

2024

**THE LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

JUSTICE AND COMMUNITY SAFETY LEGISLATION AMENDMENT BILL 2024

**EXPLANATORY STATEMENT
and
HUMAN RIGHTS COMPATIBILITY STATEMENT
(*Human Rights Act 2004, s 37*)**

**Presented by
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Attorney-General**

JUSTICE AND COMMUNITY SAFETY LEGISLATION AMENDMENT BILL 2024

The Bill is **not** a Significant Bill. Significant Bills are bills that have been assessed as likely to have significant engagement of human rights and require more detailed reasoning in relation to compatibility with the *Human Rights Act 2004*.

This explanatory statement relates to the *Justice and Community Safety Legislation Amendment Bill 2024* as presented to the Legislative Assembly. It has been prepared to assist the reader of the Bill and to help inform debate on it. It does not form part of the Bill and has not been endorsed by the Assembly. The statement is to be read in conjunction with the Bill. It is not, and is not meant to be, a comprehensive description of the Bill.

OVERVIEW OF THE BILL

The Bill is an omnibus bill which amends a range of legislation, primarily in the Attorney-General's portfolio, including:

- *Civil Law (Wrongs) Act 2002*;
- *Civil Law (Wrongs) Regulation 2003*;
- *Court Procedures Act 2004*;
- *Domestic Violence Agencies Act 1986*;
- *Human Rights Act 2004*;
- *Human Rights Commission Act 2005*;
- *Security Industry Act 2003*;
- *Urban Forest Act 2023*; and
- *Discrimination Act 1991*.

CONSULTATION ON THE PROPOSED APPROACH

The amendments in the Bill were developed in targeted consultation within Government and with relevant stakeholders, where appropriate. In some cases, minor and technical amendments were identified by the Government agency that administers or operates under the relevant Act, or by the Parliamentary Counsel's Office.

The ACT Domestic and Family Violence Review (the Death Review) was consulted for the *Domestic Violence Agencies Act 1986* (DVA Act) amendments and were supportive of the reform to the DVA Act.

Access Canberra, ACT Policing, the Australian Security Industry Association (ASIAL), and the Australian Security Education and Consulting Pty Ltd (ASEC) were consulted on the reforms to the *Security Industry Act 2003* (SI Act).

ACT Courts and Tribunal were consulted on the amendments to the *Court Procedures Act 2004*, *Civil Law (Wrongs) Act 2002* and the *Civil Law (Wrongs) Regulation 2003*.

SUMMARY OF AMENDMENTS

Civil Law (Wrongs) Act 2002 and Civil Law (Wrongs) Regulation 2003

This Bill makes minor, technical amendments to the *Civil Law (Wrongs) Act 2002* and the *Civil Law (Wrongs) Regulations 2003* (CLW Regulation). The Bill omits two time limits in sections 7 (1) and 8 (1) of the CLW Regulation. Previously the Act provided that, certain parties (a later respondent or contributor) could only be added to a proceeding before a specific stage in the court process fixed by the CLW Regulation. The CLW Regulation prescribed that time as the point at which a “certificate of readiness” was filed. However, the requirement to file a certificate of readiness was removed in 2015. This meant, in effect, the CLW Regulation no longer prescribed a time by which a later respondent or contributor could be added, rendering sections 7 (1) and 8 (1) of the regulation obsolete.

The Bill also makes minor, consequential amendments to the enabling provisions of the *Civil Law (Wrongs) Act 2002*, to improve the clarity and readability of the legislation.

Court Procedures Act 2004

The *Aboriginal and Torres Strait Islander Children and Young People Commissioner Act 2022* established a new independent, statutory officer to promote and protect the rights of First Nations children and young people in the ACT. The Act amended the *Court Procedures Act 2004* with the intent to give the Commissioner the same role in Children’s Court proceedings as the Public Advocate in relation to Aboriginal and Torres Strait Islander children and young people.

This Bill clarifies the drafting of section 74 (2) (e) *Court Procedures Act 2004* to confirm that the Commissioner is entitled to appear, be heard and may call witnesses if the proceeding is related to an Aboriginal and Torres Strait Islander child or young person, as well as where the proceeding is against an Aboriginal and Torres Strait Islander child or young person.

