

2024

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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(As presented)

(Minister for Planning)

# Planning and Environment Legislation Amendment Bill 2024

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## A Bill for

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:

1 **Part 1 Preliminary**

2 **1 Name of Act**

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

5 **2 Commencement**

6 (1) This Act (other than part 6) commences on the 7th day after its  
7 notification day.

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

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

11 **3 Legislation amended**

12 This Act amends the following legislation:

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

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

1 **Part 2** **Climate Change and Greenhouse**  
2 **Gas Reduction Act 2010**

3 **4** **New section 26A**

4 *insert*

5 **26A** **Determination of fees**

6 (1) The Minister may determine fees for this Act.

7 (2) A determination is a disallowable instrument.

- 1 **Part 3** **Commissioner for Sustainability**  
2 **and the Environment Act 1993**
- 3 **5 Functions**  
4 **New section 12 (1) (d)**
- 5 *before the notes, insert*
- 6 (d) preparing a state of the environment report for each reporting  
7 period.
- 8 **6 Section 12 (3), new definition of *reporting period***
- 9 *insert*
- 10 *reporting period*—see section 19 (7).
- 11 **7 Section 14**
- 12 *substitute*
- 13 **14 Discretion not to investigate certain complaints**
- 14 (1) This section applies if a person makes a complaint to the  
15 commissioner in relation to action taken by an agency.
- 16 (2) The commissioner may decide not to investigate the action or to stop  
17 investigating the action if—
- 18 (a) the commissioner is satisfied that the complainant became aware  
19 of the action more than 12 months before the day the complaint  
20 was made; or
- 21 (b) in the commissioner’s opinion—
- 22 (i) the complaint—
- 23 (A) is frivolous or vexatious or was not made in good  
24 faith; or

- 1 (B) lacks substance or credibility; or
- 2 (C) was not made genuinely or was made primarily for a  
3 mischievous purpose; or
- 4 (D) does not contain sufficient information; or
- 5 (ii) the subject matter of the complaint is trivial or unrelated to  
6 the commissioner's functions; or
- 7 (iii) considering all the circumstances, an investigation or  
8 further investigation of the action is not justified; or
- 9 (c) in the commissioner's opinion—
- 10 (i) the complainant—
- 11 (A) has or had a right to have the action reviewed by a  
12 court or tribunal; but
- 13 (B) has not exercised that right; and
- 14 (ii) in all the circumstances, it is reasonable for the  
15 complainant to exercise, or would have been reasonable  
16 for the complainant to have exercised, that right; or
- 17 (d) in the commissioner's opinion, an administrative practice is  
18 suitable for review of the action, and—
- 19 (i) the action has been, is being or will be reviewed under the  
20 administrative practice at the complainant's request; or
- 21 (ii) the commissioner is satisfied that the complainant is  
22 entitled to have the action reviewed under the  
23 administrative practice.
- 24 (3) Also, the commissioner may decide not to investigate the action if the  
25 complainant has not complained to the agency in relation to the  
26 action.

- 1           (4) In this section:
- 2                 *complainant*, in relation to a complaint, means—
- 3                 (a) the person who made the complaint; or
- 4                 (b) if the person made the complaint for another person or a body—
- 5                     the other person or body.
- 6   **14A       Complaints made to agencies**
- 7           (1) This section applies if—
- 8                 (a) a person (the *complainant*) makes a complaint to the
- 9                     commissioner in relation to action taken by an agency; and
- 10                (b) the complainant—
- 11                     (i) has complained to the agency in relation to the action; and
- 12                     (ii) tells the commissioner that the agency—
- 13                         (A) has not responded to the complaint; or
- 14                         (B) has responded to the complaint but the complainant
- 15                             considers the agency’s response unsatisfactory.
- 16           (2) The commissioner must investigate the action if, in the
- 17                 commissioner’s opinion—
- 18                 (a) the agency has not responded to the complaint within a
- 19                     reasonable period; or
- 20                 (b) the agency’s response to the complaint is unsatisfactory.

- 1 **14B Decision not to investigate complaint—annual reporting**  
2 **requirement**
- 3 (1) This section applies if, in a reporting year, the commissioner decides  
4 not to investigate a complaint.
- 5 (2) The commissioner must include details of the decision, including the  
6 reasons for the decision, in the report for the reporting year prepared  
7 by the commissioner under the *Annual Reports (Government*  
8 *Agencies) Act 2004*.

