

2003

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Attorney-General)

Justice and Community Safety Legislation Amendment Bill 2003

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Justice and Community Safety Legislation Amendment Bill 2003

A Bill for

An Act to amend the law relating to justice and community safety, and for other purposes

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

1 **Part 1 Preliminary**

2 **1 Name of Act**

3 This Act is the *Justice and Community Safety Legislation*
4 *Amendment Act 2003*.

5 **2 Commencement**

6 This Act commences on the day after its notification day.

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

1 **Part 2** **Cooperatives Act 2002**

2 **3 Act amended—pt 2**

3 This part amends the *Cooperatives Act 2002*.

4 **4 Transfer of engagements by direction of registrar** 5 **Section 305 (2) (a)**

6 *omit*

7 section 338

8 *substitute*

9 section 338A

10 **5 Winding-up on registrar's certificate** 11 **Section 315 (1)**

12 *omit*

13 section 338

14 *substitute*

15 section 338A

16 **6 Appointment of administrator** 17 **Section 325 (4)**

18 *omit*

19 section 338

20 *substitute*

21 section 338A

7 New section 338A

in division 12.7, insert

338A Grounds for winding-up, transfer of engagements, appointment of administrator

- (1) This section applies to the following actions:
- (a) a direction by the registrar to a cooperative to transfer its engagements under section 305;
 - (b) the appointment of an administrator of a cooperative under division 12.5;
 - (c) the winding-up of a cooperative on a certificate of the registrar under section 315.
- (2) The necessary grounds for the taking of action to which this section applies exist if the registrar certifies—
- (a) that the number of members is reduced to less than the minimum number of people allowed, as mentioned in section 69; or
 - (b) that the cooperative has not begun business within 1 year of registration or has suspended business for longer than 6 months; or
 - (c) that the registration of the cooperative has been obtained by mistake or fraud; or
 - (d) that the cooperative exists for an illegal purpose; or
 - (e) that the cooperative has intentionally, and after notice from the registrar, breached a provision of this Act or the rules of the cooperative; or

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- 1 (f) that the board of the cooperative has, after notice from the
2 registrar, failed to ensure that the rules of the cooperative
3 contain active membership provisions in accordance with
4 part 6; or
- 5 (g) that there are, and have been for 1 month immediately before
6 the date of the registrar's certificate, insufficient directors of
7 the cooperative to form a quorum as provided under the rules
8 of the cooperative; or
- 9 (h) following an inquiry under the provisions of this Act into the
10 affairs of a cooperative or the working and financial condition
11 of a cooperative, that in the interests of members or creditors of
12 the cooperative or the public the action should be taken.
- 13 (3) Alternatively, the necessary grounds for the winding-up of a
14 cooperative on a certificate of the registrar exist if the registrar
15 certifies—
- 16 (a) that the period (if any) fixed under the cooperative's rules for
17 its duration has ended; or
- 18 (b) that a winding-up event stated in the certificate has happened.
- 19 (4) In this section:
- 20 **winding-up event** means an event on the happening of which the
21 regulations or the cooperative's rules provide that the cooperative
22 must be wound up.

1 **Part 3 Fair Trading Act 1992**

2 **8 Act amended—pt 3**

3 This part amends the *Fair Trading Act 1992*.

4 **9 New section 51AA**

5 *after section 51, insert*

6 **51AA Power of Magistrates Court for pt 4**

7 The power of the Magistrates Court to make an order (including the
8 power to grant an injunction) under this part includes the power to—

- 9 (a) make preliminary and procedural orders and give interlocutory
10 directions; and
11 (b) make orders to enforce relief, redress or a remedy.

1 **Part 4** **Fair Trading (Consumer**
2 **Affairs) Act 1973**

3 **10 Act amended—pt 4**

4 This part amends the *Fair Trading (Consumer Affairs) Act 1973*.

5 **11 Consumer product safety standards**
6 **New section 25 (3) and (4)**

7 *insert*

- 8 (3) A consumer product safety standard may apply, adopt or incorporate
9 a law of another jurisdiction or an instrument, or a provision of a
10 law of another jurisdiction or an instrument, as in force from time to
11 time.

12 *Note 1* The text of an applied, adopted or incorporated law or instrument,
13 whether applied as in force from time to time or at a particular time, is
14 taken to be a notifiable instrument if the operation of the Legislation
15 Act 2001, s 47 (5) or (6) is not disapplied (see s 47 (7)).

16 *Note 2* A notifiable instrument must be notified under the Legislation Act.

- 17 (4) In this section:

18 *law of another jurisdiction*—see the Legislation Act,
19 section 47 (10).

12 Section 42

substitute

41A Public warning statements

- (1) The Minister or the commissioner may make or issue a public statement identifying and giving warnings or information about any of the following:
- (a) goods that the Minister or commissioner reasonably considers are unsatisfactory or dangerous and people who supply the goods;
 - (b) services that the Minister or commissioner reasonably considers are supplied in an unsatisfactory way and people who supply the services;
 - (c) commercial practices that the Minister or commissioner reasonably considers are unfair and people who engage in the practices;
 - (d) anything else that the Minister or commissioner reasonably considers adversely affects or may adversely affect the interests of people in relation to the acquisition by them of goods or services from suppliers.
- (2) The statement may identify particular goods, services, business practices and people.
- (3) The Minister or the commissioner may make or issue a statement under this section only if satisfied that it is in the public interest to do so.

