



Australian Capital Territory

Justice and Community Safety Legislation Amendment Act 2014

A2014-17

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Australian Capital Territory

Justice and Community Safety Legislation Amendment Act 2014

A2014-17

An Act to amend legislation about justice and community safety

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 2014*.

2 Commencement

- (1) This Act (other than the following provisions) commences on the day after this Act's notification day:
 - (a) schedule 1, part 1.1 (Agents Act 2003);
 - (b) schedule 1, part 1.2 (Agents Regulation 2003);
 - (c) schedule 1, part 1.3 (Civil Law (Wrongs) Act 2002);
 - (d) schedule 1, part 1.7 (Legal Profession Act 2006);
 - (e) schedule 1, part 1.8 (Legal Profession Regulation 2007);
 - (f) schedule 1, part 1.10 (Workers Compensation Act 1951).

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

- (2) Schedule 1, part 1.1 and part 1.2 commence on 1 July 2014.
- (3) Schedule 1, part 1.7 and part 1.8 commence 30 days after this Act's notification day.
- (4) Schedule 1, part 1.3 and part 1.10 are taken to have commenced immediately after the commencement of the [Statute Law Amendment Act 2013 \(No 2\)](#), schedule 3, amendment 3.28.

3 Legislation amended

This Act amends the legislation mentioned in schedule 1.

Schedule 1 Legislation amended

(see s 3)

Part 1.1 Agents Act 2003

[1.1] Section 11

omit

[1.2] Section 13 (d)

omit

[1.3] Section 21

omit

[1.4] Section 24 (1) (d)

omit

[1.5] Section 24 (4)

omit

[1.6] Section 26

omit

[1.7] Section 41 (1) (e)

omit

[1.8] Section 70 (4)

substitute

- (4) This section does not apply to a licensed employment agent.

[1.9] Division 5.7

omit

[1.10] Section 130 (1)

omit

a travel agent or

[1.11] New part 21

insert

**Part 21 Transitional—Justice and
Community Safety Legislation
Amendment Act 2014**

223 Definitions—pt 21

In this part:

compensation scheme means the compensation scheme under the travel agents trust deed.

repeal day means 1 July 2014.

transition period means the period starting on the repeal day and ending on the termination date of the compensation scheme under the travel agents trust deed.

travel agents trust deed means the Travel Compensation Fund Substitution Trust Deed that came into force on 1 July 2013, as amended from time to time.

224 Continued provision for travel agents board of trustees

Despite their repeal, the following provisions continue to apply until the end of the transition period in relation to anything that happened before the repeal day:

- (a) section 93 (Legal action by travel agents board of trustees);
- (b) section 94 (Rights of travel agents board of trustees).

225 Certain review rights preserved

- (1) This section applies if a person has a right of appeal under the travel agents trust deed against a decision of the board of trustees made before the end of the transition period.
- (2) The person may apply to the ACAT for review of the decision.

226 Transitional regulations

- (1) A regulation may prescribe transitional matters necessary or convenient to be prescribed because of the enactment of the *Justice and Community Safety Legislation Amendment Act 2014*.
- (2) A regulation may modify this part (including in relation to another territory law) to make provision in relation to anything that, in the Executive's opinion, is not, or is not adequately or appropriately, dealt with in this part.
- (3) A regulation under subsection (2) has effect despite anything elsewhere in this Act or another territory law.

227 Expiry—pt 21

This part expires on 31 December 2015.

Note Transitional provisions are kept in the Act for a limited time. A transitional provision is repealed on its expiry but continues to have effect after its repeal (see [Legislation Act](#), s 88).

