



Australian Capital Territory

# Planning and Environment Legislation Amendment Act 2024

A2024-21

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Australian Capital Territory

# Planning and Environment Legislation Amendment Act 2024

**A2024-21**

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An Act to amend legislation about planning and the environment, and for other purposes

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

## Part 1 Preliminary

### 1 Name of Act

This Act is the *Planning and Environment Legislation Amendment Act 2024*.

### 2 Commencement

- (1) This Act (other than part 6) 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)).

- (2) Part 6 commences on the day after this Act's notification day.

### 3 Legislation amended

This Act amends the following legislation:

- [Climate Change and Greenhouse Gas Reduction Act 2010](#)
- [Commissioner for Sustainability and the Environment Act 1993](#)
- [Heritage Act 2004](#)
- [Nature Conservation Act 2014](#)
- [Professional Engineers Act 2023](#)
- [Surveyors Act 2007](#).

*Note* This Act also amends the [Water Resources Act 2007](#) (see sch 1).

## Part 2                      Climate Change and Greenhouse Gas Reduction Act 2010

### 4                      New section 26A

*insert*

#### 26A                      Determination of fees

- (1) The Minister may determine fees for this Act.
- (2) A determination is a disallowable instrument.

## Part 3 Commissioner for Sustainability and the Environment Act 1993

### 5 Functions New section 12 (1) (d)

*before the notes, insert*

- (d) preparing a state of the environment report for each reporting period.

### 6 Section 12 (3), new definition of *reporting period*

*insert*

*reporting period*—see section 19 (7).

### 7 Section 14

*substitute*

### 14 Discretion not to investigate certain complaints

- (1) This section applies if a person makes a complaint to the commissioner in relation to action taken by an agency.
- (2) The commissioner may decide not to investigate the action or to stop investigating the action if—
- (a) the commissioner is satisfied that the complainant became aware of the action more than 12 months before the day the complaint was made; or
- (b) in the commissioner’s opinion—
- (i) the complaint—
- (A) is frivolous or vexatious or was not made in good faith; or



- (B) lacks substance or credibility; or
  - (C) was not made genuinely or was made primarily for a mischievous purpose; or
  - (D) does not contain sufficient information; or
  - (ii) the subject matter of the complaint is trivial or unrelated to the commissioner's functions; or
  - (iii) considering all the circumstances, an investigation or further investigation of the action is not justified; or
  - (c) in the commissioner's opinion—
    - (i) the complainant—
      - (A) has or had a right to have the action reviewed by a court or tribunal; but
      - (B) has not exercised that right; and
    - (ii) in all the circumstances, it is reasonable for the complainant to exercise, or would have been reasonable for the complainant to have exercised, that right; or
  - (d) in the commissioner's opinion, an administrative practice is suitable for review of the action, and—
    - (i) the action has been, is being or will be reviewed under the administrative practice at the complainant's request; or
    - (ii) the commissioner is satisfied that the complainant is entitled to have the action reviewed under the administrative practice.
- (3) Also, the commissioner may decide not to investigate the action if the complainant has not complained to the agency in relation to the action.

(4) In this section:

*complainant*, in relation to a complaint, means—

- (a) the person who made the complaint; or
- (b) if the person made the complaint for another person or a body—  
the other person or body.

#### **14A Complaints made to agencies**

(1) This section applies if—

- (a) a person (the *complainant*) makes a complaint to the commissioner in relation to action taken by an agency; and
- (b) the complainant—
  - (i) has complained to the agency in relation to the action; and
  - (ii) tells the commissioner that the agency—
    - (A) has not responded to the complaint; or
    - (B) has responded to the complaint but the complainant considers the agency's response unsatisfactory.

(2) The commissioner must investigate the action if, in the commissioner's opinion—

- (a) the agency has not responded to the complaint within a reasonable period; or
- (b) the agency's response to the complaint is unsatisfactory.

**14B Decision not to investigate complaint—annual reporting requirement**

- (1) This section applies if, in a reporting year, the commissioner decides not to investigate a complaint.
- (2) The commissioner must include details of the decision, including the reasons for the decision, in the report for the reporting year prepared by the commissioner under the *Annual Reports (Government Agencies) Act 2004*.

**8 State of the environment report  
Section 19 (7), new definition of *National Environment Protection Council***

*insert*

*National Environment Protection Council* means the National Environment Protection Council established by the *National Environment Protection Council Act 1994*, section 7.

