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

**ELEVENTH ASSEMBLY**

**JUSTICE AND COMMUNITY SAFETY LEGISLATION AMENDMENT  
BILL 2026**

**REVISED EXPLANATORY STATEMENT**

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# JUSTICE AND COMMUNITY SAFETY LEGISLATION AMENDMENT BILL 2026

## INTRODUCTION

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 2026 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 of the following legislation:

- *Aboriginal and Torres Strait Islander and Children and Young People Commissioner Act 2022*
- *Custodial Inspector Act 2017*
- *Electoral Act 1992*
- *Human Rights Commission Act 2005*
- *Inquiries Act 1991*
- *Oaths and Affirmations Act 1984*
- *Supreme Court Act 1933*
- *Unit Titles (Management) Act 2011*

The Bill will improve the ACT's justice and community safety legislation, to ensure that it is of the highest standards, facilitates the practical operations of justice sector agencies and best supports and protects the ACT community.

*Aboriginal and Torres Strait Islander, Children and Young People Commissioner Act 2022 and Custodial Inspector Act 2017*

The Aboriginal and Torres Strait Islander Children and Young People Commissioner advocates for the rights and interests of young Aboriginal and Torres Strait Islander people. The Custodial Inspector independently examines and reviews corrective centres in the ACT, including the treatment and wellbeing of detainees. Both statutory officers have a role in relation to supporting young people in the Bimberi Youth Justice Centre and are members of the ACT National Preventive Mechanism (NPM).

The Bill will introduce information sharing provisions to ensure that when matters of concern or overlapping jurisdiction occur (for example, in relation to Aboriginal and Torres Strait Islander young people at Bimberi Youth Justice Centre or Aboriginal and Torres Strait Islander parents at the Alexander Maconochie Centre (AMC)), the Office of the ACT Inspector of Custodial Services (OICS) and NPM can effectively cooperate and share information with the Aboriginal and Torres Strait Islander Children and Young People Commissioner to enable the effective investigation and review of matters of concern.

### *Electoral Act 1992*

An amendment to s 216B of the *Electoral Act 1992* (Electoral Act) will re-insert the requirement for a political entity to disclose 'additional gifts' by a political entity once the total amount of gifts received from a person during the reporting period has reached \$1,000 or more. The amendment was recommended by both the Standing Committee on the Integrity Commission and Statutory Office Holders and the ACT Electoral Commissioner. The requirement was in the *Electoral Act* (s 216A(3)(b)) prior to the commencement of the *Electoral and Road Safety Legislation Amendment Act 2023*. Re-inserting the provision will further promote transparency and integrity in the electoral process.

### *Human Rights Commission Act 2005*

Community members can make complaints to the ACT Human Rights Commission (Commission) about a range of matters including discrimination, retirement villages, occupancy disputes and conversion practices. The amendment will require a complainant in these types of matters to seek leave from the ACAT before applying to the Tribunal to consider a matter where the Commission closes a complaint because it is satisfied of one of the reasons mentioned in section 78(2)(c) of the *Human Rights Commission ACT 2005* (HRC Act).

The Commission must close a complaint under section 78(2)(c) if satisfied that the complainant has been given a reasonable explanation and the complaint needs no further action by the Commissioner, or the complaint is frivolous, vexatious or not made honestly, or the matters raised by the complaint have been, or are being dealt with by a court or tribunal or have been dealt with by the commission, or the complaint lacks substance. The amendment will ensure that where a complaint has been closed by the Commission under section 78(2)(c), a complainant will be required to seek leave from the ACAT before their matter can be considered by the Tribunal.

### *Inquiries Act 1991*

In consideration of the outcomes and learnings from previous Boards of Inquiry, a review of the *Inquiries Act 1991* was undertaken to ensure it is fit for purpose and reflects contemporary best practice approaches. Through consultation with key stakeholders, a number of potential amendments to the *Inquiries Act 1991* were

identified. Amendments considered technical and low complexity are proposed for inclusion in this Bill.

Amendments to the *Inquiries Act 1991* proposed to be included will address confidentiality and report handling requirements; strengthen safeguards around disclosure and enhance procedural fairness by extending response times for adverse comments.

### Supreme Court Act 1933

The Bill will allow the Supreme Court to initiate a declaration for vexatious proceedings on its own motion. Vexatious proceedings are proceedings which harass, annoy, seek to cause delay, are used for ulterior purposes or lack reasonable grounds. These matters are often initiated without sufficient grounds, aimed at harassing another party and pursuing meritless proceedings.

