

2024

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

TENTH ASSEMBLY

Controlled Sports Amendment Bill 2024

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

**Presented by
Yvette Berry MLA
Minister for Sport and Recreation
June 2024**

CONTROLLED SPORTS AMENDMENT BILL 2024

Introduction

This explanatory statement relates to the Controlled Sports Amendment Bill 2024 as presented to the Legislative Assembly. It has been prepared in order 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 Legislative Assembly.

The Statement must be read in conjunction with the bill. It is not, and is not meant to be, a comprehensive description of the bill. What is said about a provision is not to be taken as an authoritative guide to the meaning of a provision, this being a task for the courts.

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*.

OVERVIEW OF THE BILL

The purpose of the bill is to amend the *Controlled Sports Act 2019* (the Act) in order to enhance and refine the operational efficiency of administering the Act.

The Bill amends the Act such that:

- i. the power to appoint the controlled sports registrar will be a public servant, with the effect of harmonising the appointment arrangement with similar registrar positions across government; and
- ii. new provisions will enable controlled sports officials and contestants to apply to amend an existing registration to add an additional capacity and/or sport.

Amending the appointer of the controlled sports registrar to a public servant

Section 12(1) of the Act provides that “the Minister may appoint a public servant as the controlled sports registrar.” This arrangement is inconsistent with similar registrar positions across ACT Government and the appointment process is less efficient than comparable registrar positions. The appointment process by a public servant for similar registrar positions (such as the construction occupations registrar and the architects registrar) is more efficiently managed.

By amending the appointer of the controlled sports registrar to a public servant, the routine and non-controversial appointment of the registrar will be more efficiently managed within the ACT Government. The transparency of this appointment will be maintained through the requirement of the appointment to be made via a notifiable instrument and published on the ACT legislation register.

Addition of provisions for controlled sports industry participants to apply to amend an existing registration

Registrations of controlled sports officials and contestants is dealt with under Division 3.2 and 3.3 of the Act. Under the Act, the only mechanism to allow an additional capacity or controlled sport, such as a discipline, to be added to an existing registration is through the registration renewal provisions prescribed in section 22 and section 31 of the Act. Existing registrants are not always incentivised to apply to amend an existing registration via the renewal process due to the fee arrangements in place, which require an individual to pay a fee for each existing and proposed official type under the registration.

There is no separate mechanism for registrants to apply to amend their registration under the legislation.

New sections 21A and 30A of the Act, enable a controlled sports official or contestant to apply to amend their existing registration to add an additional controlled sports official capacity and/or controlled sport.

CONSULTATION ON THE PROPOSED APPROACH

Economic Development (ED) in the Chief Minister, Treasury and Economic Development Directorate has consulted with Access Canberra in the development of the proposed amendments. Advice provided by ACT Government Solicitor's Office and the ACT Parliamentary Counsel's Office has assisted in the formulation and development of the proposed amendments for inclusion in this Bill.

Controlled sports industry participants, including the Controlled Sports Advisory Committee, were consulted on the proposed amendment to introduce provisions to allow registered individuals to apply to amend an existing registration to add an additional capacity or controlled sport. Industry feedback has been positive on this proposed amendment.

CLIMATE IMPACT

This Bill does not have a climate impact.

CONSISTENCY WITH HUMAN RIGHTS

This Bill may engage section 12 of the *Human Rights Act 2004*, which sets out the rights of individuals from unlawful or arbitrary interference with privacy, family, home or correspondence and is intended to protect individuals from excessive government intervention. Under the new provisions 21A(2) and 30A(2) the controlled sports registrar may request additional information from an applicant when considering to amend an existing registration. This is consistent with existing provisions in the Act under sections 17 and 26 that allow the controlled sports registrar to request, in writing, additional information needed to decide an application for registration for controlled sports officials and contestants. Providing additional information may be perceived as an interference with an applicant's privacy, however, the registration of contestants

and controlled sports officials under the Act is for the purpose of ensuring industry integrity and safety.

It is reasonable for the controlled sports registrar to ensure they have all necessary information before deciding on an application to amend an existing registration. It is a safeguard to this engagement that under new sections 21A(2) and 30A(2) the information requested must be 'information that the controlled sports registrar reasonably needs to decide the application'. This safeguard will ensure that the right to privacy under section 12 of the *Human Rights Act 2004* will not be limited.

CLAUSE NOTES

Clause 1 Name of Act

This is a technical clause that names the short title of the Act. The name of the Act will be the Controlled Sports Amendment Act 2024.

Clause 2 Commencement

This clause provides that the Act will commence the day after it is notified.

Clause 3 Legislation amended

This clause lists the legislation that will be amended by the Act. This Act amends the *Controlled Sports Act 2019*.

Clause 4 Section 12 (1) and notes

This clause amends the power to appoint the controlled sports registrar. It replaces the Minister with the Director- General with the power to appoint the controlled sports registrar.

Clause 5 New section 21A

This clause introduces a mechanism into the legislation that allows a controlled sports official to apply to the controlled sports registrar to amend an existing registration. This section prescribes the application requirements for individuals applying to amend their existing registration, and the information that the registrar may consider when deciding an application.

This section details that the registrar may request in writing further information that is reasonably required to decide an application. This section also provides provisions that the registrar must notify the applicant of the decision of their application to amend an existing registration in writing.

Under this new section, security sensitive information may be withheld were the applicant to request a review of the decision.

Clause 6 New section 30A

This clause introduces a mechanism into the legislation that allows a controlled sports contestant to apply to the controlled sports registrar to amend an existing registration. This section prescribes the application requirements for individuals applying to amend their existing registration, and the information that the registrar may consider when deciding an application.

This section details that the registrar may request in writing further information that is reasonably required to decide an application. This section also provides provisions that the registrar must notify the applicant of the decision of their application to amend an existing registration in writing.

Under this new section, security sensitive information may be withheld were the applicant to request a review of the decision.

Clause 7 Reviewable decisions Schedule 1, new item 3A

This clause inserts a provision into schedule 1 that a decision to amend a controlled sports official registration is a reviewable decision.

Clause 8 Schedule 1, new item 7A

This clause inserts a provision into schedule 1 that a decision to amend a controlled sports contestant registration is a reviewable decision.

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Human Rights Act 2004 - Compatibility Statement

In accordance with section 37 of the *Human Rights Act 2004* I have examined the **Controlled Sports 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