

2017

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Attorney-General)

Justice and Community Safety Legislation Amendment Bill 2017

Contents

	Page
Part 1	Preliminary
1	Name of Act 2
2	Commencement 2
3	Legislation amended 3
4	Legislation repealed 3
Part 2	Civil Law (Wrongs) Act 2002
5	Notice of claim Section 51 (1), note 2 4
6	Section 51 (3) and (4) 4

J2016-761

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		Page
7	Section 51 (10), new definition of <i>child abuse claim</i>	4
8	Section 51 (10), definitions of <i>institutional child abuse claim</i> and <i>institutional context</i>	4
Part 3	Common Boundaries Act 1981	
9	Application to ACAT—repair cost determination Section 6 (1) (b)	5
10	New section 6 (5)	5
Part 4	Criminal Code 2002	
11	Codification Section 5 (2) and (3)	6
12	Delayed application of ch 2 to certain offences Section 8 (5)	6
13	Section 10	6
14	Dictionary, new definition of <i>application date</i>	7
15	Dictionary, definition of <i>default application date</i>	7
Part 5	Dangerous Goods (Road Transport) Act 2009	
16	Dictionary, definition of <i>Australian Road Rules</i>	8
17	Dictionary, definitions of <i>road</i> and <i>road related area</i>	8
Part 6	Evidence Act 2011	
18	Privilege in relation to self-incrimination in other proceedings Section 128 (7)	9
Part 7	Freedom of Information Act 2016	
19	Commencement Section 2	10
20	What is <i>open access information</i> ? Section 23 (1), definition of <i>open access information</i> , of an agency	10
21	Section 23 (1), definition of <i>open access information</i> , of a Minister, paragraph (a)	10
22	Open access information declarations New section 65 (2A)	11

	Page
23	11
Mediation for applications Section 81 (4)	
Part 8	
Gaming Machine Act 2004	
24	12
Required payment to problem gambling assistance fund Section 163A (2) (a)	
Part 9	
Heavy Vehicle National Law (ACT) Act 2013	
25	13
Section 19	
Part 10	
Judicial Commissions Act 1994	
26	14
Dictionary, definition of <i>complaint</i>	
Part 11	
Legal Aid Act 1977	
27	15
Establishment and constitution of review committees Section 37 (3) (a), (4) (a) and (5)	
28	15
Personnel management Section 68A	
29	15
Dictionary, note 2	
Part 12	
Legal Profession Act 2006	
30	16
Purposes and application—pt 2.4 Section 33 (2) (b)	
31	16
Section 33 (3), definition of <i>in-house lawyer</i> , paragraph (b)	
32	16
Conditions on practising certificate—government lawyer and in-house lawyer Section 38 (1) (b)	
33	16
Section 38 (2) (b)	
34	17
New section 38 (5)	
35	17
Professional indemnity insurance—interstate legal practitioners Section 72 (2)	
36	17
Definitions—pt 2.6 Section 99 (2), definition of <i>related body corporate</i>	
37	17
Dictionary, definition of <i>related body corporate</i>	

	Page	
Part 13	Limitation Act 1985	
38	Section 21C heading	18
39	Section 21C (1) (a)	18
40	Section 21C (4), definitions of <i>institution</i> , <i>institutional context</i> and <i>official</i>	18
41	Special provision in relation to children—claims relating to health services	
	Section 30B (1) (b) (ii)	18
Part 14	Magistrates Court (Sale of Motor Vehicles Infringement Notices) Regulation 2005	
42	Dictionary	
	Section 4, note 1	19
43	Section 4, note 2	19
44	Administering authority	
	Section 6	19
45	Dictionary, note 2	19
46	Dictionary, definition of <i>registrar</i>	19
Part 15	Public Unleased Land Act 2013	
47	Direction to remove objects from public unleased land	
	Section 98 (7), definition of <i>park</i>	20
Part 16	Rail Safety National Law (ACT) Act 2014	
48	Meaning of generic terms for Rail Safety National Law (ACT)	
	Section 9 (1), definition of <i>Australian Road Rules</i>	21
49	Section 9 (1), definition of <i>shared path</i>	21
Part 17	Road Transport (General) Act 1999	
50	Dictionary, definition of <i>Australian Road Rules</i>	22
51	Dictionary, definition of <i>bicycle</i> , notes 2 and 3	22
52	Dictionary, new definitions	22

		Page
Part 18	Road Transport (Public Passenger Services) Act 2001	
53	Dictionary, note 3	23
54	Dictionary, definition of <i>taxi zone</i>	23
Part 19	Road Transport (Safety and Traffic Management) Act 1999	
55	Dictionary, definition of <i>road user</i>	24

2017

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Attorney-General)