The Court already has the power under s 67A of the *Supreme Court Act 1933* to determine that a person has frequently initiated vexatious proceedings. However, the Court can only make a vexatious declaration on the motion of the Attorney-General or aggrieved person (who are often victims of the vexatious proceedings). This amendment will allow the Court to commence such an application on its own initiative, taking the burden of cost, stress and time from the aggrieved person having to deal with vexatious proceedings. This amendment will enhance the Court's ability to intervene early, reduce misuse of the legal system, and ensure that judicial resources are appropriately directed.

Other Australian jurisdictions have conferred powers on their respective Supreme Courts to initiate vexatious litigant orders, and other courts such as the Federal Court, NSW Land and Environment Court, NSW Industrial Court and WA district courts, have also been conferred the power.

### Other minor amendments

The Bill also contains other amendments to address minor and technical issues. The amendment to the *Unit Titles (Management) Act 2011* will rectify an error in a cross reference in the legislation, and an amendment to the *Oaths and Affirmations Act 1984* will amend the title of Part 3.

## **CONSULTATION ON THE PROPOSED APPROACH**

Government has consulted with the Aboriginal and Torres Strait Islander Children and Young People Commissioner, Office of the ACT Inspector of Custodial Services, ACT National Preventive Mechanism, ACT Human Rights Commission, ACT Courts and Tribunal and ACT Electoral Commission in the development of the Bill.

## **CLIMATE IMPACT**

This Bill does not have a climate impact.

## **CONSISTENCY WITH HUMAN RIGHTS**

### ***Rights engaged***

The Bill engages the following sections of the Human Rights Act 2004 (**HRA**):

- **Section 11** – Right to protection of children and family (*promoted*)
- **Section 12** – Right to privacy and reputation (*limited and promoted*)
- **Section 16** – Right to freedom of expression (*limited*)
- **Section 17** – Right to take part in public life (*promoted*)
- **Section 21** – Right to a fair trial (*limited and promoted*)
- **Section 27** – Cultural and other rights of Aboriginal and Torres Strait Islander peoples and other minorities (*promoted*)

### ***Rights promoted***

The amendments to the *Aboriginal and Torres Strait Islander Children and Young People Commissioner Act 2022* and *Custodial Inspector Act 2017* will promote Aboriginal and Torres Strait Islander cultural rights (section 27 HRA) and the right to protection of children and the family (section 11 HRA). The amendments will ensure that when matters of concern or overlapping jurisdiction occur (for example, in relation to Aboriginal and Torres Strait Islander young people at Bimberi Youth Justice Centre or Aboriginal and Torres Strait Islander parents at the Alexander Maconochie Centre), the Office of the ACT Inspector of Custodial Services (OICS) and the ACT National Preventive Mechanism (NPM) can effectively cooperate and share information with the Aboriginal and Torres Strait Islander Children and Young People Commissioner to enable the effective investigation and review of these matters.

The amendment to the Electoral Act 1992 will promote the right to take part in public life (section 17 HRA), by providing for stronger regulation and transparency of gifts in the context of our electoral system. This will ensure that entities participating in democratic processes are more transparent and accountable, supporting proper elections in the ACT.

The amendments to sections 4, 14(1), 17, 38(3) and 38A of the *Inquiries Act 1991* will promote the Right to Privacy and Reputation (section 12, HRA) by enhancing confidentiality of information shared by witnesses during proceedings of a Board of Inquiry, clarifying conditions for publication of inquiry reports, as well as by strengthening compliance with information management standards including the *Territory Records Act 2002*.

Amendments to section 26A of the Inquiries Act relating to adverse comments, including the amount of time provided to witnesses to respond, will promote the Right

to a Fair Trial (section 21, HRA). Amendments relating to proposed adverse comments in reports will also promote the Right to Privacy and Reputation (section 12, HRA) by ensuring that, if a comment is not included in the report, no other material that would disclose the fact that a notice was given in relation to the comment will be included either. Thereby, the assurances of confidentiality of comments are expanded.

