



Australian Capital Territory

# Justice and Community Safety Legislation Amendment Act 2004

A2004-18

## Contents

---

	Page
<b>Part 1</b>	
<b>Preliminary</b>	
1 Name of Act	2
2 Commencement	2
<b>Part 2</b>	
<b>Agents Act 2003</b>	
3 Legislation amended—pt 2	3
4 Agents must not obtain beneficial interest in land Section 86 (3)	3
5 Salespeople must not obtain beneficial interest in land Section 87 (3)	3
6 Section 168	3
7 Keeping of agents' records Section 202	4

---

2003 104B

Authorised by the ACT Parliamentary Counsel—also accessible at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)

	Page
<b>Part 3</b>	<b>Consumer Credit Act 1995</b>
8	Legislation amended—pt 3 5
9	Definitions for Act Section 3 5
10	New part 3A 5
11	Maximum annual percentage rate Section 10 7
<b>Part 4</b>	<b>Consumer Credit Regulations 1996</b>
12	Legislation amended—pt 4 8
13	Maximum annual percentage rate Regulation 5 8
<b>Part 5</b>	<b>Cooperatives Act 2002</b>
14	Legislation amended—part 5 9
15	Application for transfer of registration etc Section 307 (1) (e) 9
16	Section 375 9
17	Deputy registrar and other staff Section 430 (1) 10
<b>Part 6</b>	<b>Cooperatives Regulations 2003</b>
18	Legislation amended—pt 6 11
19	New part 8A 11
<b>Part 7</b>	<b>Evidence (Miscellaneous Provisions) Amendment Act 2003</b>
20	Section 4 heading 12
21	New section 5 etc 12
22	New section 7 heading etc 12
<b>Part 8</b>	<b>Fair Trading Act 1992</b>
23	Legislation amended—pt 8 13
24	Offences against pt 2 Section 41 (1) 13

		Contents
		Page
25	Section 41 (5)	13
26	Section 41	13
<b>Part 9</b>	<b>Magistrates Court (Civil Jurisdiction) Act 1982</b>	
27	Legislation amended—pt 9	14
28	Definitions for pt 22 Section 394, definition of debt declaration	14
29	Section 461	14
<b>Part 10</b>	<b>Protection Orders Act 2001</b>	
30	Legislation amended—pt 10	15
31	Service of non-emergency orders Section 33 (2) and note	15
<b>Part 11</b>	<b>Security Industry Act 2003</b>	
32	Legislation amended—pt 11	16
33	Section 37	16





Australian Capital Territory

# Justice and Community Safety Legislation Amendment Act 2004

**A2004-18**

---

An Act to amend the law relating to justice and community safety, and for other purposes

---

The Legislative Assembly for the Australian Capital Territory enacts as follows:

---

2003 104B

Authorised by the ACT Parliamentary Counsel—also accessible at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)

## Part 1 Preliminary

### 1 Name of Act

This Act is the *Justice and Community Safety Legislation Amendment Act 2004*.

### 2 Commencement

This Act commences on the 14th day after its notification day.

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

## Part 2 Agents Act 2003

### 3 Legislation amended—pt 2

This part amends the *Agents Act 2003*.

### 4 Agents must not obtain beneficial interest in land Section 86 (3)

*omit*

### 5 Salespeople must not obtain beneficial interest in land Section 87 (3)

*omit*

### 6 Section 168

*substitute*

#### 168 Review of reviewable decisions

- (1) The following people may apply to the consumer and trader tribunal for a review of a reviewable decision of a relevant person:
  - (a) a person mentioned in schedule 1, column 4 in relation to the decision;
  - (b) any other person whose interests are affected by the decision.
- (2) In this section:

***relevant person*** means—

- (a) for a reviewable decision mentioned in schedule 1, column 3, items 1 to 17—the commissioner for fair trading; or
- (b) for a reviewable decision mentioned in schedule 1, column 3, item 18—the chief executive.

**7 Keeping of agents' records**  
**Section 202**

*omit*

*Agents Act 1959*

*substitute*

*Agents Act 1968*



## Part 3 Consumer Credit Act 1995

### 8 Legislation amended—pt 3

This part amends the *Consumer Credit Act 1995*.