Justice and Community Safety Legislation Amendment Bill 2017

A Bill for

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:

J2016-761

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

1 **Part 1 Preliminary**

2 **1 Name of Act**

3 This Act is the *Justice and Community Safety Legislation*
4 *Amendment Act 2017*.

5 **2 Commencement**

6 (1) This Act (other than the following provisions) commences on the
7 7th day after its notification day:

- 8 • part 5 (Dangerous Goods (Road Transport) Act 2009)
- 9 • sections 20 to 23
- 10 • part 8 (Gaming Machine Act 2004)
- 11 • part 9 (Heavy Vehicle National Law (ACT) Act 2013)
- 12 • part 16 (Rail Safety National Law (ACT) Act 2014)
- 13 • part 17 (Road Transport (General) Act 1999)
- 14 • part 18 (Road Transport (Public Passenger Services) Act 2001)
- 15 • part 19 (Road Transport (Safety and Traffic Management)
16 Act 1999).

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

19 (2) Parts 5, 9, 16, 17, 18 and 19 commence on the later of—

- 20 (a) the commencement of the *Road Transport (Road Rules)*
21 *Regulation 2017*, section 3; and
- 22 (b) the commencement of this Act, section 3.

23 (3) Sections 20 to 23 commence on the commencement of the *Freedom*
24 *of Information Act 2016*, section 3.

25 (4) Part 8 commences on 1 July 2017.

3 Legislation amended

This Act amends the following legislation:

- *Civil Law (Wrongs) Act 2002*
- *Common Boundaries Act 1981*
- *Criminal Code 2002*
- *Dangerous Goods (Road Transport) Act 2009*
- *Evidence Act 2011*
- *Freedom of Information Act 2016*
- *Gaming Machine Act 2004*
- *Heavy Vehicle National Law (ACT) Act 2013*
- *Judicial Commissions Act 1994*
- *Legal Aid Act 1977*
- *Legal Profession Act 2006*
- *Limitation Act 1985*
- *Magistrates Court (Sale of Motor Vehicles Infringement Notices) Regulation 2005*
- *Public Unleased Land Act 2013*
- *Rail Safety National Law (ACT) Act 2014*
- *Road Transport (General) Act 1999*
- *Road Transport (Public Passenger Services) Act 2001*
- *Road Transport (Safety and Traffic Management) Act 1999.*

4 Legislation repealed

The following legislation is repealed:

- *Director of Public Prosecutions Direction 2006 (No 1)* (NI2006-390)
- *Director of Public Prosecutions Direction 2016 (No 1)* (NI2016-164).

1 **Part 2 Civil Law (Wrongs) Act 2002**

2 **5 Notice of claim**
3 **Section 51 (1), note 2**

4 *omit*
5 institutional

6 **6 Section 51 (3) and (4)**

7 *omit*
8 an institutional child abuse claim
9 *substitute*
10 a child abuse claim

11 **7 Section 51 (10), new definition of *child abuse claim***

12 *insert*
13 ***child abuse claim***, by or on behalf of a person, means a claim in
14 relation to a personal injury that arises from sexual abuse to which
15 the person was subjected when the person was a child.

16 **8 Section 51 (10), definitions of *institutional child abuse***
17 ***claim* and *institutional context***

18 *omit*

1 **Part 3** **Common Boundaries Act 1981**

2 **9** **Application to ACAT—repair cost determination**
3 **Section 6 (1) (b)**

4 *omit*

5 people living in premises

6 *substitute*

7 people lawfully at premises

8 **10** **New section 6 (5)**

9 *insert*

10 (5) In this section:

11 *people lawfully at premises* includes a person—

12 (a) living in the premises; or

13 (b) invited to visit the premises by a person living in the premises;
14 or

15 (c) otherwise lawfully entitled to be at the premises.

1 **Part 4 Criminal Code 2002**

2 **11 Codification**
3 **Section 5 (2) and (3)**

4 *omit*

5 default

6 **12 Delayed application of ch 2 to certain offences**
7 **Section 8 (5)**

8 *omit*

9 default

10 **13 Section 10**

11 *substitute*

12 **10 Definitions—*applied provisions* and *application date***

13 (1) In this Act:

14 *application date* means a date declared by the Minister.

15 *applied provisions* means the following provisions of this chapter:

- 16 • section 15 (5) (which deals with evidence of self-induced
17 intoxication)
- 18 • division 2.3.1 (Lack of capacity—children)
- 19 • division 2.3.2 (Lack of capacity—mental impairment)
- 20 • division 2.3.3 (Intoxication)
- 21 • part 2.4 (Extensions of criminal responsibility)
- 22 • part 2.5 (Corporate criminal responsibility)

- 1 • part 2.6 (Proof of criminal responsibility)
2 • part 2.7 (Geographical application).

