



Australian Capital Territory

Justice and Community Safety Legislation Amendment Act 2019

A2019-17

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Australian Capital Territory

Justice and Community Safety Legislation Amendment Act 2019

A2019-17

An Act to amend legislation about justice and community safety, and for other purposes

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

Part 1 Preliminary

1 Name of Act

This Act is the *Justice and Community Safety Legislation Amendment Act 2019*.

2 Commencement

This Act commences on the 7th 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:

- [ACT Civil and Administrative Tribunal Act 2008](#)
- [Coroners Act 1997](#)
- [Emergencies Act 2004](#)
- [Freedom of Information Act 2016](#)
- [Human Rights Commission Act 2005](#)
- [Judicial Commissions Act 1994](#)
- [Juries Regulation 2018](#)
- [Legal Aid Act 1977](#)
- [Legal Profession Regulation 2007](#)
- [Magistrates Court Act 1930](#)
- [Notaries Public Act 1984](#)
- [Residential Tenancies Act 1997](#)
- [Territory Records Act 2002](#)
- [Victims of Crime Act 1994](#).

Note This Act also amends other legislation (see sch 1).

Part 2

ACT Civil and Administrative Tribunal Act 2008

4 New section 55A

insert

55A Conciliated agreement orders

- (1) This section applies if a conciliation agreement about a complaint is given to the tribunal under the *Human Rights Commission Act 2005*, section 62 (3) (b).
- (2) The tribunal must keep a copy of the agreement.
- (3) On application by a party, the tribunal may make any order it considers appropriate to give effect to the agreement.
- (4) A decision of the tribunal to refuse to make an order under this section does not affect the validity of the conciliation agreement.

Part 3 Coroners Act 1997

5 Report after inquest or inquiry Section 57 (4)

omit

6 Section 57 (5)

substitute

- (5) If a report under this section contains comments or recommendations about a matter of public safety, or findings about a risk to public safety, the Attorney-General or another Minister must—
- (a) present the report to the Legislative Assembly not later than the first sitting week after the end of 6 months after the day the Attorney-General receives the report; and
 - (b) present a response to the report on the same day the report is presented to the Legislative Assembly.

7 Section 57 (6)

omit

the responsible Minister

substitute

the Minister presenting the report

8 Section 57 (7)

omit

Part 4 Emergencies Act 2004

9 Offences about fire appliances Section 95 (2) (b)

substitute

- (b) the occupier does not maintain the fire appliance in accordance with a proper maintenance standard.

10 New section 95 (7) and (8)

insert

- (7) In this section:

proper maintenance standard means—

- (a) AS 1851 (Routine service of fire protection systems and equipment) as in force from time to time; or
- (b) AS/NZS 2293.2 (Emergency evacuation lighting for buildings Inspection and maintenance) as in force from time to time; or
- (c) a standard approved for the fire appliance as part of a building approval issued for the premises under the *Building Act 2004*, section 28; or
- (d) a standard of maintenance prescribed by regulation.
- (8) The *Legislation Act*, section 47 (6) does not apply in relation to an Australian Standard, or an Australian/New Zealand Standard, applied, adopted or incorporated as in force from time to time under this section.

Note The standards do not need to be notified under the *Legislation Act* because s 47 (6) does not apply (see *Legislation Act*, s 47 (7)). The standards may be purchased at www.standards.org.au.

11 Dictionary, note 2

insert

- AS (see s 164 (1))
- AS/NZS (see s 164 (2))

Part 5 Freedom of Information Act 2016

12 Information officers—functions New section 19 (1) (ba)

insert

(ba) to deal with requests made of the agency under part 6;

13 Section 19 (2)

omit

subsection (1) (a) or (b)

substitute

subsection (1) (a), (b) or (ba)

14 New section 19 (3) (c)

insert

(c) deciding a request to amend personal information.

15 Deciding access—respondent may ask for additional time to decide Section 41 (1) and (2)

substitute

- (1) A respondent to an access application may ask the applicant for an additional stated amount of time to decide the application.
- (2) The request must be made—
 - (a) before the end of the period for deciding the application under section 40; or
 - (b) for a second or subsequent request—before the end of the additional time last granted.

