

2013

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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(As presented)

(Attorney-General)

# Justice and Community Safety Legislation Amendment Bill 2013 (No 2)

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# **Justice and Community Safety Legislation Amendment Bill 2013 (No 2)**

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## **A Bill for**

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 **1 Name of Act**

2 This Act is the *Justice and Community Safety Legislation*  
3 *Amendment Act 2013 (No 2)*.

4 **2 Commencement**

5 This Act commences on the 7th day after its notification day.

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

8 **3 Legislation amended—sch 1**

9 This Act amends the legislation mentioned in schedule 1.

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

2 (see s 3)

3 **Part 1.1**                **Agents Act 2003**

4 **[1.1] Section 124 (2), note**

5 *substitute*

6 *Note 1* A person claiming to be entitled to money paid to the public trustee  
7 under this section may apply to the public trustee for payment of the  
8 money (see *Unclaimed Money Act 1950*, s 27).

9 *Note 2* If a form is approved under s 177 for a statement, the form must be  
10 used.

11 **[1.2] Sections 125 and 126**

12 *omit*

13 **Part 1.2**                **Confiscation of Criminal Assets**  
14 **Act 2003**

15 **[1.3] Section 50 (2)**

16 *substitute*

17 (2) The restraining order, or details of the restraining order, may be  
18 recorded in the register—

19 (a) for a restraining order over land registered under the *Land*  
20 *Titles Act 1925*—on a responsible authority giving a copy of  
21 the restraining order to the registrar-general; or

22 *Note* The registrar-general may, on receipt of the order, enter a caveat  
23 for the prevention of any fraud or improper dealing (see *Land*  
24 *Titles Act 1925*, s 14 (1) (g)).

25 (b) in any other case—on application by a responsible authority.



1 **Part 1.5** **Legal Aid Act 1977**

2 **[1.7] Section 37 (4)**

3 *omit*

4 private legal practitioner

5 *substitute*

6 Australian legal practitioner

7 **[1.8] Section 37 (4) (a) and (b)**

8 *omit*

9 private legal practitioners

10 *substitute*

11 Australian legal practitioners

12 **[1.9] Section 92 (1) (b)**

13 *substitute*

14 (b) a person who is or has been—

15 (i) a prescribed person or an assistant; or

16 (ii) the auditor-general, or a person acting under the direction  
17 or authority of the auditor-general, in relation to a  
18 performance audit or special financial audit of the  
19 commission under the *Auditor-General Act 1996*.

- 1    **[1.10]    Section 92 (2)**
- 2            *after*
- 3            except for this Act
- 4            *insert*
- 5            , the *Auditor-General Act 1996*
- 6    **[1.11]    Dictionary, note 2**
- 7            *insert*
- 8                    •    auditor-general
- 9    **[1.12]    Dictionary, new definition of *Australian legal practitioner***
- 10            *insert*
- 11            *Australian legal practitioner*—see the *Legal Profession Act 2006*,
- 12            section 8.
- 13    **[1.13]    Dictionary, definition of *private legal practitioner***
- 14            *substitute*
- 15            *private legal practitioner* means a person who is—
- 16                    (a) a principal of a law practice under the *Legal Profession*
- 17                                *Act 2006*, section 9; or
- 18                    (b) an Australian legal practitioner employed by a law practice
- 19                                under the *Legal Profession Act 2006*.



1 **Part 1.6** **Legal Profession Act 2006**

2 **[1.14] Section 259 (2), new note**

3 *insert*

4 *Note* A person who claims to be entitled to an unclaimed amount that has  
5 been paid to the public trustee under this section may apply to the public  
6 trustee for payment of the amount (see *Unclaimed Money Act 1950*,  
7 pt 5).