[1.12] Dictionary, definition of *agent*, subparagraph (v)

omit

[1.13] Dictionary, definition of *agents licence*, paragraph (e)

omit

**[1.14] Dictionary, definition of *carries on business as*,
paragraph (e)**

omit

**[1.15] Dictionary, definitions of *compensation scheme*,
compensation scheme participant and *employee
condition***

omit

[1.16] Dictionary, definition of *kind of licence*, paragraph (e)

omit

[1.17] Dictionary

omit the definitions of
licensed travel agent
travel agents board of trustees
travel agent service
travel agents trust deed

Part 1.2 Agents Regulation 2003

[1.18] Sections 5A and 5B

omit

[1.19] Section 6 (6)

omit

Part 1.3 Civil Law (Wrongs) Act 2002

[1.20] Section 98 (3), definition of *average weekly earnings*, paragraph (a)

omit

employees average weekly

substitute

males

Part 1.4 Coroners Act 1997

[1.21] Sections 15 and 16

substitute

15 Control and release of body of deceased

- (1) This section applies if—
 - (a) a death happens in relation to which a coroner is required to hold an inquest; and
 - (b) the body of the deceased is in the ACT.

- (2) A coroner has control of the body of the deceased until a certificate authorising its release is given under subsection (3).
- (3) A coroner may give a certificate authorising the release of the body of the deceased if satisfied there is no reason why the body should not be buried, cremated, or taken out of the ACT for burial or cremation.
- (4) A deputy coroner may not give a certificate under subsection (3).

[1.22] Section 102

substitute

102 Annual report of court

- (1) The Chief Coroner must give a report relating to the activities of the court during each financial year to the Attorney-General for presentation to the Legislative Assembly.
- (2) The report must include particulars of—
 - (a) reports prepared by coroners into deaths in custody and findings contained in the reports; and
 - (b) notices given under section 34A (3) (Decision not to conduct hearing); and
 - (c) recommendations made under section 57 (3) (Report after inquest or inquiry); and
 - (d) responses of agencies under section 76 (Response to reports) including correspondence about the responses.
- (3) The Chief Coroner must give the report to the Attorney-General as soon as practicable after the end of the financial year and, in any event, within 6 months after the end of the financial year.

- (4) If the Chief Coroner considers that it will not be reasonably practicable to comply with subsection (3), the Chief Coroner may within that period apply, in writing, to the Attorney-General for an extension of the period.
- (5) The application must include a statement of reasons for the extension.
- (6) The Attorney-General may give the extension (if any) the Attorney-General considers reasonable in the circumstances.
- (7) If the Attorney-General gives an extension, the Attorney-General must present to the Legislative Assembly, within 3 sitting days after the day the extension is given—
 - (a) a copy of the application given to the Attorney-General under subsection (4); and
 - (b) a statement by the Attorney-General stating the extension given and the Attorney-General's reasons for giving the extension.
- (8) The Attorney-General must present a copy of a report under this section to the Legislative Assembly within 6 sitting days after the day the Attorney-General receives the report.
- (9) If the Chief Magistrate fails to give a report to the Attorney-General in accordance with this section, the Chief Magistrate must give the Attorney-General a written statement explaining why the report was not given to the Attorney-General.
- (10) The statement must be given to the Attorney-General within 14 days after the end of the period within which the report was required to be given to the Attorney-General.
- (11) The Attorney-General must present a copy of the statement to the Legislative Assembly within 3 sitting days after the day the Attorney-General receives the statement.

Part 1.5 Director of Public Prosecutions Act 1990

[1.23] New section 6 (1) (ga)

insert

(ga) conducting proceedings for applicants for orders under the *Crimes (Forensic Procedures) Act 2000*, part 2.5 (Forensic procedures on suspect by order of magistrate);

Part 1.6 Family Provision Act 1969

[1.24] Section 9 (1)

omit

12

substitute

6

Part 1.7 Legal Profession Act 2006

[1.25] Section 35 (1)

omit

licensing body

substitute

relevant council

[1.26] Section 36 (2) (f), note 2

omit

[1.27] Section 36 (4), note

omit

licensing body

substitute

relevant council

[1.28] Section 37 (3) (a)

omit

licensing body

substitute

relevant council

[1.29] Section 38 (2)

omit

licensing body

substitute

relevant council

[1.30] Section 41

omit

licensing body

substitute

relevant council

[1.31] Section 44 (1) to (5)

omit

licensing body

substitute

law society council

[1.32] Section 44 (5) (b)

omit

licensing body's

substitute

law society council's

[1.33] Section 44 (6) to (8)

omit

licensing body

substitute

law society council

[1.34] Section 45

substitute

45 Grant or renewal of barrister practising certificate

- (1) The bar council must consider an application that has been made for the grant or renewal of a barrister practising certificate, and may—
 - (a) grant or renew the practising certificate; or

(b) refuse to grant or renew the practising certificate.