3 *Note* Div 2.3.2 and s 66 (2) (d) became applied provisions on the
4 commencement of the *Criminal Code (Mental Impairment) Amendment*
5 *Act 2006*. Pt 2.5 became an applied provision on 9 April 2004. The
6 other applied provisions have been applied provisions since the
7 commencement of the Code on 1 January 2003.

- 8 (2) A declaration under subsection (1) is a notifiable instrument.

9 *Note* A notifiable instrument must be notified under the [Legislation Act](#).

- 10 (3) This section expires on the application date.

11 **14 Dictionary, new definition of *application date***

12 *insert*

13 *application date*—see section 10.

14 **15 Dictionary, definition of *default application date***

15 *omit*

1 **Part 5** **Dangerous Goods (Road**
2 **Transport) Act 2009**

3 **16** **Dictionary, definition of *Australian Road Rules***

4 *omit*

5 **17** **Dictionary, definitions of *road* and *road related area***

6 *substitute*

7 *road*—see the [Road Transport \(General\) Act 1999](#), dictionary.

8 *road related area*—see the [Road Transport \(General\) Act 1999](#),
9 dictionary.

1 **Part 6** **Evidence Act 2011**

2 **18** **Privilege in relation to self-incrimination in other**
3 **proceedings**
4 **Section 128 (7)**

5 *omit*

6 examine—

7 *substitute*

8 examine evidence—

1 **Part 7** **Freedom of Information Act 2016**

2 **19 Commencement**
3 **Section 2**

4 *omit*

5 1 July 2017

6 *substitute*

7 1 January 2018

8 **20 What is open access information?**
9 **Section 23 (1), definition of open access information, of**
10 **an agency**

11 *omit*

12 held by the agency that

13 *substitute*

14 held by the agency that came into existence on or after
15 1 January 2018 and

16 **21 Section 23 (1), definition of open access information, of a**
17 **Minister, paragraph (a)**

18 *omit*

19 held by the Minister that

20 *substitute*

21 held by the Minister that came into existence on or after
22 1 January 2018 and

1 **22 Open access information declarations**
2 **New section 65 (2A)**

3 *insert*

- 4 (2A) The ombudsman must not declare government information that
5 came into existence before 1 January 2018 to be open access
6 information.

7 **23 Mediation for applications**
8 **Section 81 (4)**

9 *substitute*

- 10 (4) Unless the ombudsman directs otherwise, the decision-maker—
11 (a) must pay the costs of conducting the mediation; but
12 (b) is not required to pay the costs incurred by the applicant or any
13 other person who participates in the review.

14 **Examples—par (a)**

- 15 1 cost of hiring the venue for the mediation
16 2 fees for the accredited mediator

17 **Examples—par (b)**

- 18 1 legal costs
19 2 travel costs
20 3 income lost due to participation in mediation

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

1 **Part 8 Gaming Machine Act 2004**

2 **24 Required payment to problem gambling assistance fund**
3 **Section 163A (2) (a)**

4 *substitute*

5 (a) 0.75%; or

1 **Part 9** **Heavy Vehicle National Law**
2 **(ACT) Act 2013**

3 **25** **Section 19**

4 *substitute*

5 **19** **Road Rules—the Law, s 5**

6 The *Road Transport (Road Rules) Regulation 2017* is declared to be
7 the Road Rules for the *Heavy Vehicle National Law (ACT)*.

1 **Part 10** **Judicial Commissions Act 1994**

2 **26** **Dictionary, definition of *complaint***

3 *substitute*

4 *complaint* means—

- 5 (a) a complaint made under section 14; or
- 6 (b) an allegation in relation to which notice has been given to the
- 7 council under section 14.

1 **Part 11** **Legal Aid Act 1977**

2 **27** **Establishment and constitution of review committees**
3 **Section 37 (3) (a), (4) (a) and (5)**

4 *omit*

5 not more than 9

6 *substitute*

7 not more than 14

8 **28** **Personnel management**
9 **Section 68A**

10 *omit*

11 program

12 *substitute*

13 policy

14 **29** **Dictionary, note 2**

15 *insert*

- 16
 - legal practitioner

1 **Part 12** **Legal Profession Act 2006**

2 **30** **Purposes and application—pt 2.4**
3 **Section 33 (2) (b)**

4 *substitute*

5 (b) an in-house lawyer for a corporation in relation to the provision
6 of in-house legal services for the corporation (or a related body
7 corporate).