42 Immunity from liability for certain statements

- (1) The Territory, the Minister, a member of an advisory committee or the product safety advisory committee, the commissioner, an investigator or a person acting under the direction or control of the commissioner is not civilly liable for a statement, notice or report made or issued honestly by a person in the exercise of functions under this Act.
- (2) This section does not deprive a person of any defence the person might have relied on apart from this section.
- (3) To remove any doubt, a statement, notice or report made or issued by the Minister, an advisory committee, the product safety advisory committee or the commissioner for the information of the public is a **public document** for the *Civil Law (Wrongs) Act 2002*, section 61 (Publication of public document) and the *Defamation (Criminal Proceedings) Act 2001*, section 31.

13 Regulation-making power
Section 43

omit

The Executive

substitute

- (1) The Executive

14 New section 43 (2)

insert

- (2) The regulations may create offences for contraventions of the regulations and fix maximum penalties of not more than 20 penalty units for offences against the regulations.

1 **Part 5** **Leases (Commercial and**
2 **Retail) Act 2001**

3 **15 Act amended—pt 5**

4 This part amends the *Leases (Commercial and Retail) Act 2001*.

5 **16 Jurisdiction**
6 **Section 144 (3)**

7 *substitute*

8 (3) The Magistrates Court may, when acting within the jurisdiction
9 given under this Act—

10 (a) exercise any power that could be exercised by the court under
11 the *Magistrates Court (Civil Jurisdiction) Act 1982* as if the
12 court had this jurisdiction under that Act; and

13 (b) exercise any other power necessary or convenient for the
14 exercise of this jurisdiction, including the power to—

15 (i) make preliminary and procedural orders and give
16 interlocutory directions; and

17 (ii) make orders to enforce relief, redress or a remedy.

1 **Part 6** **Legal Practitioners Act 1970**

2 **17 Act amended—pt 6**

3 This part amends the *Legal Practitioners Act 1970*.

4 **18 Unclaimed moneys**
5 **Section 200 (1)**

6 *omit*

7 chief executive

8 *substitute*

9 public trustee

1 Part 7 Second-hand Dealers Act 1906**2 19 Act amended—pt 7**

3 This part amends the *Second-hand Dealers Act 1906*.

4 20 Issue of licences
5 New section 3 (1) (ba)

6 *insert*

7 (ba) the person would not contravene a Territory law or
8 Commonwealth law if the person carried on business as a
9 second-hand dealer while licensed; and

10 21 Section 3 (1)

11 *renumber paragraphs when Act next republished under*
12 *Legislation Act*

13 22 Dealers must be licensed
14 New section 4 (3) to (6)

15 *insert*

16 (3) The commissioner may, in writing, exempt a named entity from
17 subsection (1) if satisfied that it is appropriate to do so because—

18 (a) the entity carries on business as a second-hand dealer
19 infrequently or irregularly; and

20 (b) exempting the entity would not undermine the purposes of this
21 Act.

22 (4) Before exempting an entity, the commissioner must consult with the
23 chief police officer.

1 (5) The power to exempt a named entity under this section does not
2 include the power to exempt a class of entities.

3 (6) An exemption under subsection (3) is a notifiable instrument.

4 *Note* A notifiable instrument must be notified under the Legislation Act.

5 **23 Name of dealer etc to be displayed on premises**
6 **Section 5**

7 *omit*

8 at least 10cm high

9 *substitute*

10 not smaller than the height prescribed under the regulations

1 **Part 8** **Second-hand Dealers**
2 **Regulations 2002**

3 **24 Regulations amended—pt 8**

4 This part amends the *Second-hand Dealers Regulations 2002*.

5 **25 Exempt entities—Act, s 4 (2)**
6 **Regulation 5A (1)**

7 *insert*

8 *Note* In these regulations, *exempt entity* includes an entity exempted by the
9 commissioner under the Act, s 4 (3) (see dict).

10 **26 New regulation 5B**

11 **5B Requirement for displayed lettering—Act, s 5**

12 The height is 5cm.

13 **27 Dictionary, definition of *exempt entity***

14 *substitute*

15 *exempt entity* means an entity—

- 16 (a) exempted under regulation 5A; or
17 (b) exempted by the commissioner under the Act, section 4 (3).

1 **Part 9** **Trade Measurement**
2 **(Administration) Act 1991**

3 **28 Act amended—pt 9**

4 This part amends the *Trade Measurement (Administration) Act*
5 *1991*.

6 **29 Penalty notices**
7 **Section 13**

8 *omit*

Endnotes**Republications of amended laws**

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

Penalty units

2 The Legislation Act, s 133 deals with the meaning of offence penalties that are expressed in penalty units.