**9 Information to be included in commissioner's annual report  
Section 20**

*omit*

financial year

*substitute*

reporting year

**10 Section 20 (b)**

*omit*

under section 19 or special report under section 21

*substitute*

or a special report

**11 Section 20, note**

*omit*

**12 Minister to table reports and recommendations  
Section 22**

*omit*

a report under section 19 or 21

*substitute*

a state of the environment report, a special report

**13 Information to be included in agency annual reports  
Section 23**

*omit*

financial year

*substitute*

reporting year

**14 Section 23, note**

*omit*

**15 Dictionary, note 2**

*insert*

- body
- tribunal

**16 Dictionary, note 2**

*omit*

- penalty unit (see s 133)

**17 Dictionary, definition of *pre-election year***

*omit*

**18 Dictionary, new definitions**

*insert*

***reporting year***—see the *Annual Reports (Government Agencies) Act 2004*, dictionary.

***special report*** means a report prepared by the commissioner under section 21.

***state of the environment report*** means a report prepared by the commissioner under section 19.

## Part 4 Heritage Act 2004

### 19 New section 18A

*insert*

#### 18A Ministerial statement of priorities

- (1) The Minister may make a statement setting out the government's priorities in relation to heritage in the ACT (a *statement of priorities*).
- (2) The Minister must consult the council before making a statement of priorities.
- (3) The statement of priorities—
  - (a) must include information about how the council must or may report about the action taken by the council to respond to the statement of priorities; and
  - (b) may include any information the Minister believes will assist the council in responding to the statement of priorities; but
  - (c) must not include a direction about the way in which a function of the council is exercised.
- (4) The Minister must give the statement of priorities to the council.
- (5) A statement of priorities is a notifiable instrument.

## Part 5 Nature Conservation Act 2014

### 20 Offence—enter closed reserve Section 260 (3), note

*substitute*

- (4) Subsection (1) does not apply if the person is a conservation officer exercising a function under this Act.

*Note* The defendant has an evidential burden in relation to the matters mentioned in s (3) and s (4) (see [Criminal Code](#), s 58).

## Part 6 Professional Engineers Act 2023

### 21 Section 2 (2)

*substitute*

- (2) If this Act has not commenced before 6 March 2025, it automatically commences on that day.



## Part 7                      Surveyors Act 2007

### 22                      Sections 6 to 8

*substitute*

#### 6                      Application for registration

A person may apply to the surveyor-general for registration as a surveyor.

#### 7                      Eligibility for registration

- (1) A person is eligible to be registered as a surveyor if—
- (a) the person—
    - (i) has previously been registered as a surveyor in the ACT; or
    - (ii) is or has previously been registered as a surveyor in a State; or
- Note*     **State** includes the Northern Territory (see [Legislation Act](#), dict, pt 1).
- (iii) has obtained a certificate of competency as a land surveyor from the board of surveying and spatial information; and
  - (b) the surveyor-general is satisfied that the person has a working knowledge of current surveying practices and any practice directions; and
  - (c) if the person has previously been registered as a surveyor in the ACT or is or has previously been registered as a surveyor in a State—
    - (i) the registration was not involuntarily cancelled; or

(ii) if the registration was involuntarily cancelled—the surveyor-general is satisfied that it is appropriate to register the person, taking into account—

(A) the reason for the person’s registration being involuntary cancelled; and

(B) anything relevant done by the person since their registration was involuntarily cancelled.

**Example—subpar (ii)**

The person’s registration was cancelled because they carried out a survey that was inaccurate because they lacked knowledge of current surveying practices. Since the cancellation, the person has acquired sufficient knowledge of current surveying practices.

(2) For subsection (1) (c), a person’s registration as a surveyor is *involuntarily cancelled* if the registration is cancelled for any reason other than because the person requested the cancellation.

(3) In this section:

*board of surveying and spatial information* means the board of surveying and spatial information established under the [Surveying and Spatial Information Act 2002](#) (NSW), section 27.

## **7A Application for registration renewal**

(1) A surveyor may apply to the surveyor-general for renewal of their registration.

(2) If a surveyor applies for renewal before their registration ends, the registration continues in force until the day the application is decided.

**7B Eligibility for registration renewal**

A surveyor is eligible to have their registration renewed if the surveyor-general is satisfied that the surveyor—

- (a) continues to be eligible for registration; and
- (b) meets any other eligibility requirements prescribed by regulation.

**7C Surveyor-general may request information**

- (1) The surveyor-general may, in writing, require an applicant under section 6 or section 7A to give the surveyor-general information that the surveyor-general reasonably needs to decide the application.
- (2) If the applicant does not comply with a requirement under subsection (1), the surveyor-general may refuse to consider the application further.