### ***Rights limited***

#### **Section 12 HRA – Right to Privacy – Amendments to *Aboriginal and Torres Strait Islander Children and Young People Commissioner Act 2022* and *Custodial Inspector Act 2017***

##### **1. *Nature of the right and the limitation (s28(2)(a) and (c))***

The right to privacy provides that everyone has the right not to have their privacy, family, home or correspondence interfered with unlawfully or arbitrarily. The amendment provides that the Aboriginal and Torres Strait Islander Children and Young People Commissioner may disclose to an information sharing entity any information that has been disclosed to, or obtained by, the commissioner in the exercise of a function under the Act. The Commissioner may do so if reasonably satisfied the information is relevant to the exercise of the entity's functions, and if the individual has given consent for the sharing of their personal information. The amendment also provides that the Commission may disclose personal information about an individual to an information sharing entity without the individual's consent if the Commissioner believes on reasonable grounds that the disclosure is necessary to ensure that a coordinated approach or effective advocacy is able to be undertaken in relation to an Aboriginal or Torres Strait Islander child or young person. By allowing for the sharing of personal information without consent, the amendment limits the right to privacy.

##### **2. *Legitimate purpose (s28(2)(b))***

The legitimate purpose of the amendment is to better facilitate information sharing to ensure that when matters of concern or overlapping jurisdiction occur, (for example, in relation to Aboriginal and Torres Strait Islander young people at Bimberi Youth Justice Centre or Aboriginal and Torres Strait Islander parents at the Alexander Maconochie Centre), the OICS and the NPM can effectively cooperate and share information with the Aboriginal and Torres Strait Islander Children and Young People Commissioner to enable the effective investigation and review of matters of concern.

### **3. Rational connection between the limitation and the purpose (s28(2)(d))**

The sharing of information between these entities for the purpose of effective investigation and review necessitates the sharing of personal information. In some circumstances, personal information needs to be shared between the Commissioner and information sharing entities without the consent of the Aboriginal and Torres Strait Islander child or young people in order to ensure that a coordinated approach or effective advocacy is able to be undertaken.

### **4. Proportionality (s28(2)(e))**

The least restrictive approach is taken, in that personal information can only be shared between these limited and specific named entities. The information can only be shared without consent in limited circumstances, where it is necessary to coordinate support and undertake effective advocacy.

Amendments to the *Aboriginal and Torres Strait Islander Children Young People Commissioner Act 2022* ensure that personal information may only be shared with the individual's consent (section 34(1)), unless the Commissioner believes on reasonable grounds that the disclosure is necessary to ensure there is a coordinated approach to a matter affecting the young person and effective advocacy is able to be undertaken for that person (section 34(2)). The *Custodial Inspector Act 2017* also provides at section 35 that 'an information entity may disclose to the inspector relevant information held by the entity *to the extent that it is reasonably necessary* for this part' (emphasis added).

The amendments to the *Aboriginal and Torres Strait Islander Children Young People Commissioner Act 2022* include a privacy safeguard at section 34(3), which provides that if an information sharing entity uses information disclosed to the entity under this section, a secrecy requirement is taken to apply. Secrecy requirement is defined for the purposes of this section as a prohibition on the disclosure of information that applies to the commissioner in relation to the information disclosed to an information sharing entities, whether the prohibition is absolute or subject to state exceptions or qualifications.

A key privacy safeguard is the existing secrecy offence in section 35 of the *Aboriginal and Torres Strait Islander Children and Young People Commissioner Act 2022*, which prohibits an information holder from making a record of protected information or disclosing protected information about someone else and being reckless about whether the information was protected information. This offence does not apply if the record is made, or the information is disclosed in relation to the exercise of a function under this Act. The sharing of information with these entities (as in the proposed amendment) must be done within the functions provided by the Act, and this pre-existing offence protects the information from being disclosed outside of these functions.

A similar offence is found in section 37 of the *Custodial Inspector Act 2017* which also prohibits the reckless recording or communication of protected information about someone else, unless the information is disclosed in relation to the exercise of a function under the Act.

## Section 21 HRA – Right to Fair Trial – Amendments to *Human Rights Commission Act 2005*

### **1. Nature of the right and the limitation (s28(2)(a) and (c))**

The right to fair trial provides that everyone has a right to have the determination of rights and obligations recognised by law, decided by a competent, independent and impartial court or tribunal after a fair and public hearing.

The amendment will require a complainant in a discrimination, retirement villages, occupancy disputes and conversion practices matter to seek leave from the ACAT before applying to the Tribunal to consider a matter where the Commission closes a complaint because it is satisfied of one of the reasons mentioned in section 78(2)(c) of the Human Rights Commission ACT 2005 (HRC Act). The Commission must close a complaint under section 78(2)(c) if satisfied that the complainant has been given a reasonable explanation and the complaint needs no further action by the Commissioner, or the complaint is frivolous, vexatious or not made honestly, or the matters raised by the complaint have been, or are being dealt with by a court or tribunal or have been dealt with by the commission, or the complaint lacks substance.

