



Australian Capital Territory

# Justice and Community Safety Legislation Amendment Act 2010 (No 2)

A2010-30

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Australian Capital Territory

# **Justice and Community Safety Legislation Amendment Act 2010 (No 2)**

**A2010-30**

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An Act to amend legislation about justice and community safety

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The Legislative Assembly for the Australian Capital Territory enacts as follows:

**1 Name of Act**

This Act is the *Justice and Community Safety Legislation Amendment Act 2010 (No 2)*.

**2 Commencement**

- (1) Section 3 and schedule 1, part 1.1 (ACT Civil and Administrative Tribunal Act 2008) commence on the day after this Act's notification day.

*Note* The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

- (2) The remaining provisions commence on the 28th day after this Act's notification day.

**3 Legislation amended**

This Act amends the legislation mentioned in schedule 1.

## **Schedule 1      Legislation amended**

(see s 3)

### **Part 1.1                      ACT Civil and Administrative Tribunal Act 2008**

#### **[1.1]      Section 94 (2)**

*substitute*

- (1A) Also, the Executive may appoint a person as a temporary presidential member of the tribunal.
- (2) The Executive must not appoint a person under subsection (1) or (1A) unless the person is a lawyer and has been a lawyer for 5 years or more.

#### **[1.2]      Section 96 (2)**

*substitute*

- (1A) Also, the Attorney-General may appoint a person to the tribunal as a temporary senior member or temporary ordinary member.
- (2) The Attorney-General must not appoint a person under subsection (1) or (1A) unless satisfied that the person has the experience or expertise to qualify the person to exercise the functions of a senior or ordinary member.

#### **[1.3]      Section 96 (3)**

*omit*

appointment of senior and ordinary members

*substitute*

appointment of non-presidential members

**[1.4] Section 98 (1)**

*after*

presidential member

*insert*

under section 94 (1)

**[1.5] New section 98 (1A)**

*insert*

- (1A) The appointment of a person as a temporary presidential member under section 94 (1A) is for the term, not longer than 12 months, stated in the appointment.

**[1.6] Section 98 (2)**

*after*

non-presidential member

*insert*

under section 96 (1)

**[1.7] New section 98 (2A)**

*before the note, insert*

- (2A) The appointment of a person as a temporary non-presidential member under section 96 (1A) is for the term, not longer than 12 months, stated in the appointment.

**[1.8] Section 101**

*omit*

**[1.9] Section 103 heading**

*substitute*

**103 Presidential members not to do other work**

**[1.10] Section 103**

*after*

presidential member

*insert*

appointed under section 94 (1)

**[1.11] Dictionary, definition of *non-presidential member***

*substitute*

***non-presidential member*** means a senior member or ordinary member of the tribunal appointed under section 96 (1) or a temporary senior member or temporary ordinary member of the tribunal appointed under section 96 (1A).

**[1.12] Dictionary, definition of *presidential member***

*substitute*

***presidential member*** means the general president, appeal president or another presidential member appointed under section 94 (1) or a temporary presidential member appointed under section 94 (1A).

## Part 1.2                            Associations Incorporation Act 1991

### [1.13]    Section 63 (2)

*omit*

an insolvent under administration within the meaning of the Corporations Act

*substitute*

bankrupt or personally insolvent

### [1.14]    Section 64 (2) (d)

*substitute*

(d) becomes bankrupt or personally insolvent; or

### [1.15]    Dictionary, note 2

*insert*

- bankrupt or personally insolvent

## Part 1.3                            Associations Incorporation Regulation 1991

### [1.16]    Schedule 1, section 16 (1) (e)

*substitute*

(e) becomes bankrupt or personally insolvent; or



## **Part 1.4 Cooperatives Act 2002**

### **[1.17] Section 67 (1) (c)**

*substitute*

- (c) the person becomes bankrupt or personally insolvent, unless the rules of the cooperative otherwise provide;

*Note* **Bankrupt or personally insolvent**—see the Legislation Act, dictionary, pt 1.

### **[1.18] Dictionary, note 2**

*insert*

- bankrupt or personally insolvent

## **Part 1.5 Corrections Management Act 2007**

### **[1.19] Section 61 (1) (c)**

*substitute*

- (c) if the official visitor becomes bankrupt or personally insolvent;  
or

*Note* **Bankrupt or personally insolvent**—see the Legislation Act, dictionary, pt 1.