### 9 Definitions for Act Section 3

*insert*

**annual percentage rate**, for part 3A (Maximum annual percentage rate and disclosure)—see section 8A.

**code**, for part 3A (Maximum annual percentage rate and disclosure)—see section 8A.

**contract document**, for part 3A (Maximum annual percentage rate and disclosure)—see section 8A.

**credit**, for part 3A (Maximum annual percentage rate and disclosure)—see section 8A.

**credit contract**, for part 3A (Maximum annual percentage rate and disclosure)—see section 8A.

**credit fees and charges**, for part 3A (Maximum annual percentage rate and disclosure)—see section 8A.

**short-term credit contract**, for part 3A (Maximum annual percentage rate and disclosure)—see section 8A.

### 10 New part 3A

*insert*

## Part 3A Maximum annual percentage rate and disclosure

### 8A Definitions for pt 3A

In this part:

*annual percentage rate*—see the code, section 25 (Definitions relating to interest).

*code* means the Consumer Credit (Australian Capital Territory) Code.

*contract document*—see the code, schedule 1 (Principal definitions), clause 1 (1).

*credit*—see the code, section 4 (1).

*credit contract*—see the code, section 5.

*credit fees and charges*—see the code, schedule 1 (Principal definitions), clause 1 (1).

*short-term credit contract* means—

- (a) a contract for the provision of credit to which the code applies that is limited to a total period not longer than 62 days; or

*Note* For contracts for the provision of credit to which the code does not apply, see the code, s 7 (1) (Short term credit).

- (b) a contract prescribed under the regulations.

### 8B Maximum annual percentage rate

- (1) The regulations may prescribe a maximum annual percentage rate for credit contracts.
- (2) For a short-term credit contract, the regulations may require interest charges, and all credit fees and charges, under the contract to be

included for the purpose of working out the maximum annual percentage rate.

- (3) The code, part 2 (Credit contracts), division 2 (Debtor's monetary obligations) applies in relation to a maximum annual percentage rate prescribed under subsection (1) as if the rate had been prescribed by the code.

### **8C Disclosure of cost of credit**

- (1) This section applies to a short-term credit contract.
- (2) For the code, section 15 (C) (Annual percentage rate or rates), the contract document must state an annual percentage rate worked out on the basis of charges under the contract that are interest charges (whether or not they are described in the contract as interest charges).
- (3) For the code, section 15 (E) (Total amount of interest charges payable), the total amount of interest charges payable under the contract includes an amount that is an interest charge (whether or not it is described in the contract as an interest charge).
- (4) For the code, section 14 (Precontractual disclosure), the precontractual statement must also set out the matters mentioned in subsections (2) and (3).

## **11 Maximum annual percentage rate**

### **Section 10**

*omit*

## Part 4 Consumer Credit Regulations 1996

### 12 Legislation amended—pt 4

This part amends the *Consumer Credit Regulations 1996*.

### 13 Maximum annual percentage rate Regulation 5

*omit*

section 10 (1)

*substitute*

section 8B (1)

## Part 5 Cooperatives Act 2002

### 14 Legislation amended—part 5

This part amends the *Cooperatives Act 2002*.

### 15 Application for transfer of registration etc Section 307 (1) (e)

*substitute*

- (e) a corporation incorporated, registered or otherwise established under a law of the Commonwealth, or a State, Territory or foreign country, that is prescribed under the regulations for this section.

### 16 Section 375

*substitute*

### 375 Registrar to be told of certain changes in relation to foreign cooperatives

- (1) A foreign cooperative commits an offence if—
- (a) the foreign cooperative is registered under section 373 (Registration of foreign cooperative); and
  - (b) a notifiable change happens in relation to the foreign cooperative; and
  - (c) the foreign cooperative fails to file with the registrar particulars of the change, accompanied by any documents prescribed under the regulations, within 28 days after the day the notifiable change happens.

Maximum penalty: 10 penalty units.