Note When granting or renewing a barrister practising certificate, the bar council may impose conditions on the certificate under s 47.

(2) However, the bar council—

(a) need not consider an application for grant or renewal of a barrister practising certificate if—

(i) the application has not been made in accordance with this Act; or

(ii) the required fees have not been paid; and

(b) may refuse to grant or renew the practising certificate if the applicant has not complied with the criteria prescribed by regulation and the legal profession rules for the grant or renewal.

Note **This Act**—see the dictionary.

(3) The bar council must not grant a barrister practising certificate unless satisfied that the applicant—

(a) was eligible to apply for the grant when the application was made; and

(b) is a fit and proper person to hold the certificate.

(4) The bar council must not renew a barrister practising certificate if satisfied that the applicant—

(a) was not eligible to apply for the renewal when the application was made; or

(b) is not a fit and proper person to continue to hold the certificate.

(5) The bar council must not grant or renew a barrister practising certificate if—

(a) it considers the applicant's circumstances have changed since the application was made; and

- (b) the applicant would (having regard to information that has come to the bar council's attention) not have been eligible to make the application when the application is being considered.
- (6) This section does not affect any other provision of this Act that provides for the refusal to grant or renew a barrister practising certificate.
- Note 1* The bar council must not grant or renew a practising certificate for an insurable legal practitioner unless satisfied that the practitioner will be covered by an approved indemnity insurance policy (see s 311).
- Note 2* See also s 63 (Refusal to grant or renew barrister practising certificate—failure to show cause etc).
- (7) If the bar council grants or renews a barrister practising certificate, the bar council must give the applicant—
- (a) for the grant of a certificate—the practising certificate granted;
or
- (b) for the renewal of a certificate—the new practising certificate.
- (8) If the bar council refuses to grant or renew a barrister practising certificate, the bar council must give the applicant an information notice.

[1.35] Section 46 (1) (a)

omit

licensing body

substitute

relevant council under section 38 (Conditions on practising certificate—government lawyer and in-house lawyer) or section 47 (Conditions imposed on local practising certificate by relevant council)

[1.36] Section 47 heading

omit

licensing body or

[1.37] Section 47 (1)

omit

licensing body

substitute

relevant council

[1.38] Section 47 (2)

substitute

- (2) The relevant council may impose a condition on a local practising certificate—
- (a) on the application of the applicant for grant or renewal of the practising certificate; or
 - (b) on its own initiative.

[1.39] Section 47 (3)

omit

[1.40] Section 47 (10) (b), note 2

omit

[1.41] Section 56 (5), definition of *amend*

omit

licensing body or

[1.42] Section 62

omit

licensing body

substitute

law society council

[1.43] Section 63 (1)

substitute

- (1) The bar council may refuse to grant or renew a barrister practising certificate if the applicant—
- (a) is required by section 60 (Applicant for local practising certificate—show-cause event) to give the bar council, as the relevant council for the applicant, a written statement or notice relating to a matter and has failed to give a written statement or notice in accordance with that requirement; or
 - (b) has given a written statement in accordance with section 60 but the bar council does not consider that the applicant has shown in the statement that, despite the show-cause event concerned, the applicant is a fit and proper person to hold a local practising certificate.

[1.44] Section 63 (2)

omit

licensing body

substitute

bar council

[1.45] Section 63 (3)

substitute

- (3) However, if the bar council considers that the applicant or holder has shown in the statement mentioned in subsection (1) (b) that, despite the show-cause event concerned, the applicant is a fit and proper person to hold a local practising certificate, the bar council must, by written notice, tell the applicant or holder about its decision.