### **[1.20] Dictionary, note 2**

*insert*

- bankrupt or personally insolvent

## Part 1.6                      Crimes (Sentence Administration) Act 2005

### [1.21]      Section 178 (1) (c)

*substitute*

(c) if the member becomes bankrupt or personally insolvent; or

*Note*      **Bankrupt or personally insolvent**—see the Legislation Act, dictionary, pt 1.

### [1.22]      Dictionary, note 2

*insert*

- bankrupt or personally insolvent

## Part 1.7                      Director of Public Prosecutions Act 1990

### [1.23]      Section 28 (2) (a)

*substitute*

(a) becomes bankrupt or personally insolvent; or

*Note*      **Bankrupt or personally insolvent**—see the Legislation Act, dictionary, pt 1.

### [1.24]      Dictionary, note 2

*insert*

- bankrupt or personally insolvent

## **Part 1.8                      Domestic Violence Agencies Act 1986**

### **[1.25]      Section 8 (3) (c)**

*substitute*

(c) if the member becomes bankrupt or personally insolvent; or

*Note*      **Bankrupt or personally insolvent**—see the Legislation Act, dictionary, pt 1.

### **[1.26]      Dictionary, note 2**

*insert*

- bankrupt or personally insolvent

## **Part 1.9                      Firearms Act 1996**

### **[1.27]      Section 127**

*substitute*

#### **127      When temporary international firearms licences may be issued**

The registrar must not issue a temporary international firearms licence earlier than 28 days after the day the application for the licence is made unless—

- (a) the applicant has a genuine reason to possess or use a firearm under section 128 (1) (a); and
- (b) the Minister authorises the issue in writing.

## Part 1.10      Guardianship and Management of Property Act 1991

### [1.28]      Section 10 (2) (c)

*substitute*

(c) is bankrupt or personally insolvent (and, if so, has given particulars to the ACAT).

*Note*      **Bankrupt or personally insolvent**—see the Legislation Act, dictionary, pt 1.

### [1.29]      Dictionary, note 2

*insert*

- bankrupt or personally insolvent

## Part 1.11      Human Rights Commission Act 2005

### [1.30]      Section 29 (1) (c)

*substitute*

(c) if the person becomes bankrupt or personally insolvent; or

*Note*      **Bankrupt or personally insolvent**—see the Legislation Act, dictionary, pt 1.

### [1.31]      Dictionary, note 2

*insert*

- bankrupt or personally insolvent

## **Part 1.12**                      **Independent Competition and Regulatory Commission Act 1997**

### **[1.32]      Schedule 2, section 2.5 (6)**

*substitute*

- (6) A commissioner ceases to hold office if the commissioner becomes bankrupt or personally insolvent.

### **[1.33]      Schedule 3, section 3.9 (6)**

*substitute*

- (6) A member of a panel ceases to hold office if the member becomes bankrupt or personally insolvent.

### **[1.34]      Dictionary, note 2**

*insert*

- bankrupt or personally insolvent

## **Part 1.13**                      **Justices of the Peace Act 1989**

### **[1.35]      Section 3B (1) (a)**

*substitute*

- (a) the person becomes bankrupt or personally insolvent; or

*Note*      ***Bankrupt or personally insolvent***—see the Legislation Act, dictionary, pt 1.

## **Part 1.14**                      **Legal Aid Act 1977**

### **[1.36]      Section 52 (2) (a)**

*substitute*

- (a) becomes bankrupt or personally insolvent; or

**[1.37]    Section 60 (2) (a)**

*substitute*

- (a) becomes bankrupt or personally insolvent; or

**[1.38]    Section 78 (2) (a)**

*substitute*

- (a) becomes bankrupt or personally insolvent; or

**[1.39]    Dictionary, note 2**

*insert*

- bankrupt or personally insolvent

## **Part 1.15                            Magistrates Court Act 1930**

**[1.40]    Section 89 heading**

*substitute*

### **89            Indictable offences—issue of warrant for non-appearance**

**[1.41]    New section 89 (1A)**

*insert*

- (1A) This section also applies if—
- (a) subsection (1) (a), (b) and (e) apply in relation to a person; and
  - (b) the person appears before the court for the hearing of the information for the offence; and
  - (c) the court adjourns or postpones the hearing or further hearing; and
  - (d) the person is told of the time and place of the adjourned or postponed hearing or further hearing; and

- (e) the person does not appear before the court at the adjourned or postponed hearing or further hearing.

