



Australian Capital Territory

Corrections and Sentencing Legislation Amendment Act 2014

A2014-6

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Australian Capital Territory

Corrections and Sentencing Legislation Amendment Act 2014

A2014-6

An Act to amend legislation about corrections and sentencing

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

Part 1 Preliminary

1 Name of Act

This Act is the *Corrections and Sentencing Legislation Amendment Act 2014*.

2 Commencement

This Act commences on the day after its notification day.

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

3 Legislation amended

This Act amends the following legislation:

- *Births, Deaths and Marriages Registration Act 1997*
- *Corrections Management Act 2007*
- *Crimes (Sentence Administration) Act 2005*.

Part 2 Births, Deaths and Marriages Registration Act 1997

4 New division 3.1 heading

before section 17, insert

Division 3.1 Change of name—generally

5 New division 3.2

insert

Division 3.2 Change of name—restricted people

22A Definitions—div 3.2

In this division:

change of name application, in relation to a restricted person, means an application under this Act, division 3.1, or a law of another jurisdiction corresponding to this Act, for registration of a change of the restricted person's name.

corresponding parole law—see the *Crimes (Sentence Administration) Act 2005*, section 162.

relevant director-general means—

- (a) for a restricted person serving a sentence of imprisonment—the director-general of the administrative unit responsible for the *Corrections Management Act 2007*; or
- (b) for a restricted person the subject of a parole order under the *Crimes (Sentence Administration) Act 2005* or a corresponding parole law—the director-general of the administrative unit responsible for the *Crimes (Sentence Administration) Act 2005*.

restricted person means a person who—

- (a) is serving a sentence of imprisonment (including by full-time detention, periodic detention or release on licence); or
- (b) is the subject of a parole order under the *Crimes (Sentence Administration) Act 2005* or a corresponding parole law.

22B Application for approval for restricted person to make change of name application

A restricted person may apply, in writing, to the relevant director-general for approval to make a change of name application.

Note 1 If a form is approved under s 69 for an application, the form must be used.

Note 2 A fee may be determined under s 67 for an application.

22C Decision on s 22B application

- (1) Within 30 days after the day the relevant director-general receives an application mentioned in section 22B, the relevant director-general must—
 - (a) approve the application; or
 - (b) refuse the application.
- (2) The relevant director-general may approve the application only if satisfied that the proposed change of name is in all the circumstances necessary or reasonable.
- (3) However, the relevant director-general must not approve the application if satisfied that the proposed change of name would, if registered, be reasonably likely to—
 - (a) adversely affect the security, discipline or good order of any premises or facility at which the restricted person is held or accommodated; or

- (b) jeopardise the restricted person's or another person's health or safety; or
- (c) be used to further an unlawful activity or purpose; or
- (d) be used to evade or hinder the supervision of the restricted person; or
- (e) be regarded as offensive by a victim of crime or an appreciable sector of the community.

22D Notice of decision

If the relevant director-general makes a decision on an application mentioned in section 22B, the relevant director-general must give written notice of the decision to—

- (a) the person who made the application; and
- (b) the registrar-general.

Note Written notice of the decision must be given to the person and the registrar-general as soon as possible (see [Legislation Act](#), s 151B).

22E Offences—restriction on change of name application by restricted person etc

- (1) A restricted person commits an offence if—
 - (a) the person makes a change of name application; and
 - (b) the relevant director-general has not approved the making of the application under section 22C.

Maximum penalty: 5 penalty units.

- (2) A person commits an offence if—
 - (a) the person, on behalf of a restricted person, makes a change of name application; and

- (b) the relevant director-general has not approved the making of the application under section 22C.

Maximum penalty: 5 penalty units.

- (3) An offence against this section is a strict liability offence.

22F Registrar-general must not register change of name without relevant director-general's approval

The registrar-general must not register a change of name under section 20 if the registrar-general—

- (a) knows that the change of name application is made by or on behalf of a restricted person; and
- (b) has not received a notice under section 22D from the relevant director-general approving the making of the change of name application.

22G Registrar-general may correct register

Without limiting section 40 (Correction of register), the registrar-general may correct the register if—

- (a) the name of a restricted person was changed because of an application under division 3.1; and
- (b) the relevant director-general did not approve the making of the application under section 22C.

22H Information-sharing

- (1) The relevant director-general—
 - (a) must notify the registrar-general of the following details in relation to each restricted person:
 - (i) the restricted person's name (including any other name by which the restricted person is or has previously been known);
 - (ii) the restricted person's date of birth;
 - (iii) the restricted person's current residential address, or if the restricted person is serving a sentence of imprisonment, the person's residential address immediately before being taken into custody; and
 - (b) may give the registrar-general other information necessary for the relevant director-general's exercise of functions under this division.
- (2) The registrar-general—
 - (a) if the circumstances in section 22F (a) and (b) apply—must notify the relevant director-general about the change of name application; and
 - (b) may give the relevant director-general other information necessary for the relevant director-general's exercise of functions under this division.

22I Protection of security sensitive information

- (1) This section applies if the relevant director-general decides to refuse an application for approval to make a change of name application under section 22C (1) (b).