The amendment will limit the rights of some litigants, including vexatious litigants, to have their discrimination, retirement village, occupancy dispute and conversation practices complaints heard by the ACAT by requiring them to first seek leave from the Tribunal before the complaint is heard.

### **2. Legitimate purpose (s28(2)(b))**

The amendment pursues the legitimate objective of protecting the integrity, efficiency and fairness of the Tribunal system by preventing the unnecessary consideration by the Tribunal of complaints that have already been assessed and determined by the Human Rights Commission to be non-meritorious. The amendment is intended to prevent the abuse of tribunal processes, promote the efficient use of public resources, and protect respondents from unnecessary litigation.

### **3. Rational connection between the limitation and the purpose (s28(2)(d))**

The amendment will support efficient operations of the Tribunal by giving the ACAT discretion as to whether to grant leave to hear a matter that was closed by the Human Rights Commission under s 78 (2) (c) *Human Rights Commission Act* (that is, it is frivolous, vexatious or not made honestly, required no further action by the Commission, or relates to matters that have been or are being dealt with by a court or tribunal). Whilst this limits the rights of a small group of litigants, it frees up time and resources at ACAT to deal with the majority of matters which are not deemed vexatious and which have higher likelihood of a successful outcome.

#### **4. Proportionality (s28(2)(e))**

The requirement to seek leave from the ACAT to determine whether a claim can proceed is only applicable in the legislation to a limited subset of complaints, being those that are closed by the Human Rights Commission under section 78(2)(c). There are limited claims seen by ACAT which fulfill this criteria.

The amendment does not remove access to ACAT outright, rather it introduces a threshold procedural step to ensure that only claims with an arguable basis proceed to a hearing. The ACAT will retain discretion to determine they should proceed to consider a complaint even if the Commission has deemed it without merit.

The Tribunal's decision on whether to grant leave for a complaint to proceed is reviewable under the *ACT Civil and Administrative Tribunal Act 2008*. Therefore, in the circumstance that a complainant insists that their claim is not vexatious or otherwise without merit, they would be able to challenge the Tribunal's decision to not grant leave.

### **Section 16 HRA – Freedom of Expression – Amendments to *Inquiries Act 1991***

#### **1. Nature of the right and the limitation (s28(2)(a) and (c))**

The right to freedom of expression provides that everyone has the right to hold opinions without interference and freedom to express information and ideas freely. The right includes the freedom to seek, receive and impart information and ideas of all kinds. The amendment to section 17 of the *Inquiries Act* limits this right by making it an offence for an entrusted person to disclose, use, or make a record of, protected information obtained or generated in the person's capacity as an entrusted person.

An entrusted person is defined as a member, or a member of staff of a board, or a lawyer assisting a board. Protected information means information obtained by a person in exercising, or assisting another person to exercise, a function under this Act. The amendment would apply to any disclosure of protected information

regardless of how it occurs, including online or by another means of communication. As a result, the right to access information is limited.

## **2. Legitimate purpose (s28(2)(b))**

The legitimate purpose of the amendment is to prevent the premature or uncontrolled release of protected information gathered during the inquiry in order to:

- ensure the integrity and effectiveness of the inquiry, which depends on witnesses, experts, public officials and affected individuals being able to provide candid evidence without fear that the information will be improperly shared or misused;
- protect against the release of sensitive or confidential information that may cause reputational damage, commercial loss, safety risks and/or interfere with other proceedings or ongoing investigations;
- maintain public trust and confidence in the independence and impartiality of the inquiry process.

## **3. Rational connection between the limitation and the purpose (s28(2)(d))**

The limited public access to information during the inquiry process is necessary to ensure procedural fairness, safeguard sensitive information, encourage candid participation, prevent harm to individuals, and maintain public confidence in the inquiry process. As such strict rules around information disclosure are necessary to retain integrity of the inquiry, confidentiality of sensitive information, and public trust in the inquiry process.