9 **8 State of the environment report**  
10 **Section 19 (7), new definition of *National Environment***  
11 ***Protection Council***

12 *insert*

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

16 **9 Information to be included in commissioner's annual**  
17 **report**  
18 **Section 20**

19 *omit*

20 financial year

21 *substitute*

22 reporting year

1	<b>10</b>	<b>Section 20 (b)</b>
2		<i>omit</i>
3		under section 19 or special report under section 21
4		<i>substitute</i>
5		or a special report
6	<b>11</b>	<b>Section 20, note</b>
7		<i>omit</i>
8	<b>12</b>	<b>Minister to table reports and recommendations</b>
9		<b>Section 22</b>
10		<i>omit</i>
11		a report under section 19 or 21
12		<i>substitute</i>
13		a state of the environment report, a special report
14	<b>13</b>	<b>Information to be included in agency annual reports</b>
15		<b>Section 23</b>
16		<i>omit</i>
17		financial year
18		<i>substitute</i>
19		reporting year
20	<b>14</b>	<b>Section 23, note</b>
21		<i>omit</i>

**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.

1 **Part 4** **Heritage Act 2004**

2 **19** **New section 18A**

3 *insert*

4 **18A** **Ministerial statement of priorities**

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

1 **Part 5** **Nature Conservation Act 2014**

2 **20** **Offence—enter closed reserve**  
3 **Section 260 (3), note**

4 *substitute*

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

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

1 **Part 6 Professional Engineers Act 2023**

2 **21 Section 2 (2)**

3 *substitute*

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

---

## 1 Part 7 Surveyors Act 2007

### 2 **22 Sections 6 to 8**

3 *substitute*

#### 4 **6 Application for registration**

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

#### 7 **7 Eligibility for registration**

8 (1) A person is eligible to be registered as a surveyor if—

9 (a) the person—

10 (i) has previously been registered as a surveyor in the ACT;

11 or

12 (ii) is or has previously been registered as a surveyor in a  
13 State; or

14 *Note* **State** includes the Northern Territory (see [Legislation Act](#),  
15 dict, pt 1).

16 (iii) has obtained a certificate of competency as a land surveyor  
17 from the board of surveying and spatial information; and

18 (b) the surveyor-general is satisfied that the person has a working  
19 knowledge of current surveying practices and any practice  
20 directions; and

21 (c) if the person has previously been registered as a surveyor in the  
22 ACT or is or has previously been registered as a surveyor in a  
23 State—

24 (i) the registration was not involuntarily cancelled; or

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

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

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

8 **Example—subpar (ii)**

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

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

16 (3) In this section:

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

20 **7A Application for registration renewal**

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

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

1    **7B           Eligibility for registration renewal**

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

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

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

8           (1) The surveyor-general may, in writing, require an applicant under  
9           section 6 or section 7A to give the surveyor-general information that  
10          the surveyor-general reasonably needs to decide the application.

11          (2) If the applicant does not comply with a requirement under  
12          subsection (1), the surveyor-general may refuse to consider the  
13          application further.

14   **8            Decision on application for registration or renewal**

15          (1) If a person applies for registration, the surveyor-general must—

16           (a) if the person is eligible for registration—

17               (i) register the person; and

18               (ii) give the person a unique identifying number  
19               (a *registration number*); or

20           (b) if the person is not eligible for registration—refuse to register  
21           the person.

22          (2) If a surveyor applies for renewal of their registration, the  
23          surveyor-general must—

24           (a) if the surveyor is eligible for registration renewal—renew the  
25           surveyor's registration; or

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

## 23 Section 10

19 *substitute*

### 20 10 Registration term

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

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

- 1 (2) A surveyor's renewal of registration—
- 2 (a) begins on the earlier of the following:
- 3 (i) if the surveyor-general decides the application for renewal
- 4 before the day the surveyor's registration ends—1 July
- 5 after the surveyor-general decides the application for
- 6 renewal;
- 7 (ii) in any other case—the day the surveyor-general decides
- 8 the application for renewal; and
- 9 (b) ends on 30 June after the renewal begins.
- 10 *Note* If a surveyor applies for renewal before their registration ends, the
- 11 registration continues in force until the day the application is decided
- 12 (see s 7A (2)).

13 **24 Details to be entered in surveyors register**

14 **Section 12 (1) (e)**

15 *substitute*

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

17 **25 Continuing registration**

18 **Division 3.1**

19 *omit*

20 **26 Power of entry generally**

21 **Section 45 (2), new note**

22 *insert*

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

## Section 27

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

1

*insert*

2

3

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

4

5

(a) keep written evidence of the notice, including how the notice was given; and

6

7

(b) give a copy of the evidence to the surveyor-general on request.

8

**Examples—written evidence**

9

file note, copy of written notice

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

10

11

*insert*

12

13

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

14

15

*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)).

16

17

18

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

19

20

*substitute*

21

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

1 **30 Dictionary, definition of *continuation notice***

2 *omit*

3 **31 Dictionary, definitions of *registration certificate* and**  
4 ***registration number***

5 *substitute*

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

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



1 **Part 1.2 Nature Conservation Act 2014**

2 **[1.3] Section 266, definition of *suitability information*,**  
3 **paragraph (a) (vii), example 3**

4 *substitute*

5 3 *Biodiversity Conservation Act 2016* (NSW)

6 **Explanatory note**

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

9 **Part 1.3 Surveyors Act 2007**

10 **[1.4] Dictionary, definition of *registered business address***

11 *substitute*

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

13 **Explanatory note**

14 This amendment corrects a cross-reference.

15 **Part 1.4 Water Resources Act 2007**

16 **[1.5] Section 25 (4) (c)**

17 *omit*

18 his or her

19 *substitute*

20 their

21 **Explanatory note**

22 This amendment updates language in line with current drafting practice.