**[1.42] New sections 112 and 112A**

*insert*

**112 Summary proceedings—issue of warrant for non-appearance at adjourned or postponed hearing**

- (1) This section applies if—
  - (a) a defendant appears before the court for the hearing of an information for an offence; and
  - (b) the information is substantiated by the oath of the informant or a witness; and
  - (c) the court adjourns or postpones the hearing or further hearing; and
  - (d) the defendant is told of the time and place of the adjourned or postponed hearing or further hearing; and
  - (e) the defendant does not appear before the court at the adjourned or postponed hearing or further hearing.
- (2) The court may issue a warrant for the arrest of the defendant and to bring the defendant before the court at the adjourned or postponed hearing or further hearing.

**112A Court may direct defendant to appear**

- (1) This section applies if—
  - (a) a summons is served on a defendant in relation to an information for an offence; and
  - (b) in accordance with the summons—the defendant appears before the court represented by a lawyer; and

- (c) the defendant does not appear personally for the hearing; and
  - (d) the information is substantiated by the oath of the informant or a witness.
- (2) The court may at any time during the hearing—
- (a) adjourn the hearing; and
  - (b) direct the defendant by written notice to attend personally before the court for any matter related to the hearing, at the time and place specified by the court.
- (3) A notice under subsection (2) must be served in the same way as the service of a summons under section 41.
- (4) If the defendant does not appear before the court in accordance with a notice under subsection (2), the court may issue a warrant for the arrest of the defendant and to bring the defendant before the court.

## Part 1.16                            Ombudsman Act 1989

### [1.43]            Section 28 (6)

*substitute*

- (6) The Executive must remove the ombudsman from office if the ombudsman becomes bankrupt or personally insolvent.

*Note*            **Bankrupt or personally insolvent**—see the Legislation Act, dictionary, pt 1.

### [1.44]            Dictionary, note 2

*insert*

- bankrupt or personally insolvent



## **Part 1.17 Powers of Attorney Act 2006**

### **[1.45] Section 14 (1) (b) and note**

*substitute*

(b) a person who is bankrupt or personally insolvent.

### **[1.46] Section 62 (1) (b)**

*substitute*

(b) the attorney becomes bankrupt or personally insolvent.

### **[1.47] Section 62 (2), note**

*omit*

### **[1.48] Dictionary, note 2**

*insert*

- bankrupt or personally insolvent

### **[1.49] Dictionary, definitions of *bankrupt* and *personal insolvency agreement***

*omit*

## **Part 1.18 Prostitution Act 1992**

### **[1.50] Section 24**

*omit*

sexually transmitted disease

*substitute*

sexually transmissible infection

**[1.51]    Section 25 heading**

*substitute*

**25        Providing or receiving commercial sexual services if  
            infected**

**[1.52]    Sections 25 and 26**

*omit*

sexually transmitted disease

*substitute*

sexually transmissible infection

**[1.53]    Section 32 (2) (g)**

*omit*

sexually transmitted diseases

*substitute*

sexually transmissible infections

**[1.54]    Schedule 2, item 7, column 3**

*omit*

sexually transmitted disease

*substitute*

sexually transmissible infection

**[1.55] Dictionary, definition of *prophylactic***

*omit*

sexually transmitted disease

*substitute*

sexually transmissible infection

**[1.56] Dictionary, definition of *sexually transmitted disease***

*substitute*

*sexually transmissible infection* means—

- (a) chancroid, chlamydial infection, donovanosis, gonorrhoea, HIV/AIDS, lymphogranuloma venereum or syphilis; or
- (b) an infection prescribed by regulation.

## **Part 1.19 Public Advocate Act 2005**

**[1.57] Section 7 (1) (c)**

*substitute*

- (c) if the person becomes bankrupt or personally insolvent; or

*Note* ***Bankrupt or personally insolvent***—see the Legislation Act, dictionary, pt 1.

**[1.58] Dictionary, note 2**

*insert*

- bankrupt or personally insolvent

## Part 1.20      Public Trustee Act 1985

### [1.59]      Section 53 (2) (c)

*substitute*

(c) if the member becomes bankrupt or personally insolvent; or

*Note*      **Bankrupt or personally insolvent**—see the Legislation Act, dictionary, pt 1.

### [1.60]      Dictionary, note 2

*insert*

- bankrupt or personally insolvent

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## Endnotes

**1 Presentation speech**

Presentation speech made in the Legislative Assembly on 6 May 2010.

**2 Notification**

Notified under the Legislation Act on 31 August 2010.

**3 Republications of amended laws**

For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

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I certify that the above is a true copy of the Justice and Community Safety Legislation Amendment Bill 2010 (No 2), which was passed by the Legislative Assembly on 19 August 2010.

Acting Clerk of the Legislative Assembly

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