your future is important to the future of the territory.” We owe it to ourselves to stand up and publicly declare that there are some basic principles which must be recognised as fundamentally inherent in the lives of all of our citizens.

These principles, like the right to education, are central pillars of our society. As is recognised in the Vienna declaration, rights do not operate in isolation, and we cannot protect them in isolation. Since enacting the Human Rights Act in 2004, we have seen a shift across government and across our community towards incorporating human rights into our everyday activities. This bill the government is introducing today will continue that process of promotion and further grow the human rights culture in the ACT.

I commend the bill to the Assembly.

Debate (on motion by Mr Seselja) adjourned to the next sitting.

**Statute Law Amendment Bill 2012**

**Mr Corbell**, pursuant to notice, presented the bill, its explanatory statement and a Human Rights Act compatibility statement.

Title read by Clerk.

**MR CORBELL** (Molonglo—Attorney-General, Minister for Police and Emergency Services and Minister for the Environment and Sustainable Development) (10.34): I move:

That this bill be agreed to in principle.

The Statute Law Amendment Bill 2012 makes statute law revision amendments to ACT legislation under guidelines for the technical amendments program approved by the government. The program provides for amendments that are minor or technical, and non-controversial. They are generally insufficiently important to justify the presentation of separate legislation in each case and may be inappropriate to make as editorial amendments in the process of republishing legislation under the Legislation Act 2001. The program is implemented by presenting a statute law amendment bill such as this in each sitting of the Assembly and including further technical amendments in other amending legislation where appropriate. This year, given the election, there is likely to be only one statute law amendment bill.