16 Section 41 (3)

omit

under subsection (1)

**17 Information disclosure of which is prohibited under law
Schedule 1, section 1.3 (2)**

substitute

- (2) Information that is protected information under the *Children and Young People Act 2008*, section 844, other than information that—
- (a) is disclosed to a person to whom it relates; and
 - (b) is not sensitive information under that [Act](#), section 845.

Part 6 Human Rights Commission Act 2005

18 Conciliated agreements Section 62 (4)

omit

19 Section 62, new note

insert

Note The ACAT may make an order in accordance with a conciliation agreement for a complaint (see [ACT Civil and Administrative Tribunal Act 2008](#), s 55A).

Part 7 Judicial Commissions Act 1994

20 Dictionary, definition of *judicial officer*, paragraph (c)

substitute

(c) a magistrate (including coroner); or

Part 8 Juries Regulation 2018

21 Exempt people Schedule 1, table 1.3, item 8, column 2

substitute

a person engaged in full-time or part-time duties as a member of an emergency service (not including on a casual or volunteer basis)

22 People who may claim exemption Schedule 1, table 1.4, item 3, column 2

omit

engaged in full-time teaching of organised classes

substitute

engaged in full-time or part-time teaching of organised classes (not including on a casual or voluntary basis)

Part 9 Legal Aid Act 1977

23 Arranging for services of private legal practitioners Section 31B (2)

before

interests of the person

insert

needs and

24 Section 31B (3)

substitute

- (3) The commission must, after taking into account the considerations mentioned in subsection (2), ensure that selection of a listed practitioner to provide legal assistance is made having regard to the practitioner's expertise.

25 Section 35B

substitute

35B Power of commission to provide approved negotiation

The commission may provide approved negotiation to all parties in a matter or proceeding whether or not a party is receiving legal assistance from the commission for the matter or proceeding.

26 Section 37*substitute***37 Establishment and constitution of review committees**

- (1) The chief executive officer may establish review committees for this Act.
- (2) A review committee must consist of 3 members.
- (3) The members must be chosen from the following 3 panels:
 - (a) the private legal practitioners panel;
 - (b) the Australian legal practitioners panel;
 - (c) the non-legal practitioners panel.
- (4) At least 1 of the members must be a legal practitioner.
- (5) A review committee need not include a member from each of the panels.
- (6) The *private legal practitioners panel* is—
 - (a) a panel of up to 14 private legal practitioners nominated by the council of the bar association and approved by the Minister; or
 - (b) if the council does not nominate a panel within 30 days after receiving a written request from the Minister to do so—a panel of private legal practitioners chosen by the Minister.
- (7) The *Australian legal practitioners panel* is—
 - (a) a panel of up to 14 Australian legal practitioners nominated by the council of the law society and approved by the Minister; or
 - (b) if the council does not nominate a panel within 30 days after receiving a written request from the Minister to do so—a panel of Australian legal practitioners chosen by the Minister.

- (8) The *non-legal practitioners panel* is a panel of up to 14 people chosen by the Minister who—
- (a) have qualifications or experience relevant to the exercise of the functions of a review committee; but
 - (b) are not legal practitioners or members or officers of the commission.

27 **Meetings of review committee**
Section 80 (8)

substitute

- (8) For a meeting of a review committee, a quorum is made up of 2 members, at least 1 of whom is a legal practitioner.

Part 10 Legal Profession Regulation 2007

**28 Criteria for grant or renewal of unrestricted practising
 certificate—Act, s 35
 Table 10, item 3, column 2, new paragraph (b) (iiia)**

insert

(iiia) been engaging in legal practice as an in-house lawyer; or

**29 Withdrawing trust money for legal costs—
 Act, s 229 (1) (b)
 Section 62 (3) (b) (ii)**

substitute

(ii) written notice of the proposed withdrawal and when it will occur.