Domestic Violence Agencies Act 1986

In 2021, the ACT Government established the Domestic and Family Violence Review (the Death Review) mechanism, including a Domestic and Family Violence Review Coordinator. The Death Review was established to examine deaths involving domestic and family violence from a system-wide perspective and make recommendations to the Minister to identify preventative measures to reduce domestic and family violence and improve systemic responses.

This Bill makes a minor amendment to section 16Y of the Domestic Violence Agencies Act 1986 (DVA Act) to change the timeframes for the statutory review of the Death Review. Currently, section 16Y of the DVA Act requires the Minister to review the operation of Part 3A as soon as practicable after the end of its third year of operation and requires the statutory review to be presented to the Legislative Assembly within 3 months of the review's commencement. The statutory review provisions of the DVA Act will expire on 22 September 2025, 4 years after the day it commenced.

The Death Review was delayed due to the COVID19 pandemic and it became operational in early 2023. Despite this delay, the relevant DVA Act provisions commenced in September 2021. This means the planned review would occur after only one year of the Death Review's operation instead of 3 years as originally intended. One year of operation does not provide sufficient time for a review to meaningfully assess operations and make useful findings.

Accordingly, the purpose of this reform to the DVA Act is to enable the statutory review to take place in accordance with the original intention of the legislature, noting the delayed commencement of operations in practice.

Therefore, to better reflect the legislature's original intention, an amendment is needed to delay the commencement of the statutory review. In this way, the review should start 3 years from the point the Death Review became operational, namely, 31 March 2026, not 3 years from when the statutory provisions commenced (ie in September 2021).

Following on from this amendment, it is necessary to make a consequential amendment to section 16Y(3) so that it will expire on 31 March 2027. Otherwise, the review provisions will expire before the statutory review can take place.

Human Rights Act 2004 and Human Rights Commission Act 2005

The Bill clarifies that the mechanism for community members to make complaints to the Human Rights Commission about alleged breaches of section 40B, Human Rights Act does not apply to individual police officers.

This amendment aligns with the view of the Standing Committee on Justice and Community Safety communicated in their 2022 report on its inquiry into Petition 32-21 (No Rights Without Remedy). The Committee noted that there are already existing human rights complaints avenues available in respect of ACT Policing and that there is complexity involved in applying the new proposed human rights complaints mechanism in view of the interaction between the ACT and federal legal arrangements.

The clarification seeks to avoid confusion and ensure that complainants do not lose an enforceable avenue for redress to the Australian Human Rights Commission in relation to a police complaint, due to provisions in a number of federal anti-discrimination laws that remove entitlement to make a complaint where the complaint

has been made at State or Territory level. Community members can raise concerns and make complaints about the actions of ACT Policing through other avenues including the Australian Human Rights Commission (in relation to alleged discrimination), the Commonwealth Ombudsman, and ACT Policing internal police complaint processes.

Security Industry Act 2003

The Bill implements a minor amendment to the *Security Industry Act 2003* (SI Act). The amendment introduces a positive disclosure duty. The new disclosure duty will place an obligation on licensees to notify the Commissioner for Fair Trading within 14 days of circumstances which would change their suitability to hold a licence under the Act. Specifically, licence holders must notify the Commissioner for Fair Trading when they have been convicted of or found guilty of an offence mentioned under section 21 (3) (General suitability criteria) of the SI Act.

Urban Forest Act 2023

The Bill makes minor amendments to the *Urban Forest Act 2023* to correct a drafting error to section 21 of the Act. The Act was introduced to protect trees on private and public land in the ACT under a single piece of legislation.

The inclusion of the word 'leased' in section 21 resulted in there being no legislative mechanism to process an application to remove trees on public land outside of a development application under the *Planning Act 2023*. This amendment will ensure the original intent of the Act is achieved.

The Bill makes minor amendments to section 34 to correct the definition of decision-maker by removing the word conservator and replacing with planning authority and amends the Dictionary definition of decision-maker to reflect the amended section 34 definition.

The Bill also amends section 35 (4)(b) to provide greater clarity in relation to the circumstances in which a person need not enter into a canopy contribution agreement.

Discrimination Act 1991

The Bill makes a technical amendment to the *Discrimination Act 1991* to rectify an oversight in the drafting of an amendment introduced in the *Justice and Community Safety Legislation Amendment Act 2023* (JACS Act 2023 (No 3)).