## **4. Proportionality (s28(2)(e))**

The provision strengthens an existing prohibition and does not impose any additional or more severe penalty for the offence. The amendment only impacts the right to freedom of expression in relation to the disclosure, use or recording of protected information obtained or generated by an entrusted person. The definitions of entrusted person and protected information further ensures that the amendment achieves its objectives by the least restrictive means reasonably available, as it is described narrowly and allows for exceptions under specific circumstances if appropriate.

### Section 22 HRA – Rights in Criminal Proceedings - Amendments to *Inquiries Act 1991*

#### **1. Nature of the right and the limitation (s28(2)(a) and (c))**

Section 17 of the Inquiries Act is amended to clarify the conditions of the offence for breaching confidentiality and privacy obligations under the Act as an entrusted person. Subsection (4) of that section sets out an exception to the offence which limits rights in criminal proceedings (right to presumption of innocence), as the

defendant has an evidential burden in relation to the matters in subsection (5), albeit to a lower standard of proof (section 58 *Criminal Code 2002*).

Strict liability applies in relation to whether the person is, or has been an entrusted person (subsection (1)(a)), which is an objective fact.

### **Legitimate purpose (s28(2)(b))**

The purpose of the offence is to ensure that entrusted persons only disclose information under specific circumstances to protect the privacy of third parties and the integrity of the inquiry process.

### **2. Rational connection between the limitation and the purpose (s28(2)(d))**

Providing that the defendant has an evidential burden in relation to matters mentioned in subsection (5) strengthens the presumption that, as a rule, entrusted persons cannot disclose protected information unless an exception applies.

It is appropriate that strict liability applies to subsection (2) because a person would know whether they are an entrusted person and be aware of their responsibilities in the context of protected or confidential information.

### **3. Proportionality (s28(2)(e))**

The accused person is best placed to produce evidence in relation to the matters in subsection (5) (i.e. whether they were exercising or assisting another person to exercise a function under the Act, if the information has already been made available to the public, or a circumstance prescribed by regulation). Accordingly, the limitation of a person's rights under section 22 of the HRA resulting from imposing an evidential burden on the accused where an exception is raised is necessary and proportionate in the circumstances to support the maintenance of confidentiality, as evidence is likely to be within the knowledge of the defendant.

The prescribed penalty at section 17 (1) is considered proportionate and justifiable as strict liability applies only to subsection (1) (a). It is appropriate to apply strict liability to this element, as whether a person is an entrusted person is an assessment of an objective fact and would not unduly burden a defendant. Additionally, the fault elements are persevered for the integral aspects of the offence 1(b), 1(c), and 1(d).

## **Section 21 HRA – Right to Fair Trial – Amendments to *Supreme Court Act 1933***

### **1. Nature of the right and the limitation (s28(a) and (c))**

The right to fair trial provides that everyone has a right to have the determination of rights and obligations recognised by law decided by a competent, independent and impartial court or tribunal after a fair and public hearing.

The amendment to the *Supreme Court Act 1933* will allow the Supreme Court to initiate a declaration of a vexatious litigant on its own motion. If a person is declared a vexatious litigant, the person shall not continue their proceedings (or any proceedings of that type) without leave of the court (s 67A). The amendment will limit the right to fair trial because it may prevent a person from making or continuing a claim in court.

## **2. *Legitimate purpose (s28(b))***

The amendment is intended to improve the effectiveness of legal recourse for community members by supporting the proper administration of the Court by enhancing the Court's ability to intervene early, reduce misuse of the legal system, and ensure that judicial resources are appropriately directed. It also protects persons who are harassed by vexatious litigation.

## **3. *Rational connection between the limitation and the purpose (s28(d))***

The amendment will enable the Court to initiate a declaration for vexatious litigants, rather than waiting for a motion to be brought by the Attorney-General or an aggrieved party. The Court has access to data that can inform identification of a vexatious litigant, meaning in many cases it may be in a better position to identify circumstances where a declaration may be warranted more readily than aggrieved parties or the Attorney-General. Earlier identification of vexatious litigants will allow the Court to intervene early and reduce impacts on community members who are subject to vexatious proceedings.

## **4. *Proportionality (s28 (e))***

Under section 67(2), the Supreme Court currently has the power to determine that a person has frequently initiated vexatious proceedings. This proposal extends that power, allowing the Court to commence such an application on its own initiative.

The amendment is the least restrictive means reasonably available to ensure that parties impacted by vexatious litigants (who are often self-represented) face less barriers to justice. These community members often spend significant time and cost to initiate onerous application processes to declare that a proceeding is vexatious. These costs also fall on the Courts, and so the savings in time and cost ultimately promote the right of other, non-vexatious, litigants to a fair trial.