Part 11 Magistrates Court Act 1930

30 Personal actions at law—amount or value Section 257 (5), new example

insert

Example—s (5)

jurisdiction under the *Fair Work Act 2009* (Cwlth), chapter 4, part 4-1 (Civil remedies) to make orders in relation to contraventions of certain civil remedy provisions under that Act

Part 12 Notaries Public Act 1984

31 Schedule 1

substitute

Schedule 1 Oath or affirmation of office

(see s 9)

Notaries' oath

I swear (*or the person taking the oath may promise*) by Almighty God (*or the person may name a god recognised by the person's religion*) that I will not make or attest any act, contract or instrument in which I know there is violence or fraud; and in all things I will act uprightly and justly in the office of a notary public according to the best of my skill and ability.

Notaries' affirmation

I solemnly declare and affirm that I will not make or attest any act, contract or instrument in which I know there is violence or fraud; and in all things I will act uprightly and justly in the office of a notary public according to the best of my skill and ability.

Part 13 Residential Tenancies Act 1997

32 Failure to pay rent—payment order New section 49A (2A)

insert

- (2A) The ACAT must not make a payment order unless satisfied the tenant is reasonably likely to make the payments required under the order.

Part 14 Territory Records Act 2002

33 Meaning of *agency* Section 7, definition of *agency*, paragraph (b)

substitute

(b) the administrative unit; or

34 Meaning of *principal officer* Section 8, definition of *principal officer*, paragraph (b)

substitute

(b) for an administrative unit—the director-general of the administrative unit; or

35 Section 8, definition of *principal officer*, paragraph (h)

substitute

(h) for a royal commission, board of inquiry, judicial commission or the judicial council (the *body*)—the director-general of the administrative unit that provides secretariat support to the body; or

36 Dictionary, note 2

insert

- administrative unit
- director-general (see s 163)
- Executive

Part 15 Victims of Crime Act 1994

37 Membership of board New section 22C (1) (ba)

insert

- (ba) the coordinator-general for family safety; and

38 Section 22C (2)

omit

39 Appointed members of board Section 22D (1)

substitute

- (1) The director-general must appoint a representative of each of the following as members of the board:
- (a) the DPP;
 - (b) the Australian Federal Police;
 - (c) the ACT courts;
 - (d) the sentence administration board;
 - (e) the administrative unit allocated responsibility for the administration of corrective services;
 - (f) the administrative unit allocated responsibility for the administration of youth justice;
 - (g) the administrative unit allocated responsibility for restorative justice.
- (1A) The Minister must appoint the following as members of the board:
- (a) 3 people who, in the Minister's opinion, represent the interests of victims services groups;

- (b) 2 people of different gender who, in the Minister's opinion, represent the interests of indigenous communities;
- (c) 1 person who is a lawyer.

40 Section 22D (3) and (4), except notes

substitute

- (3) A member appointed under subsection (1A) must not be a public servant.

**41 Term of appointment
New section 22G (1A)**

insert

- (1A) The director-general must end the appointment of a member appointed under section 22D (1) if satisfied that the member is no longer the representative of the entity the member was appointed to represent.

42 Section 22G (2)

substitute

- (2) The Minister must end the appointment of a member appointed under section 22D (1A) if satisfied that the member—
 - (a) no longer represents the interests of the group or community the member was appointed to represent; or
 - (b) is no longer eligible for appointment.

43 Section 22G (3)

omit everything before paragraph (a), substitute

- (3) The director-general or Minister may end the appointment of a member appointed by the director-general or Minister respectively—

44 Dictionary, note 2

insert

- DPP

Schedule 1 Other amendments

(see s 3)

Part 1.1 Confiscation of Criminal Assets Act 2003

[1.1] Section 12 (2), example

omit

husband

substitute

spouse

Part 1.2 Discrimination Act 1991

[1.2] Dictionary, definition of *relationship status*, paragraph (i)

substitute

- (i) the surviving spouse; or

Part 1.3 Evidence Act 2011

[1.3] Section 73 (1) (b)

substitute

- (b) whether 2 people cohabiting at a particular time were married to each other at the time; or

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 21 March 2019.

2 Notification

Notified under the [Legislation Act](#) on 14 June 2019.

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 Justice and Community Safety Legislation Amendment Bill 2019, which was passed by the Legislative Assembly on 4 June 2019.

Clerk of the Legislative Assembly

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