[1.46] Section 65 (1) and (2)

omit

licensing body

substitute

relevant council

[1.47] Section 65 (3)

omit

[1.48] Section 65 (4)

omit

licensing body

substitute

relevant council

[1.49] Section 78 (1), note

omit

[1.50] Section 79 (1) and (3)

omit

licensing body

substitute

relevant council

[1.51] Section 79 (4)

omit

licensing body's

substitute

relevant council's

[1.52] Section 81 heading

omit

licensing body or

[1.53] Section 81 (1) (a)

omit

licensing body

substitute

relevant council

[1.54] Section 81 (1) (b)

omit

[1.55] Section 81 (1) (d)

substitute

- (d) a decision of the relevant council under section 47 (1) (Conditions imposed on local practising certificate by relevant council) to impose a condition on local practising certificate on its own initiative; or

[1.56] Section 81 (1) (e)

omit

[1.57] Section 81 (1) (h)

omit

licensing body

substitute

relevant council

[1.58] Section 81 (1) (i)

omit

[1.59] Section 81 (1) (k)

omit

licensing body

substitute

relevant council

[1.60] Section 84 (1) (b) and (2) (b)

omit

[1.61] Section 89

omit

[1.62] Section 90 (1)

substitute

- (1) This section applies if—
- (a) the relevant council—
 - (i) refuses to grant or renew an Australian lawyer a local practising certificate; or
 - (ii) suspends or cancels an Australian lawyer's local practising certificate; or
 - (b) the lawyer successfully appeals against the action taken.

[1.63] Section 152, definition of *licensing body*

omit

[1.64] Sections 160 (2) (b) and 162 (1) etc

omit

licensing body

substitute

relevant council

in

- section 160 (2) (b)
- section 162 (1)
- section 168 (3) (a)

- section 170
- section 171 (1)

[1.65] Section 171 (2) (a)

omit

licensing body's

substitute

relevant council's

[1.66] Section 172 (2) (h) and (j)

omit

licensing body

substitute

relevant council

[1.67] Section 172 (3) and (4)

omit

the licensing body

substitute

the relevant council

[1.68] Section 172 (5) and (6) etc

omit

licensing body

substitute

relevant council

in

- section 172 (5) and (6)
- sections 173 to 175
- section 177

[1.69] Section 178 (1)

omit 1st and 2nd mention of

licensing body

substitute

relevant council

[1.70] Section 178 (1) (c)

omit

licensing body's

substitute

relevant council's

[1.71] Sections 178 (1) (d) and 178 (2) etc

omit

licensing body

substitute

relevant council

in

- section 178 (1) (d)
- sections 178 (2) to (5)
- sections 179 and 180
- sections 182 to 188
- sections 191 to 195
- section 198 (2) (a) (i)

[1.72] Section 198 (3)

omit

licensing body's

substitute

relevant council's

[1.73] Sections 199 and 200 etc

omit

licensing body

substitute

relevant council

in

- sections 199 and 200
- section 201 (1) and (3)

[1.74] Section 201 (4)

omit

licensing body's

substitute

relevant council's

[1.75] Sections 202 to 204 etc

omit

licensing body

substitute

relevant council

in

- sections 202 to 204
- sections 206 and 207

[1.76] Section 208 (c) (ii)

omit

licensing body

substitute

law society council

[1.77] Section 210 (2), definition of *approved ADI*

omit

licensing body

substitute

law society council

[1.78] Sections 211 and 213 (1) etc

omit

licensing body

substitute

law society council

in

- section 211
- section 213 (1) and (2)
- section 215 (1)

[1.79] Section 222

after

the practice

insert

kept in the ACT

[1.80] New section 222 (2A)

insert

(2A) For subsection (2) (a), a direction that the money be deposited in a general trust account of the practice that is not kept in the ACT has effect only if the practice—

- (a) is authorised by the law society council to deposit the money in a general trust account of the practice that is not kept in the ACT; and
- (b) has complied with any conditions put on the authorisation by the council.