Whilst a declaration limits the rights for vexatious litigants to take their matter to trial, it saves time and resources for the victim and for the courts, who can then use these resources on non-vexatious matters.

This amendment may result in an increase of declarations for vexatious litigants, though the number of vexatious litigants will likely not change – meaning the ability for the Court to commence proceedings on their own motion only relieves aggrieved parties from the costs applying for the declaration themselves.

After a person is declared a vexatious litigant, the Court may still give leave to a person to continue proceedings, with or without the conditions it considers appropriate (s 67A (4)). This pre-existing safeguard allows for the vexatious litigant to gain back their right to fair trial, in certain cases, when the court deems it appropriate to do so. Section 67A (11) also provides that a person declared to be a vexatious litigant may, without the leave of the court, apply to the court for the revocation or variation of the declaration (or its conditions).

## 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 2026*.

#### Clause 2 Commencement

This clause provides for the commencement of the Act. The Act commences on the 7<sup>th</sup> day after its notification day.

#### Clause 3 Legislation amended

This clause identifies the legislation that will be amended in the Bill:

- *Aboriginal and Torres Strait Islander Children and Young People Commissioner Act 2022*
- *Custodial Inspector Act 2017*
- *Electoral Act 1992*
- *Human Rights Commission Act 2005*
- *Inquiries Act 1991*
- *Oaths and Affirmations Act 1984*
- *Supreme Court Act 1933*
- *Unit Titles (Management) Act 2011*

#### Clause 4 Legislation repealed

This clause provides for the repeal of the *Crimes (Child Sex Offenders) Amendment Act 2025 (A2025-4)*.

### Part 2 Aboriginal and Torres Strait Islander Children and Young People Commissioner Act 2022

#### Clause 5 Section 34

This clause substitutes references to information sharing with the ‘human rights commission’ to information sharing with an ‘information sharing entity,’ which includes a member of the human rights commission, the custodial inspector and the National Preventative Mechanism.

**Part 3      Custodial Inspector Act 2017**

**Clause 6      Cooperation with other entities  
New Section 31(1)(g)**

This clause inserts the Aboriginal and Torres Strait Islander Children and Young People Commissioner in the list of entities that the custodial inspector must “not delay or unnecessarily duplicate the exercise of functions” of under section 31 (1).

**Part 4      Electoral Act 1992**

**Clause 7      Regular disclosure of gifts  
Section 216B(2)**

This clause substitutes s 216B(2) with a provision requiring a political entity (through their financial representative) to disclose details of additional gifts over \$1,000 to the commissioner. The section includes an example.

**Part 5      Human Rights Commission Act 2005**

**Clause 8      New section 53BAA**

This clause inserts a section before section 53BA, providing a requirement that certain discrimination complains may only be heard by the ACAT with the leave of the Tribunal. That is, a complaint which is closed by the commission because it is satisfied of one of the reasons mentioned in s 78(2)(c); and the commission gives the complainant a discrimination referral statement under section 82(1); and either the commission refers the complaint to the ACAT under s 53A or the complainants applies to the ACT for the complaint to be heard under s 53B.

**Clause 9      New section 53IAA**

This clause inserts a section before section 53IA, providing a requirement that certain retirement village complaints may only be heard by the ACAT with the leave of the Tribunal. That is, a complaint which is closed by the commission because it is satisfied of one of the reasons mentioned in s 78(2)(c); and the commission gives the complainant a retirement village referral statement under section 82A(1); and either the commission refers the complaint to the ACAT under s 53H or the complainants applies to the ACT for the complaint to be heard under s 53I.

**Clause 10     New section 53SAA**

This clause inserts a section before section 53SA, providing a requirement that certain occupancy dispute complaints may only be heard by the ACAT with the leave of the Tribunal. That is, a complaint which is closed by the commission because it is

satisfied of one of the reasons mentioned in s 78(2)(c); and the commission gives the complainant a occupancy dispute referral statement under section 82B(1); and either the commission refers the complaint to the ACAT under s 53R or the complainants applies to the ACT for the complaint to be heard under s 53S.