The *JACS Act 2023 (No 3)* added section 32 (1) (ea) into the *Discrimination Amendment Act 2023*, to ensure that the special measure exception from discrimination law for religious bodies who provide accommodation for members of a relevant class of people was subject to the qualification in section 32(3) that it does not apply to religious bodies whose sole or main purpose is commercial. In making

this amendment to move the accommodation exception to sit under section 32(1), the accommodation exception in section 32(4) should have been omitted, but this corresponding amendment was not made in the *JACS Act 2023 (No 3)*. The Bill rectifies the drafting oversight in the *JACS Act 2023 (No 3)* by omitting the duplicate provision in section 32(4).

CONSISTENCY WITH HUMAN RIGHTS

Rights engaged

The amendments to the *Human Rights Act 2004* and *Human Rights Commission Act 2005* potentially engage rights, including the right to fair hearing, by clarifying that the human rights complaints mechanism will not apply to complaints about ACT police officers.

However, this amendment does not substantively limit rights because the ACT Legislative Assembly does not have legislative power to bind the Australian Federal Police or its officers to an enforcement mechanism of this nature without Commonwealth agreement.

Rights promoted

The amendment to the *Court Procedures Act 2004* will promote the right to protection of the family and children and cultural (s 11, *Human Rights Act*) and other rights of Aboriginal and Torres Strait Islander peoples (s 27, *Human Rights Act*) by clarifying the role of the Aboriginal and Torres Strait Islander Children and Young People Commissioner in Children's Court proceedings. The Commissioner will promote the rights of First Nations children, including their cultural rights, through their individual advocacy function.

Rights limited

The preamble to the *Human Rights Act 2004* (HRA) notes that few rights are absolute and that they may be subject to reasonable limits in law that can be demonstrably justified in a free and democratic society.

Section 28 (2) of the HRA contains the framework that is used to determine the acceptable limitations that may be placed on human rights.

Section 28 of the HRA requires that any limitation on a human right be authorised by a Territory law, be based on evidence, and be reasonable to achieve a legitimate aim. Whether a limitation is reasonable depends on whether it is proportionate.

Proportionality can be understood and assessed as explained in *R. v. Oakes*, [1986] 1 S.C.R. 103 at 70. A party must show:

'... [f]irst, the measures adopted must be carefully designed to achieve the objective in question. They must not be arbitrary, unfair or based on irrational considerations. In short, they must be rationally connected to the objective. Second, the means, even if rationally connected to the objective in this first sense, should impair "as little as possible" the right or freedom in question.

Third, there must be a proportionality between the effects of the measures which are responsible for limiting the Charter right or freedom, and the objective which has been identified as of “sufficient importance”.

The Bill engages and may limit the:

- Right to privacy and reputation (section 12);
- Right to liberty and security of person (section 18); and
- Right to work (section 27B).

The ways in which the Bill does this are set out below.

Right to privacy – security industry reforms – disclosure of personal information in relation to the positive disclosure duty under new section 29AA

1. *Nature of the right and the limitation (section 28 (a) and (c))*

The right to privacy incorporates the right to keep one’s personal information private. The Bill will engage and may limit the right to privacy by requiring the disclosure of personal information where an individual has been convicted or found guilty of a relevant criminal offence.

2. *Legitimate purpose (section 28 (b))*

The legitimate purpose of the disclosure obligation is to support community safety by ensuring that those who hold security licences in the ACT maintain their eligibility to do so. Requiring prompt disclosure to the Commissioner for Fair Trading when a licence holder has been convicted or found guilty of a relevant offence supports Access Canberra to take timely action to cancel a licence when it becomes aware that a person is no longer eligible. This is for the ultimate benefit of the community as it ensures those working in the industry are of good character and can be properly trusted to protect both persons and property.

3. *Rational connection between the limitation and the purpose (section 28 (d))*

Requiring the disclosure of personal information in the form of criminal records is rationally connected to the legitimate purpose as it enables the Commissioner for Fair Trading to take appropriate regulatory action to cancel a person’s licence in the event that they are no longer considered suitable to hold a licence. As noted above, this protects the ACT community and property by ensuring those performing security roles are of appropriate character.

