

2011

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Attorney-General)

Justice and Community Safety Legislation Amendment Bill 2011

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Justice and Community Safety Legislation Amendment Bill 2011

A Bill for

An Act to amend legislation about justice and community safety

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

J2010-617

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

1 **1 Name of Act**

2 This Act is the *Justice and Community Safety Legislation*
3 *Amendment Act 2011*.

4 **2 Commencement**

5 This Act commences on a day fixed by the Minister by written
6 notice.

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

9 *Note 2* A single day or time may be fixed, or different days or times may be
10 fixed, for the commencement of different provisions (see Legislation
11 Act, s 77 (1)).

12 *Note 3* If a provision has not commenced within 6 months beginning on the
13 notification day, it automatically commences on the first day after that
14 period (see Legislation Act, s 79).

15 **3 Legislation amended—sch 1**

16 This Act amends the legislation mentioned in schedule 1.

1 **Schedule 1** **Legislation amended**

2 (see s 3)

3 **Part 1.1** **ACT Civil and Administrative**
4 **Tribunal Act 2008**

5 **[1.1]** **Section 20 (1)**

6 *omit*

7 greater that \$10 000

8 *substitute*

9 greater than \$10 000

10 **Part 1.2** **Associations Incorporation Act**
11 **1991**

12 **[1.2]** **Section 93 (3) (e)**

13 *omit*

14 3

15 *substitute*

16 2

1 **Part 1.3 Charitable Collections Act 2003**

2 **[1.3] New section 54 (1) (aa)**

3 *insert*

4 (aa) an investigator under the *Fair Trading (Australian Consumer*
5 *Law) Act 1992*;

6 **[1.4] New section 56 (7)**

7 *insert*

8 (7) In this section:

9 ***identity card*** means—

- 10 (a) for an authorised person mentioned in section 54 (1) (aa)—an
11 identity card issued under the *Fair Trading (Australian*
12 *Consumer Law) Act 1992*, section 37; or
13 (b) for an authorised person appointed under section 54 (2)—a
14 card issued under section 55.

1 **Part 1.4** **Classifications (Publications,**
2 **Films and Computer Games)**
3 **(Enforcement) Act 1995**

4 **[1.5] Section 54A, definition of *registrar***

5 *omit*

6 **[1.6] Sections 54B and 54BA**

7 *omit*

8 **[1.7] Section 54C, note 2**

9 *substitute*

10 *Note 2* If a form is approved by the commissioner under s 68 (Approved
11 forms—commissioner) for an application, the form must be used.

12 **[1.8] New section 54U (2)**

13 *after the notes, insert*

14 (2) An investigator under the *Fair Trading (Australian Consumer Law)*
15 *Act 1992* is also an inspector.

16 **[1.9] New section 54V (1A)**

17 *before section (1), insert*

18 (1A) This section applies only to an inspector appointed under
19 section 54U (1).

20 **[1.10] Dictionary, note 2**

21 *insert*

- 22
 - commissioner for fair trading

1 **[1.11] Dictionary, new definition of *commissioner***
2 *insert*
3 *commissioner* means the commissioner for fair trading.

4 **[1.12] Dictionary, definition of *registrar***
5 *omit*

6 **[1.13] Further amendments, mentions of *registrar***
7 *omit*
8 registrar
9 *substitute*
10 commissioner
11 *in*
12 • sections 54D and 54E
13 • sections 54H to 54Q
14 • sections 54YB to 54ZB
15 • section 68

16 **Part 1.5** **Fair Trading (Australian** 17 **Consumer Law) Act 1992**

18 **[1.14] Section 34 (2), definition of *consumer and trader***
19 ***legislation***
20 *substitute*
21 *consumer and trader legislation* means the following:
22 (a) the fair trading legislation;
23 (b) the *Classifications (Publications, Films and Computer Games)*
24 *(Enforcement) Act 1995*;

- 1 (c) the *Pawnbrokers Act 1902*;
2 (d) the *Prostitution Act 1992*;
3 (e) the *Sale of Motor Vehicles Act 1977*;
4 (f) the *Second-hand Dealers Act 1906*;
5 (g) the *Tobacco Act 1927*.

6 **[1.15] Section 36**

7 *substitute*

8 **36 Investigators**

- 9 (1) The commissioner may appoint a person as an investigator for this
10 Act, section 33 (1) (b), (c) or (d) (Functions of commissioner).

11 *Note 1* For the making of appointments (including acting appointments), see
12 the Legislation Act, pt 19.3.

13 *Note 2* In particular, a person may be appointed for a particular provision of a
14 law (see Legislation Act, s 7 (3)) and an appointment may be made by
15 naming a person or nominating the occupant of a position (see
16 Legislation Act, s 207).

- 17 (2) An investigator may also exercise any other function given to the
18 investigator under a territory law.

19 **[1.16] Dictionary, definition of *fair trading legislation*, new
20 paragraph (da)**

21 *insert*

- 22 (da) the *Fair Trading (Motor Vehicle Repair Industry) Act 2010*; or

- 1 **[1.17] Dictionary, definition of *investigator***
2 *substitute*
3 *investigator* means the commissioner or a person appointed under
4 section 36.

5 **Part 1.6 Hawkers Act 2003**

- 6 **[1.18] Section 40 (1) (b)**
7 *substitute*
8 (b) a roads and public places officer appointed under the *Roads*
9 *and Public Places Act 1937*, section 2C (1);
10 (ba) an investigator under the *Fair Trading (Australian Consumer*
11 *Law) Act 1992*;

- 12 **[1.19] New section 41 (1A)**
13 *before subsection (1), insert*
14 (1A) This section applies only to an authorised person appointed under
15 section 40 (2).