- (2) An offence against this section is a strict liability offence.
- (3) In this section:
- notifiable change*, in relation to a foreign cooperative, means a change in—
- (a) the rules or constitution of the foreign cooperative; or
  - (b) the directors of the foreign cooperative; or
  - (c) the agents of the foreign cooperative (or their addresses); or
  - (d) the person appointed as the person on whom notices and legal process may be served on behalf of the foreign cooperative; or
  - (e) the address of the registered office in the ACT or elsewhere of the foreign cooperative; or
  - (f) the name under which the foreign cooperative carries on business.

## **17 Deputy registrar and other staff**

### **Section 430 (1)**

*substitute*

- (1) The chief executive may appoint a deputy registrar and assistant registrars.

*Note* For the making of appointments (including acting appointments), see Legislation Act, pt 19.3.

## **Part 6**                      **Cooperatives Regulations 2003**

### **18**    **Legislation amended—pt 6**

This part amends the *Cooperatives Regulations 2003*.

### **19**    **New part 8A**

*insert*

## **Part 8A**                      **Mergers, transfers of engagements and winding-up**

### **26A**    **Application for transfer of registration—Act, s 307 (1) (e)**

A cooperative may apply to become registered or incorporated as a corporation established under the *Aboriginal Councils and Associations Act 1976* (Cwlth).

**Part 7**                      **Evidence (Miscellaneous Provisions) Amendment Act 2003**

**20**      **Section 4 heading**

*substitute*

**4**              **Part 4 heading**

**21**      **New section 5 etc**

*in section 4, before proposed new division 4.1 heading, insert*

**5**              **Section 35**

*omit*

**6**              **New divisions 4.1 to 4.6**

*insert*

**22**      **New section 7 heading etc**

*in section 4, before proposed new part 5 heading, insert*

**7**              **New part 5 and dictionary**

*insert*



## Part 8 Fair Trading Act 1992

### 23 Legislation amended—pt 8

This part amends the *Fair Trading Act 1992*.

### 24 Offences against pt 2 Section 41 (1)

*omit everything from*

who

*to*

a provision

*substitute*

who contravenes a provision

### 25 Section 41 (5)

*omit*

### 26 Section 41

*renumber subsections when Act next republished under Legislation Act*

## Part 9                      Magistrates Court (Civil Jurisdiction) Act 1982

### 27    Legislation amended—pt 9

This part amends the *Magistrates Court (Civil Jurisdiction) Act 1982*.

### 28    Definitions for pt 22 Section 394, definition of *debt declaration*

*substitute*

*debt declaration*, in relation to proceedings, means an order declaring that—

- (a) the applicant is or is not indebted to the respondent; or
- (b) the applicant is or is not indebted to the respondent in a stated amount; or
- (c) the applicant is or is not indebted to the respondent in an amount that is more than a stated amount.

### 29    Section 461

*substitute*

### 461   Debt declarations—orders

The Small Claims Court may make a debt declaration in a proceeding on an application for a debt declaration.

## Part 10 Protection Orders Act 2001

### 30 Legislation amended—pt 10

This part amends the *Protection Orders Act 2001*.

### 31 Service of non-emergency orders Section 33 (2) and note

*substitute*

- (2) Service under subsection (1) (a) must be personal service unless—
- (a) the respondent is present when the protection order is made; or
  - (b) the Magistrates Court makes an order under section 98 (If service impracticable or impossible).

*Note* See pt 11 (Service) for service of the order if personal service is not required.

## Part 11 Security Industry Act 2003

### 32 Legislation amended—pt 11

This part amends the *Security Industry Act 2003*.

### 33 Section 37

*substitute*

### 37 Review of reviewable decisions

An applicant for a licence or variation to a licence may apply to the consumer and trader tribunal for a review of a reviewable decision of the commissioner for fair trading in relation to the licence.

---

## Endnotes

### 1 Presentation speech

Presentation speech made in the Legislative Assembly on 27 November 2003.

### 2 Notification

Notified under the Legislation Act on 6 April 2004.

### 3 Republications of amended laws

For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

---

---

I certify that the above is a true copy of the Justice and Community Safety Legislation Amendment Bill 2004 which originated in the Assembly as the Justice and Community Safety Legislation Amendment Bill 2003 (No 2) and was passed by the Legislative Assembly on 30 March 2004.

Clerk of the Legislative Assembly

© Australian Capital Territory 2004