**Clause 11 New section 53ZBAA**

This clause inserts a section before section 53ZBA, providing a requirement that certain conversion practice complaints may only be heard by the ACAT with the leave of the Tribunal. That is, a complaint which is closed by the commission because it is satisfied of one of the reasons mentioned in s 78(2)(c); and the commission gives the complainant a retirement village referral statement under section 82C(1); and either the commission refers the complaint to the ACAT under s 53ZA or the complainants applies to the ACT for the complaint to be heard under s 53ZB.

**Clause 12 Discrimination referral statements  
Section 88, new note**

This clause inserts a note in section 88 referring to s 53BAA, that if the Human Rights Commission has closed the complaint for a reason under s 78(2)(c), the complaint may be heard by the ACAT only with the leave of the ACAT.

**Clause 13 Retirement village referral statements  
Section 88A, new note**

This clause inserts a note in section 88 referring to s 53IAA, that if the Human Rights Commission has closed the complaint for a reason under s 78(2)(c), the complaint may be heard by the ACAT only with the leave of the ACAT.

**Clause 14 Occupancy dispute referral statements  
Section 88B, new note**

This clause inserts a note in section 88B referring to s 53SAA, that if the Human Rights Commission has closed the complaint for a reason under s 78(2)(c), the complaint may be heard by the ACAT only with the leave of the ACAT.

**Clause 15 Conversion practice referral statements  
Section 88C, new note**

This clause inserts a note in section 88C referring to s 53ZBAA, that if the Human Rights Commission has closed the complaint for a reason under s 78(2)(c), the complaint may be heard by the ACAT only with the leave of the ACAT.

**Part 6      Inquiries Act 1991**

**Clause 16      Offences against Act – application of Criminal Code etc  
Section 4, note 1**

This clause substitutes a note in Section 4 to refer to all offences against this Act.

**Clause 17      Reports of boards  
Section 14 (1), new note**

This clause inserts a note into Section 14(1) that confidentiality requirements apply under section 17 in relation to a report.

**Clause 18      Section 17**

This clause substitutes Section 17 and applies strict liability for an entrusted person that makes any disclosure of protected information. Section 17(1) contains a maximum penalty of imprisonment for one year or 50 penalty units or both. The offence covers any disclosure no matter how the offence occurs, either online or by other means of electronic communication. This strict liability applies to Section 17(1a). The penalty aligns with the maximum penalty for other offences in the *Inquiries Act 1991*. A strict liability is to be applied to whether a person is and has been an entrusted person as this is objectively ascertainable.

The reversed evidential burden strengthens the presumption that, as a rule, entrusted persons cannot disclose confidential information. Only if they are able to provide evidence that indicates they fall within the scope of sub section (5) exceptions to that rule can they disclose information.

**Clause 19      Proposed adverse comments in reports  
Section 26A (2) (b) and (c)**

This clause substitutes Section 26A (2) (b) and (c) on how the Board is to inform an entity of a proposed adverse comment, and that the report will include a copy or summary of any submission the entity makes, or statement the entity gives.

**Clause 20      Section 26A (3)**

This clause substitutes 28 days in Section 26A (3) as the minimum time period, within which a submission may be made in relation to an adverse comment, by identifiable entities.

**Clause 21    New section 26A (6)**

This new clause inserts a section that requires a report not to include various material in relation to which a notice under subsection (2) was given to an entity.

**Clause 22    Publication of published proceedings, reports and comments  
protected  
Section 38 (3)**

This clause substitutes Section 38(3) with a section referring to a board of inquiry report as a public document for the *Civil Law (Wrongs) Act 2002*, Section 138.

**Clause 23    New section 38A**

This new clause inserts a section that, for the *Territory Records Act 2002*, a board of inquiry is taken to include staff members and lawyers assisting the Board of Inquiry.

**Part 7        Oaths and Affirmations Act 1984**

**Clause 24    Part 3 heading**

This clause substitutes the heading of Part 3 to “Administration of oath or affirmation.”

**Part 8        Supreme Court Act 1933**

**Clause 25    Vexatious litigants  
Section 67A(2)**

This clause substitutes section 67A(2) to provide that if the court is satisfied that a person has frequently instituted vexatious proceedings, the court may declare the person to be a vexatious litigant. Subsection 67A(2A) provides that the court may make a vexatious litigant declaration on its own initiative, or on the application of the Attorney-General or an aggrieved person.

**Part 9      Unit Titles (Management) Act 2011**

**Clause 26    Installation of sustainability and utility infrastructure on common  
property  
Section 23(3), note**

This clause omits a note referring to s 20(1) and substitutes it for a reference to s 19(1).