8 **31** **Section 33 (3), definition of *in-house lawyer*,**
9 **paragraph (b)**

10 *omit*

11 corporation

12 *substitute*

13 corporation (or a related body corporate)

14 **32** **Conditions on practising certificate—government lawyer**
15 **and in-house lawyer**
16 **Section 38 (1) (b)**

17 *substitute*

18 (b) an in-house lawyer.

19 **33** **Section 38 (2) (b)**

20 *substitute*

21 (b) for an application by an in-house lawyer—imposes a condition
22 on the certificate that the in-house lawyer for a corporation
23 must not engage in legal practice otherwise than by providing
24 in-house legal services to the corporation (or a related body
25 corporate).

-
- 1 **34 New section 38 (5)**
- 2 *insert*
- 3 (5) In this section:
- 4 *in-house lawyer*—see section 33.
- 5 **35 Professional indemnity insurance—interstate legal**
- 6 **practitioners**
- 7 **Section 72 (2)**
- 8 *omit*
- 9 the corporation
- 10 *substitute*
- 11 the corporation (or a related body corporate)
- 12 **36 Definitions—pt 2.6**
- 13 **Section 99 (2), definition of *related body corporate***
- 14 *omit*
- 15 **37 Dictionary, definition of *related body corporate***
- 16 *substitute*
- 17 *related body corporate* means—
- 18 (a) for a company within the meaning of the [Corporations Act](#)—a
- 19 related body corporate within the meaning of that Act,
- 20 section 50; or
- 21 (b) for any other corporation prescribed by regulation—a person
- 22 prescribed by regulation.

1 **Part 13 Limitation Act 1985**

2 **38 Section 21C heading**

3 *substitute*

4 **21C Personal injury resulting from sexual abuse of child**

5 **39 Section 21C (1) (a)**

6 *omit*

7 in an institutional context

8 **40 Section 21C (4), definitions of *institution*, *institutional***
9 ***context* and *official***

10 *omit*

11 **41 Special provision in relation to children—claims relating**
12 **to health services**
13 **Section 30B (1) (b) (ii)**

14 *omit*

15 institutional

1 **Part 14** **Magistrates Court (Sale of Motor**
2 **Vehicles Infringement Notices)**
3 **Regulation 2005**

4 **42 Dictionary**
5 **Section 4, note 1**

6 *omit*

7 **43 Section 4, note 2**

8 *omit*

9 (including a signpost definition)

10 **44 Administering authority**
11 **Section 6**

12 *omit*

13 registrar

14 *substitute*

15 commissioner for fair trading

16 **45 Dictionary, note 2**

17 *insert*

- 18
 - commissioner for fair trading

19 **46 Dictionary, definition of *registrar***

20 *omit*

1 **Part 15 Public Unleased Land Act 2013**

2 **47 Direction to remove objects from public unleased land**
3 **Section 98 (7), definition of *park***

4 *substitute*

5 *park*—see the *Road Transport (Road Rules) Regulation 2017*,
6 dictionary.

1 **Part 16** **Rail Safety National Law (ACT)**
2 **Act 2014**

3 **48** **Meaning of generic terms for Rail Safety National**
4 **Law (ACT)**
5 **Section 9 (1), definition of *Australian Road Rules***

6 *omit*

7 **49** **Section 9 (1), definition of *shared path***

8 *substitute*

9 *shared path*—see the *Road Transport (Road Rules)*
10 *Regulation 2017*, dictionary.

1 **Part 17** **Road Transport (General)**
2 **Act 1999**

3 **50** **Dictionary, definition of *Australian Road Rules***

4 *omit*

5 **51** **Dictionary, definition of *bicycle*, notes 2 and 3**

6 *omit*

7 **52** **Dictionary, new definitions**

8 *insert*

9 *wheelchair*—see the *Road Transport (Road Rules)*
10 *Regulation 2017*, dictionary.

11 *wheeled recreational device*—see the *Road Transport (Road Rules)*
12 *Regulation 2017*, dictionary.

13 *wheeled toy*—see the *Road Transport (Road Rules)*
14 *Regulation 2017*, dictionary.

1 **Part 18** **Road Transport (Public**
2 **Passenger Services) Act 2001**

3 **53 Dictionary, note 3**

4 *omit*

- 5
 - Australian Road Rules

6 **54 Dictionary, definition of *taxi zone***

7 *substitute*

8 *taxi zone*—see the *Road Transport (Road Rules) Regulation 2017*,
9 section 182.

1 **Part 19** **Road Transport (Safety and**
2 **Traffic Management) Act 1999**

3 **55 Dictionary, definition of *road user***

4 *substitute*

5 *road user*—see the *Road Transport (Road Rules) Regulation 2017*,
6 section 14.

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 30 March 2017.

2 Notification

Notified under the [Legislation Act](#) on 2017.

3 Republications of amended laws

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