4. *Proportionality (section 28 (e))*

The limitation on the right to privacy is reasonable and proportionate to the purpose of the change as it ensures those who hold security licences in the ACT meet community standards of eligibility for the protection of persons and property. Further it is noted that a person would be required to disclose any convictions or findings of guilt in relation to a relevant offence when the person seeks to renew their security licence so this measure simply brings forward the date by which notification of the relevant offences is required.

Rights in criminal proceedings – security industry reforms – amendment to create an offence for failing to disclose under the new positive disclosure duty under new section 29AA

1. *Nature of the right and the limitation (section 28 (a) and (c))*

Section 22(1) of the HRA provides that everyone charged with a criminal offence has the right to be presumed innocent until proven guilty according to law.

The Bill limits rights in criminal proceedings by creating a new strict liability offence for a licensee who fails to give notice to the Commissioner for Fair Trading of a conviction or finding of guilt for a relevant offence within 14 days after the licensee is convicted or found guilty. This offence carries with it a maximum penalty of 20 penalty units.

Strict liability offences engage and may limit the right to be presumed innocent until proven guilty as they impose guilt without the need to prove a person's fault.

2. *Legitimate purpose (section 28 (b))*

The legitimate purpose of the amendment is to protect community safety by ensuring that security industry licence holders maintain eligibility for their licence. Requiring prompt disclosure to the Commissioner for Fair Trading ensures the Commissioner is informed when there are circumstances that may impact a person's suitability to hold a licence under the SI Act.

This will ultimately benefit the community as it is in the community interest to ensure all license holders continue to meet eligibility requirements.

3. *Rational connection between the limitation and the purpose (section 28 (d))*

Requiring individuals to hold a licence to work in the security industry in the ACT is important in ensuring only those who are suitable and authorised to work in the industry do so. The limitation on rights in criminal proceedings is rationally connected to the legitimate purpose as it promotes better community safety outcomes by ensuring that the Commissioner for Fair Trading is promptly made aware of matters that may require the cancellation of that licence on suitability grounds.

The intention behind the strict liability offence introduced by this Bill for failing to disclose a relevant conviction or finding of guilt is to ensure compliance with the obligation. The purpose of the penalty attributable to this offence is to provide an appropriate disincentive for failing to disclose.

4. *Proportionality (section 28 (e))*

Strict liability offences typically arise in a regulatory context to support regulatory compliance. The defendant can reasonably be expected, because of their involvement with the regulated activity, to understand the requirements of the law, and as such, the mental or fault element can justifiably be excluded. Licence holders will be made aware of their obligations through public communications materials including information on the Access Canberra website in relation to the security industry (<https://www.accesscanberra.act.gov.au/business-and-work/security/security-industry-licences>).

This approach is proportionate to the overall aim of the changes as it ensures all those who hold a licence under the SI Act meet certain standard.

Right to work – security industry reforms – disclosure obligation under new section 29AA

1. *Nature of the right and the limitation (section 28 (a) and (c))*

Section 27B of the HRA provides that everyone has the right to work, including the right not to be unfairly deprived of work.

The right to work is engaged and may be limited by amendments in the Bill which change the circumstances in which a person may have their licence cancelled. As security industry workers are required to be licenced, cancellation of their licence would limit their right to work.

The Bill introduces a new section 29AA into the SI Act and creates a positive disclosure obligation for licensees when they have been convicted or found guilty of a relevant offence contained in section 21 (3). This may result in the cancellation of a licence on suitability grounds.

2. *Legitimate purpose (section 28 (b))*

The legitimate purpose of the changes is to protect community safety by ensuring the Commissioner for Fair Trading is given contemporaneous knowledge of matters that could lead to the cancellation of a persons' licence on suitability grounds. There is a community expectation that those who are charged with undertaking security activities to protect persons and property meet a certain standard. By including a

positive disclosure obligation, the community can be satisfied that the integrity of the security industry is upheld by providing for the cancellation of licence when more serious offences are committed during the term of a licence.

3. Rational connection between the limitation and the purpose (section 28 (d))

There is a rational connection between the limitation and the purpose in that it provides better regulatory oversight by ensuring those who have been convicted of or found guilty of an offence are required to promptly notify the Commissioner for Fair Trading of matters that impact their ongoing suitability to hold a licence. This protects community safety by ensuring that the Commissioner for Fair Trading is promptly made aware of matters that may lead to cancellation of a licence on suitability grounds.