8 **[1.15] Section 259 (3) and (4)**

9 *omit*

10 **Part 1.7** **Magistrates Court (Working with**  
11 **Vulnerable People Infringement**  
12 **Notices) Regulation 2012**

13 **[1.16] Sections 9 and 11**

14 *omit*

15 ; and

16 *substitute*

17 ; or

1      **Part 1.8**                      **Unclaimed Money Act 1950**

2      **[1.17]      Section 4**

3                      *omit*

4                      Territory

5                      *substitute*

6                      public trustee

7      **[1.18]      Section 5**

8                      *omit*

9      **[1.19]      Sections 10 and 11**

10                      *omit*

11                      Territory

12                      *substitute*

13                      public trustee

14      **[1.20]      Section 13**

15                      *omit*

1 **[1.21] Part 5**

2 *substitute*

3 **Part 5 Payment of unclaimed amounts**  
4 **to claimants**

5 **26 Meaning of *unclaimed money*—pt 5**

6 In this part:

7 *unclaimed money* means money paid to the public trustee under any  
8 of the following provisions:

- 9 (a) section 4 (Unclaimed assets in hands of liquidator);  
10 (b) section 10 (Payment of unclaimed amounts to public trustee);  
11 (c) the *Agents Act 2003*, section 124 (Payment of unclaimed  
12 money to public trustee);  
13 (d) the *Legal Profession Act 2006*, section 259 (Unclaimed trust  
14 money).

15 **27 Who may apply for unclaimed money**

- 16 (1) A person who claims to be entitled to an amount of unclaimed  
17 money may apply to the public trustee for payment of the amount.

18 *Note* If a form is approved under s 35 for this provision, the form must be  
19 used.

- 20 (2) The public trustee may, in writing, require the applicant to give the  
21 public trustee more information or documents that the public trustee  
22 reasonably needs to decide the application.

23 **Examples—information or documents**

- 24 1 birth certificate, citizenship certificate, driver licence or other proof of  
25 identification  
26 2 rates notice, electricity bill or other proof of place of residence



1     **30           Reviewable decision notice**

2           If the public trustee makes a decision under section 29, the public  
3           trustee must give a reviewable decision notice to the applicant in  
4           relation to the decision.

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

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

10    **31           Review by ACAT**

11           (1) The following people may apply to the ACAT for review of a  
12           decision under section 29:

13           (a) the applicant in relation to the decision;

14           (b) any other person whose interests are affected by the decision.

15           *Note*    If a form is approved under the *ACT Civil and Administrative Tribunal*  
16           *Act 2008* for the application, the form must be used.

17           (2) The public trustee must give notice of a decision to each person  
18           whose interests are affected by the decision.

19           (3) The notice must be in accordance with a reviewable decision notice.

20    **[1.22]       Dictionary, note 2**

21           *insert*

- 22           • reviewable decision notice

1    **[1.23]    Dictionary**  
2            *omit the definitions of*  
3            ***Commonwealth Act***  
4            ***holder***  
5            ***RSA***  
6            ***RSA provider***

7    **[1.24]    Dictionary, new definition of *unclaimed money***  
8            *insert*  
9            ***unclaimed money***, for part 5—see section 26.

10   **[1.25]    Dictionary, definition of *unclaimed RSA money***  
11            *omit*

12   **Part 1.9                            Unit Titles (Management) Act**  
13    **2011**

14   **[1.26]    Section 72, definition of *total sinking fund amount***  
15            *omit*

16   **[1.27]    Section 72, new definition of *total sinking fund***  
17            ***contribution***  
18            *insert*  
19            ***total sinking fund contribution***—see section 82 (3) (b).

1 **[1.28] Section 82 (2) and example and notes**

2 *substitute*

- 3 (2) The owners corporation must approve, by ordinary resolution, a plan  
4 for the sinking fund (a *sinking fund plan*) for the 10-year period  
5 beginning on the first day of the financial year following the  
6 approval.

7 *Note* A sinking fund plan of an existing owners corporation that was current  
8 immediately before the commencement of this division is taken to be a  
9 sinking fund plan under this Act (see s 157 (2)). The day the existing  
10 sinking fund plan is approved for this Act is the day the existing sinking  
11 fund plan was approved by the owners corporation for the *Unit Titles*  
12 *Act 2001* (see s 157 (3) and (4)).

- 13 (3) The sinking fund plan must state—

- 14 (a) the expected sinking fund expenditure for at least the 10-year  
15 period of the plan; and  
16 (b) for each financial year of the plan—the total contributions (the  
17 *total sinking fund contribution*) required from members of the  
18 owners corporation necessary to—  
19 (i) meet the expected sinking fund expenditure for the  
20 financial year; and

- 1                            (ii) reserve an appropriate amount necessary to be  
2    accumulated to meet expected sinking fund expenditure  
3    over at least the remaining years of the plan.