- 16 **[1.20] Section 41 (1)**
17 *omit*
18 (other than a police officer or roads and public places officer)

- 19 **[1.21] Section 41 (2) (a)**
20 *omit*

1 **[1.22] New section 42 (6)**

2 *insert*

3 (6) In this section:

4 *identity card* means—

5 (a) for an authorised person mentioned in section 40 (1) (ba)—an
6 identity card issued under the *Fair Trading (Australian*
7 *Consumer Law) Act 1992*, section 37; or

8 (b) for an authorised person appointed under section 40 (2)—a
9 card issued under section 41.

10 **Part 1.7 Prostitution Act 1992**

11 **[1.23] Division 2.2 heading**

12 *substitute*

13 **Division 2.2 Register and notices**

14 **[1.24] Sections 9 and 10**

15 *omit*

16 **[1.25] Dictionary, note 2**

17 *insert*

- 18 • commissioner for fair trading

19 **[1.26] Dictionary, new definition of *commissioner***

20 *insert*

21 *commissioner* means the commissioner for fair trading.

22 **[1.27] Dictionary, definition of *registrar***

23 *omit*

1 **[1.28] Further amendments, mentions of *registrar***

2 *omit*

3 registrar

4 *substitute*

5 commissioner

6 *in*

- 7 • sections 11 to 14
8 • section 16
9 • section 30

10 **Part 1.8 Roads and Public Places Act**
11 **1937**

12 **[1.29] Section 2C heading**

13 *substitute*

14 **2C Roads and public places officers**

15 **[1.30] New section 2C (2)**

16 *after the notes, insert*

- 17 (2) Also, an investigator under the *Fair Trading (Australian Consumer*
18 *Law) Act 1992* is a roads and public places officer.

19 **[1.31] Dictionary, definition of *roads and public places officer***

20 *substitute*

21 *roads and public places officer* means a roads and public places
22 officer under section 2C.

1 **Part 1.9** **Sale of Motor Vehicles Act 1977**

2 **[1.32] Sections 5 and 5A**

3 *omit*

4 **[1.33] Section 5B (2) (a) and (b)**

5 *substitute*

6 (a) the commissioner;

7 (b) an investigator under the *Fair Trading (Australian Consumer*
8 *Law) Act 1992*;

9 **[1.34] Section 5C**

10 *substitute*

11 **5C Identity cards**

12 (1) This section applies only to an inspector appointed under
13 section 5B (1).

14 (2) The chief executive must give each inspector an identity card that
15 states the person's name and that the person is an inspector.

16 (3) The identity card must show—

17 (a) a recent photograph of the person; and

18 (b) the card's date of issue and expiry.

19 (4) A person commits an offence if—

20 (a) the person stops being an inspector; and

21 (b) the person does not return the identity card to the chief
22 executive as soon as practicable, but no later than 7 days after
23 the day the person stops being an inspector.

24 Maximum penalty: 1 penalty unit.

1 (5) An offence against this section is a strict liability offence.

2 **[1.35] Section 94**

3 *omit*

4 **[1.36] Dictionary, new definition of *commissioner***

5 *insert*

6 *commissioner* means the commissioner for fair trading.

7 **[1.37] Dictionary, definitions of *deputy registrar* and *registrar***

8 *omit*

9 **[1.38] Further amendments, mentions of *registrar***

10 *omit*

11 registrar

12 *substitute*

13 commissioner

14 *in*

- 15 • sections 6 to 6A
- 16 • sections 10 to 14
- 17 • sections 14C to 15
- 18 • section 20
- 19 • section 22
- 20 • section 24
- 21 • section 38
- 22 • sections 40 and 41
- 23 • sections 43 to 46
- 24 • section 49
- 25 • sections 60 to 63
- 26 • sections 71 to 74

- 1 • sections 88 to 89A
2 • section 93
3 • schedule 2, item 9, column 3
4 • schedule 2, item 13, column 3
5 • dictionary, definition of *register*

6 **Part 1.10 Smoke-Free Public Places**
7 **Act 2003**

8 **[1.39] New section 10 (1) (aa)**

9 *insert*

10 (aa) an investigator under the *Fair Trading (Australian Consumer*
11 *Law) Act 1992*;

12 **Part 1.11 Tobacco Act 1927**

13 **[1.40] Part 5**

14 *omit*

15 **[1.41] New section 32 (2) (d)**

16 *insert*

17 (d) an investigator under the *Fair Trading (Australian Consumer*
18 *Law) Act 1992*.

19 **[1.42] New section 34 (1A)**

20 *before subsection (1), insert*

21 (1A) This section applies only to an authorised person appointed under
22 section 32 (1).

- 1 **[1.43] Section 34 (1)**
- 2 *omit*
- 3 (other than a public health officer or police officer)
- 4 **[1.44] Dictionary, new definition of *commissioner***
- 5 *insert*
- 6 *commissioner* means the commissioner for fair trading.
- 7 **[1.45] Dictionary, definitions of *deputy registrar* and *registrar***
- 8 *omit*
- 9 **[1.46] Further amendments, mentions of *registrar***
- 10 *omit*
- 11 registrar
- 12 *substitute*
- 13 commissioner
- 14 *in*
- 15 • section 32 (2) (a)
- 16 • sections 47 and 48
- 17 • sections 49A to 54
- 18 • sections 57 to 59
- 19 • section 65
- 20 • section 71

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 2011.

2 Notification

Notified under the Legislation Act on 2011.

3 Republications of amended laws

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

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