4. Proportionality (section 28 (e))

The limitation on the right to work is reasonable and proportionate to the purpose of the change as it ensures those who hold security licences in the ACT meet community standards of suitability for the protection of persons and property. It is noted that licence holders are already required to disclose this information to the Commissioner for Fair trading if they seek renewal of their licence so this new positive disclosure duty simply serves to ensure the Commissioner for Fair Trading is made aware of matters relating to suitability to hold a licence in a more contemporaneous manner. Further, it is noted that the decision to cancel a licence is reviewable by the ACT Civil and Administrative Tribunal.

JUSTICE AND COMMUNITY SAFETY LEGISLATION AMENDMENT BILL 2024

Human Rights Act 2004 - Compatibility Statement

In accordance with section 37 of the *Human Rights Act 2004* I have examined the **Justice and Community Safety Legislation Amendment Bill 2024**. In my opinion, having regard to the Bill and the outline of the policy considerations and justification of any limitations on rights outlined in this explanatory statement, the Bill as presented to the Legislative Assembly **is** consistent with the *Human Rights Act 2004*.

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Shane Rattenbury MLA
Attorney-General

CLAUSE NOTES

Part 1 Preliminary

Clause 1 Name of Act

This clause provides that the name of the Act is the *Justice and Community Safety Legislation Amendment Act 2024*.

Clause 2 Commencement

This clause provides for the commencement of the Act. The Act commences on the day after its notification day.

Clause 3 Legislation amended

This clause identifies the legislation that will be amended is the:

- *Court Procedures Act 2004*
- *Civil Law (Wrongs) Act 2002*
- *Civil Law (Wrongs) Regulation 2003*
- *Domestic Violence Agencies Act 1986*
- *Security Industry Act 2004*
- *Urban Forest Act 2023*

The clause also identifies other legislation that will be amended in Schedule 1.

Part 2 Civil Law (Wrongs) Act 2002

Clause 4 Claimant may add later respondents Section 55 (2) (a)

This clause substitutes ‘within the time prescribed by regulation; or’ with ‘within the time (if any) prescribed by regulation; or’. This amendment is added for clarity, to reflect that a time may not be prescribed by regulation.

Clause 5 Section 55 (3) (b)

This clause omits ‘time’ and substitutes it with ‘period’ in section 55 (3) (b). The amendment is made to enhance the readability of the provision.

Clause 6 Respondent may add someone else as contributor Section 57 (1)

This clause omits ‘may, within the time prescribed by regulation, add’ and substitutes it with ‘may add’. This amendment is made for clarity and readability. It reflects that a time may not be prescribed by regulation. Provision for a time to be prescribed by regulation has been transferred into section 57 (2) (see clause 7 below).

Clause 7 Section 57 (2)

This clause substitutes the existing section 57 (2) with ‘However, the respondent may add someone else as a contributor only—

- (1) within the period (if any) prescribed by regulation; or
- (2) if the contributor and all parties to the claim agree; or
- (3) if the court gives leave.’

The clause makes no substantive changes to section 57 (2). The provision that a period may be prescribed by Regulation is transferred from section 57 (1) to section 57 (2).

Clause 8 Section 57 (3)

This clause substitutes ‘If’ with ‘Also, if’. This is a minor, technical amendment, made to enhance the readability of the provision.

Clause 9 Section 57 (5)

This clause omits ‘time’ and substitutes it with ‘period’ in section 57 (5). The amendment is made to enhance the readability of the provision.

Part 3 Civil Law (Wrongs) Regulation 2003

Clause 10 Sections 7 and 8

This clause substitutes sections 7 and 8. In doing so, it omits the time prescribed for the adding of a later respondent for the purposes of section 55 (2) (a), being the time when a certificate of readiness is filed. It also omits the time prescribed for the adding of someone else as a contributor for the purposes of section 57 (1), being the time when a certificate of readiness is filed. These references have been removed as it is no longer necessary to file a certificate of readiness so this time frame is no longer meaningful.

The omissions mean section 7 and 8 now only include one paragraph. Accordingly, consequential, technical amendments are to the numbering of the remaining paragraphs.

Part 4 Court Procedures Act 2004

Clause 11 Director-general, public advocate and Aboriginal Torres Strait Islander children and young people commissioner etc may appear at proceedings Section 11 (2) (d)

This clause omits ‘proceeding is against’ and replaces it with ‘hearing relates to.’