4                            **Examples**

- 5                            1    An owners corporation for a units plan estimates that the expected sinking  
6    fund expenditure for the 10-year period of its sinking fund plan is \$220 000.  
7    The expenditure includes expenditure of \$10 000 for each year and a  
8    ‘one-off’ amount of \$120 000 in the 8th year of the plan. The owners  
9    corporation approves a total sinking fund contribution of \$25 000 for each  
10    financial year of the plan to meet the expected sinking fund expenditure and  
11    to provide for a balance of \$30 000 in the fund.
- 12                            2    In preparing its first sinking fund plan, the owners corporation for a units  
13    plan of recently constructed townhouses estimates that the expected sinking  
14    fund expenditure for the units plan is \$70 000 for the 10-year period of the  
15    plan, made up of \$7 000 expected sinking fund expenditure for each financial  
16    year. Additionally, the owners corporation estimates that internal roads in the  
17    units plan will need resurfacing in 15 years time at an estimated cost of  
18    \$120 000. The owners corporation decides it is necessary, in the first  
19    10-year plan, to accumulate \$80 000 to meet the expected sinking fund  
20    expenditure for the resurfacing. The owners corporation approves a total  
21    sinking fund contribution of \$15 000 each year of the plan, made up of  
22    \$7 000 to meet the expected sinking fund expenditure for each financial year  
23    and \$8 000 to meet the expected sinking fund expenditure for the  
24    resurfacing.

25                            *Note*    An example is part of the Act, is not exhaustive and may extend, but  
26    does not limit, the meaning of the provision in which it appears (see  
27    [Legislation Act](#), s 126 and s 132).

28                            **[1.29]    Section 86**

29    *substitute*

30                            **86            Sinking fund plan—amendment**

31    An owners corporation for a units plan may at any time, by ordinary  
32    resolution, amend its sinking fund plan to ensure that—

- 33    (a) the plan reflects expected sinking fund expenditure; and



1 (b) the total sinking fund contributions are sufficient to meet the  
2 expected sinking fund expenditure stated in the plan.

3 **Example**

4 An owners corporation for a units plan approves a sinking fund plan that sets a  
5 total sinking fund contribution of \$15 000 for each year of the plan. Three years  
6 after approving the plan, the owners corporation finds out that major work is  
7 required to water and sewerage pipes in the common property at an estimated cost  
8 of \$60 000. The owners corporation, by ordinary resolution, amends the sinking  
9 fund plan to include the additional expected sinking fund expenditure and require  
10 additional contributions of \$10 000 a year for the remaining years in the plan.  
11 The total sinking fund contribution for each financial year after the amendment is  
12 \$25 000.

13 *Note* An example is part of the Act, is not exhaustive and may extend, but  
14 does not limit, the meaning of the provision in which it appears (see  
15 [Legislation Act](#), s 126 and s 132).

16 **[1.30] Section 88, note 1**

17 *substitute*

18 *Note 1* An owners corporation may at any time, by ordinary resolution, amend  
19 its sinking fund plan to ensure that the plan reflects expected sinking  
20 fund expenditure and the total sinking fund contributions are sufficient  
21 to meet the expected sinking fund expenditure stated in the plan.

22 **[1.31] Section 89 (2)**

23 *omit*

24 total sinking fund amount

25 *substitute*

26 total sinking fund contribution

27 **[1.32] Section 89 (2), note**

28 *substitute*

29 *Note* ***Total sinking fund contribution***, for a financial year—  
30 see s 82 (3) (b). ***Expected sinking fund expenditure***—see s 83.

- 1    **[1.33]    Section 90 (2) (c) and (d)**
- 2            *omit*
- 3            total sinking fund amount
- 4            *substitute*
- 5            total sinking fund contribution
- 6    **[1.34]    Dictionary, definition of *total sinking fund amount***
- 7            *omit*
- 8    **[1.35]    Dictionary, new definition of *total sinking fund***
- 9            ***contribution***
- 10           *insert*
- 11           ***total sinking fund contribution***, for division 5.2 (Administrative,
- 12           special purpose and sinking funds)—see section 82 (3) (b).

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## Endnotes

**1 Presentation speech**

Presentation speech made in the Legislative Assembly on 28 February 2013.

**2 Notification**

Notified under the [Legislation Act](#) on 2013.

**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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