**8 Decision on application for registration or renewal**

- (1) If a person applies for registration, the surveyor-general must—
  - (a) if the person is eligible for registration—
    - (i) register the person; and
    - (ii) give the person a unique identifying number (a *registration number*); or
  - (b) if the person is not eligible for registration—refuse to register the person.
- (2) If a surveyor applies for renewal of their registration, the surveyor-general must—
  - (a) if the surveyor is eligible for registration renewal—renew the surveyor's registration; or

- (b) if the surveyor is not eligible for registration renewal—refuse to renew the surveyor’s registration.
- (3) If the surveyor-general registers a person, the surveyor-general must give the person a certificate (a *registration certificate*) that includes the following information:
  - (a) the person’s name;
  - (b) the person’s registration number;
  - (c) the date the person’s registration begins.
- (4) If the surveyor-general refuses an application for registration or renewal of registration, the surveyor-general must give the applicant written notice of the decision.
- (5) The surveyor-general is taken to have refused an application for registration or renewal of registration if the surveyor-general does not decide the application within 45 days after the day the surveyor-general—
  - (a) received the application; or
  - (b) received the information requested under section 7C.

## **23 Section 10**

*substitute*

### **10 Registration term**

- (1) A surveyor’s registration—
  - (a) begins on the day stated in the registration certificate; and
  - (b) ends on 30 June after the registration begins.

*Note* A surveyor’s registration may be cancelled before it ends (see s 23, s 27 and s 41).

- (2) A surveyor's renewal of registration—
- (a) begins on the earlier of the following:
- (i) if the surveyor-general decides the application for renewal before the day the surveyor's registration ends—1 July after the surveyor-general decides the application for renewal;
  - (ii) in any other case—the day the surveyor-general decides the application for renewal; and
- (b) ends on 30 June after the renewal begins.

*Note* If a surveyor applies for renewal before their registration ends, the registration continues in force until the day the application is decided (see s 7A (2)).

**24**      **Details to be entered in surveyors register**  
**Section 12 (1) (e)**

*substitute*

- (e) the date the surveyor's registration begins and ends;

**25**      **Continuing registration**  
**Division 3.1**

*omit*

**26**      **Power of entry generally**  
**Section 45 (2), new note**

*insert*

*Note* For how documents may be given, see the [Legislation Act](#), pt 19.5.

**27 New section 45 (2A)***insert*

(2A) If a surveyor gives an owner notice under subsection (2), the surveyor must—

- (a) keep written evidence of the notice, including how the notice was given; and
- (b) give a copy of the evidence to the surveyor-general on request.

**Examples—written evidence**  
file note, copy of written notice

**28 Surveyor-general practice directions  
New section 55 (1A)***insert*

(1A) A practice direction may apply, adopt or incorporate a law or instrument as in force from time to time.

*Note* The text of an applied, adopted or incorporated law or instrument, whether applied as in force from time to time or at a particular time, is taken to be a notifiable instrument if the operation of the [Legislation Act](#), s 47 (5) or (6) is not disappplied (see s 47 (7)).

**29 Reviewable decisions  
Schedule 1, item 1***substitute*

1	8 (1) (b)	refuse to register person	applicant for registration
1A	8 (2) (b)	refuse to renew surveyor's registration	applicant for renewal

**30 Dictionary, definition of *continuation notice***

*omit*

**31 Dictionary, definitions of *registration certificate* and *registration number***

*substitute*

*registration certificate*—see section 8 (3).

*registration number*—see section 8 (1) (a) (ii).

## Schedule 1      Technical amendments

(see s 3)

### Part 1.1      Commissioner for Sustainability and the Environment Act 1993

#### [1.1]      New section 15 (13)

*insert*

(13) In this section:

*complainant*, in relation to a complaint—see section 14 (4).

#### Explanatory note

This amendment is consequential on the insertion of a definition of *complainant* in section 14 by another amendment.

#### [1.2]      Section 24

*omit*

his or her

*substitute*

the commissioner's

#### Explanatory note

This amendment updates language in line with current drafting practice.



## Part 1.2 Nature Conservation Act 2014

### [1.3] Section 266, definition of *suitability information*, paragraph (a) (vii), example 3

*substitute*

3 *Biodiversity Conservation Act 2016* (NSW)

#### Explanatory note

This amendment corrects a cross-reference. The *Threatened Species Conservation Act 1995* (NSW) was repealed and replaced by the *Biodiversity Conservation Act 2016* (NSW).

## Part 1.3 Surveyors Act 2007

### [1.4] Dictionary, definition of *registered business address*

*substitute*

*registered business address*—see section 12 (1) (b).

#### Explanatory note

This amendment corrects a cross-reference.

## Part 1.4 Water Resources Act 2007

### [1.5] Section 25 (4) (c)

*omit*

his or her

*substitute*

their

#### Explanatory note

This amendment updates language in line with current drafting practice.

**[1.6]            Section 67E (8)**

*omit*

**Explanatory note**

This amendment omits a definition of a term that is no longer used in this section.

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**Endnotes**

**1            Presentation speech**

Presentation speech made in the Legislative Assembly on 10 April 2024.

**2            Notification**

Notified under the [Legislation Act](#) on 24 May 2024.

**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 Planning and Environment Legislation Amendment Bill 2024, which was passed by the Legislative Assembly on 15 May 2024.

Clerk of the Legislative Assembly