Part 5 Domestic Violence Agencies Act 1986

Clause 12 Review of part Section 16Y (1)

This clause substitutes ‘The Minister must review the operation of this part as soon as practicable after the end of its third year of operation’ with ‘The Minister must review the operation of this part as soon as practicable after 31 March 2026.’ The amendment is to ensure that the Minister must review the operation of this part starting 31 March 2026.

Clause 13 Section 16Y (3)

This clause substitutes ‘This section expires 4 years after the day it commences’ with ‘This section expires on 31 March 2027.’ The amendment is to ensure that the section expires on 31 March 2027

Part 6 Human Rights Act 2004

Clause 14 Public authorities must act consistently with human rights Section 40B (1) note

This clause amends the note in section 40B (1) to note that a human rights complaint under the *Human Rights Commission Act 2005* cannot be made about a public authority mentioned under section 40 (1) (e) (an individual police officer).

Part 7 Human Rights Commission Act 2005

Clause 15 Dictionary, definition of *person complained about*, paragraph (d) (ii)

This clause amends the definition of *person complained about* to omit a reference to the *Human Rights Act 2004* section 40 (1) (e) (an individual police officer).

Clause 16 Dictionary, definition of *public authority*, paragraph (b)

This clause amends the definition of *public authority* so that it does not include a public authority mentioned in the *Human Rights Act 2004* section 40 (1) (e) (an individual police officer).

Part 8 Security Industry Act 2003

Clause 17 New section 29AA

Disclosure of disqualifying offences

This clause inserts new section 29AA into the SI Act. New section 29AA introduces a positive disclosure obligation into the SI Act.

The positive disclosure obligation requires licensees to disclose to the Commissioner for Fair Trading when they have been convicted or found guilty of an offence listed in section 21 (3) within 14 days of when they become aware of the conviction or finding of guilt. This will enable the Commissioner for Fair Trading to reassess the suitability of the licensee to continue holding their licence after they have been notified of matters that may affect the licence holder's suitability to continue to hold a licence. A failure to disclose this information within the 14-day period carries with it a maximum penalty of 20 penalty units and is a strict liability offence.

The purpose for introducing this obligation is to provide assurance to the community that those who are employed for the purposes of undertaking security activities are suitable.

Part 9 Urban Forest Act 2023

Clause 18 Application for approval of tree damaging etc activity Section 21 (1)

This clause omits 'leased' from section 21 (1).

Clause 19 Definitions—sdiv 3.3.2 Section 34, definition of decision-maker

This clause substitutes '**decision-maker**, in relation to a development proposal to remove a protected tree under the *Planning Act 2023*, means the conservator' with '**decision-maker**, in relation to a protected tree that is proposed to be removed in accordance with a development approval, means the territory planning authority.'

Clause 20 Decision on approval application—canopy contribution agreements Section 35 (3), note

This clause substitutes 'The decision-maker in relation to a development proposal to remove a protected tree under the *Planning Act 2023* is the conservator (see s 34, def **decision-maker**)' with 'The decision-maker in relation to a protected tree that is proposed to be removed in accordance with a development approval is the territory planning authority.'

Clause 21 Section 35 (4) (b)

This clause substitutes 'if the approval relates to a public tree—an administrative unit has approved the removal of the tree at the applicant's cost; or' with 'the approval relates to a public tree and an administrative unit has —'

This clause inserts subparagraph 35 (4) (b) (i) 'approved the removal of the tree at the applicant's cost; and' and subparagraph 35 (4) (b) (ii) 'stated, in writing, that the tree would be removed by the administrative unit as part of anything done under section 18 (1); or.'

Clause 22 Dictionary, definition of decision-maker, paragraph (b)

This clause substitutes ‘for subdivision 3.3.2 (Approved activities—canopy contributions), in relation to a development proposal to remove a protected tree under the *Planning Act 2023*—see section 34’ with ‘for subdivision 3.3.2 (Approved activities—canopy contributions), in relation to a protected tree that is proposed to be removed in accordance with a development approval—see section 34.’

Schedule 1 Discrimination Act 1991— minor amendment

[1.1] Section 32 (4)

This clause omits ‘Section 21 (Accommodation) does not make it unlawful for a religious body to discriminate against a person in relation to the provision of accommodation for members of a relevant class of people.’