- (2) The relevant director-general is not required under this Act or any other territory law to give reasons for the director-general's decision to the extent that giving those reasons would disclose security sensitive information.
- (3) In this section:
- security sensitive information* means information that relates to actual or suspected criminal activity (whether in the ACT or elsewhere) the disclosure of which could reasonably be expected to—
- (a) prejudice a criminal investigation; or
 - (b) enable the discovery of the existence or identity of a confidential source of information relevant to law enforcement; or
 - (c) endanger a person's life or physical safety; or
 - (d) adversely affect the security, discipline or good order of any premises or facility at which a restricted person is held or accommodated; or
 - (e) adversely affect the supervision of a restricted person.

22J ACAT or court review—security sensitive information

- (1) This section applies if—
- (a) the relevant director-general decides to refuse an application for approval (an *approval application*) to make a change of name application under section 22C (1) (b) because, or partly because, of information the relevant director-general considers is security sensitive information; and
 - (b) the applicant for the approval application applies to the ACAT or a court for review of the relevant director-general's decision.

- (2) The relevant director-general must apply to the ACAT or the court for a decision about whether the information is security sensitive information.
- (3) The application need not be served on anyone unless the ACAT or the court otherwise orders on its own initiative.
- (4) The ACAT or the court may decide that the information is, or is not, security sensitive information.
- (5) If the ACAT or the court decides that the information is security sensitive information, in deciding an application for review of the relevant director-general's decision to refuse the approval application, the ACAT or the court—
 - (a) must ensure security sensitive information is not disclosed in any reasons for the decision; and
 - (b) must, unless the relevant director-general otherwise agrees, receive evidence and submissions in private in the absence of the public, the applicant for review, the applicant's representative and any other interested party.
- (6) In this section:
security sensitive information—see section 22I (3).

6 Section 54

substitute

54 Reviewable decision notices

- (1) If a decision-maker makes a reviewable decision, the decision-maker must give a reviewable decision notice to each person mentioned in schedule 1, column 4 in relation to the decision.

Note 1 The decision-maker must also take reasonable steps to give a reviewable decision notice to any other person whose interests are affected by the decision (see *ACT Civil and Administrative Tribunal Act 2008*, s 67A).

Note 2 The requirements for reviewable decision notices are prescribed under the *ACT Civil and Administrative Tribunal Act 2008*.

- (2) In this section:

decision-maker, for a reviewable decision, means—

- (a) the registrar-general; or
- (b) a relevant director-general.

relevant director-general—see section 22A.

**7 Reviewable decisions
Schedule 1, new items 3A and 3B**

insert

3A	22C (1) (b)	refuse approval to make a change of name application in relation to a restricted person	applicant
3B	22F	refuse to register change of name in relation to a restricted person	applicant

8 Dictionary, new definitions

insert

change of name application, in relation to a restricted person, for division 3.2 (Change of name—restricted people)—see section 22A.

corresponding parole law, for division 3.2 (Change of name—restricted people)—see section 22A.

relevant director-general, for division 3.2 (Change of name—restricted people)—see section 22A.

restricted person, for division 3.2 (Change of name—restricted people)—see section 22A.

Part 3 Corrections Management Act 2007

9 New section 217A

insert

217A Power of court to bring detainee before it—civil proceeding

- (1) For a civil proceeding, a court may order the director-general to bring a person lawfully detained in a correctional centre or other place before the court, if the person consents, and to return the person to the centre or other place in accordance with the order.

- (2) In this section:

civil proceeding—see the [Evidence Act 2011](#), dictionary.

court includes the ACAT.

Part 4 Crimes (Sentence Administration) Act 2005

10 Periodic detention—offender in custody for other reasons Section 57A (1)

substitute

- (1) This section applies if an offender does not perform periodic detention for a detention period because the offender is, during the period—
- (a) remanded in custody under a territory law or a law of the Commonwealth or a State; or
 - (b) detained at a place under the *Mental Health (Treatment and Care) Act 1994*.

11 Community service work—failure to report etc Section 92 (1)

omit

This section

substitute

Subsection (2)

12 New section 92 (3) and (4)

insert

- (3) Subsection (4) applies if—
- (a) an offender fails to report to do community service work for a period (a *work period*) in accordance with a direction under section 91; and

- (b) the offender is at the time of the work period—
- (i) remanded in custody under a territory law or a law of the Commonwealth or a State; or
 - (ii) detained at a place under the *Mental Health (Treatment and Care) Act 1994*.
- (4) The offender is taken to have performed community service work in accordance with the direction for the work period.

13 **Definitions—pt 7.6**
Section 162, definition of *parole order*

omit

corresponding parole order

substitute

corresponding parole law

14 **Appointment of board members**
Section 174 (8)

substitute

- (8) For this section, a person is *judicially qualified* if the person has been a legal practitioner for not less than 5 years.

15 **Dictionary, note 2**

insert

- legal practitioner

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 27 February 2014.

2 Notification

Notified under the [Legislation Act](#) on 27 March 2014.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

I certify that the above is a true copy of the Corrections and Sentencing Legislation Amendment Bill 2014, which was passed by the Legislative Assembly on 18 March 2014.

Clerk of the Legislative Assembly

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