



Australian Capital Territory

# Justice and Community Safety Legislation Amendment Act 2012 (No 2)

A2012-30

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

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Australian Capital Territory

# **Justice and Community Safety Legislation Amendment Act 2012 (No 2)**

**A2012-30**

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An Act to amend legislation about justice and community safety

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

**1 Name of Act**

This Act is the *Justice and Community Safety Legislation Amendment Act 2012 (No 2)*.

**2 Commencement**

This Act commences on the day after its notification day.

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

**3 Legislation amended—sch 1**

This Act amends the legislation mentioned in schedule 1.

## **Schedule 1      Legislation amended**

(see s 3)

### **Part 1.1              Civil Law (Wrongs) Act 2002**

#### **[1.1]      Schedule 4, section 4.4 heading**

*substitute*

#### **4.4      Preparation and approval of schemes**

#### **[1.2]      Schedule 4, section 4.4 (3)**

*omit everything after*

association,

*substitute*

approve a scheme prepared under this section.

#### **[1.3]      Schedule 4, section 4.5 (1)**

*omit*

recommending

*substitute*

approving

#### **[1.4]      Schedule 4, section 4.7 (1)**

*omit*

recommending a scheme in relation to an occupational association

*substitute*

approving a scheme

**[1.5]        Schedule 4, section 4.9 (1)**

*substitute*

- (1) The council must submit a scheme approved by it to the Minister.

**[1.6]        Schedule 4, section 4.9 (2)**

*omit*

may

*substitute*

must

**[1.7]        Schedule 4, section 4.10 heading**

*substitute*

**4.10        Schemes are subject to disallowance**

**[1.8]        Schedule 4, section 4.10 (1) and (2)**

*substitute*

- (1) The Minister must—
- (a) give notice of—
- (i) the council’s approval of the scheme; or
- (ii) for an interstate scheme—the approval of the scheme by the appropriate council for the jurisdiction in which the scheme was prepared; and
- (b) include the approved scheme in the notice.
- (2) A notice is a disallowable instrument.

*Note*        A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

**[1.9] Schedule 4, section 4.11 (1)**

*substitute*

- (1) If the Minister gives notice under section 4.10 of the approval of a scheme, the scheme commences—
- (a) on the date or time (after the notice's notification day) provided for in the notice; or
  - (b) if a date or time is not provided for in the notice—2 months after the notice's notification day.

**[1.10] Schedule 4, section 4.12 (1)**

*omit*

approved by the Minister

*substitute*

included in a notice under section 4.10

**[1.11] Schedule 4, section 4.14 (6)**

*omit*

section 4.9

*substitute*

section 4.9 (2)

**[1.12] Schedule 4, section 4.14A (1)**

*omit*

approves

*substitute*

gives notice under section 4.10 in relation to

**[1.13]    Schedule 4, section 4.14B (5)**

*omit*

to the extent that it provides for the submission of a scheme that indicates an intention to operate as a scheme of another jurisdiction

**[1.14]    Schedule 4, section 4.32 (1)**

*omit*

recommendation for

*substitute*

approval of

**[1.15]    Schedule 4, section 4.37 (1) (a) (i)**

*substitute*

- (i) giving notice of the approval of schemes, and their amendment and revocation; and

**[1.16]    Schedule 4, section 4.50 (1) (b)**

*omit*

recommendation

*substitute*

approval



## **Part 1.2                      Emergencies Act 2004**

### **[1.17]      New section 122 (5) and (6)**

*before the examples, insert*

- (5) A person may light, maintain or use a fire in the open air on residential land for heating or to cook food or heat liquids if—
  - (a) the area around the place where the fire is to be lit, maintained or used is cleared of flammable material for at least 3m in every direction; and
  - (b) the fire is under the control of a responsible adult; and
  - (c) an adequate means of putting out the fire is available for use.

- (6) In this section:

*residential land* means land leased for a residential purpose.

### **[1.18]      Section 123 (6)**

*substitute*

- (6) This section does not affect—
  - (a) the duties of a person under the *Environment Protection Act 1997*, section 22 (General environmental duty); or
  - (b) any obligation to hold an authorisation under that Act, section 42 (Conducting prescribed classes of activities); or
  - (c) any other obligation under that Act.

**[1.19]    New section 160A (3A)**

*insert*

- (3A) However, the Chief Minister may direct, in writing—
- (a) that the emergency controller is not to have a power (or part of a power) mentioned in subsection (2); or
  - (b) that the emergency controller has another stated power.

*Note*    A direction may be included in the instrument of appointment (see Legislation Act, s 49).

## **Part 1.3                            Environment Protection Act 1997**

**[1.20]    Schedule 1, section 1.2, item 28, new note**

*insert*

*Note*    The *Emergencies Act 2004* contains an offence about lighting etc fire during a total fire ban (see that Act, s 116). That Act may also require the owner of land to obtain oral approval or a permit before lighting etc a fire on the land (see that Act, s 123 and s 124).

## **Part 1.4                            Public Trustee Act 1985**

**[1.21]    New section 25 (8)**

*insert*

- (8) In this section:
- court* includes the Magistrates Court and a tribunal.

**[1.22]    New section 25A (2) (c)**

*insert*

- (c) pay an amount, or give property, into a superannuation fund on behalf of the person.

**[1.23] New section 25A (4)**

*insert*

(4) In this section:

*superannuation fund* means a complying superannuation fund for the *Income Tax Assessment Act 1997* (Cwlth).

**[1.24] Dictionary, note 2**

*insert*

- tribunal

## **Part 1.5 Unit Titles (Management) Act 2011**

**[1.25] Section 82 (2), new example**

*before the note, insert*

**Example**

An owners corporation for a units plan estimates that the expected sinking fund expenditure for the 10-year period of its sinking fund plan is \$220 000. The expenditure includes expenditure of \$10 000 for each year and a ‘one-off’ amount of \$120 000 in the 8th year of the plan. The owners corporation approves a total sinking fund amount of \$25 000 for each financial year of the plan to meet the expected sinking fund expenditure and to provide for a balance of \$30 000 in the fund (see s 72, def *total sinking fund amount*).

*Note* An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).



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## Endnotes

**1 Presentation speech**

Presentation speech made in the Legislative Assembly on 10 May 2012.

**2 Notification**

Notified under the Legislation Act on 13 June 2012.

**3 Republications of amended laws**

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

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I certify that the above is a true copy of the Justice and Community Safety Legislation Amendment Bill 2012 (No 2), which was passed by the Legislative Assembly on 5 June 2012.

Clerk of the Legislative Assembly

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