[1.81] Sections 228 (4) and 231 (1) (c) (i) etc

omit

licensing body

substitute

law society council

in

- section 228 (4)
- section 231 (1) (c) (i) and (2) (c) (i)
- section 234 (1), (3) and (4)
- section 237

- sections 239 to 244
- section 247
- sections 249 to 250
- section 252
- section 258
- section 260 (d)
- section 269 (5)
- section 291 (3)

[1.82] Section 311

omit

licensing body

substitute

relevant council

[1.83] Section 376 (1)

omit

licensing body

substitute

law society council

[1.84] Section 448

omit

licensing body

substitute

relevant council

[1.85] Section 451 (1) (c) and (d)

omit

licensing body or

[1.86] Section 468 (1) (c)

omit

licensing body

substitute

relevant council

[1.87] Section 530 (4)

omit

licensing body

substitute

relevant council

[1.88] Section 530 (5)

omit 1st mention of

licensing body

substitute

relevant council

[1.89] Section 530 (5), note

omit

licensing body

substitute

law society council

[1.90] Section 587 heading

omit

licensing body and

[1.91] Section 587 (1) and (2)

omit

the licensing body or

[1.92] Section 592

omit

the licensing body

substitute

a council

[1.93] New chapter 12

insert

Chapter 12 Transitional—Justice and Community Safety Legislation Amendment Act 2014

622 Definitions—ch 12

In this chapter—

commencement day means the day this chapter commences.

licensing body means the law society council.

623 Pending applications for grant or renewal of practising certificate or registration

- (1) This section applies if, before the commencement day—
 - (a) a person applied for the grant or renewal of a local practising certificate or registration as a foreign lawyer; and
 - (b) the licensing body had not decided the application.
- (2) The application is taken to have been made under the Act as amended by the *Justice and Community Safety Legislation Amendment Act 2014*.

624 Bar council taken to be decision-maker

- (1) This section applies if, before the commencement day—
 - (a) the licensing body made a decision or took action under the Act; and
 - (b) the decision or action is one that is required to be made or taken by the bar council after the commencement day.
- (2) The decision or action is taken to have been made or taken by the bar council.

625 Expiry—ch 12

This chapter expires 2 years after the day it commences.

Note Transitional provisions are kept in the Act for a limited time. A transitional provision is repealed on its expiry but continues to have effect after its repeal (see [Legislation Act](#), s 88).

[1.94] Dictionary, definition of *licensing body*

omit

[1.95] Dictionary, definition of *relevant council*

substitute

relevant council means—

- (a) in relation to a barrister or former barrister (including an applicant for grant of a barrister practising certificate or an overseas-registered foreign lawyer seeking a local registration certificate)—the bar council; or
- (b) in relation to a solicitor or former solicitor (including an applicant for grant of an unrestricted practising certificate or a restricted practising certificate or an overseas-registered foreign lawyer seeking a local registration certificate)—the law society council; or
- (c) in relation to an employee, or former employee, of a solicitor—the law society council.

Part 1.8 Legal Profession Regulation 2007

[1.96] Section 11

omit

[1.97] Section 12 (b)

omit

licensing body

substitute

relevant council

[1.98] Section 15 (1) to (4)

omit

licensing body

substitute

relevant council

[1.99] Section 15 (5) and (6)

substitute

- (5) If the relevant council is satisfied that the special circumstances exist, the relevant council is required not to include the particulars in the register unless the relevant council considers that the public interest in maintaining public access to the particulars outweighs any individual interest in the particulars not being publicly available.

[1.100] Section 17

omit

[1.101] Section 28

omit

licensing body

substitute

relevant council

[1.102] Section 37 (3) (d) etc

omit

licensing body

substitute

law society council

in

- section 37 (3) (d)
- section 50
- section 65 (1)
- section 79 (1) and (2)
- sections 80 and 81

[1.103] Section 84

omit

[1.104] Dictionary, note 3

omit

- licensing body

Part 1.9 Public Trustee Act 1985

[1.105] Section 25A (1)

omit

under section 25

[1.106] Section 33 (2) (e)

omit

6

substitute

3

Part 1.10 Workers Compensation Act 1951

[1.107] Dictionary, definition of *AWE*, paragraph (a)

omit

employees average weekly

substitute

males

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 20 March 2014.

2 Notification

Notified under the [Legislation Act](#) on 13 May 2014.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

I certify that the above is a true copy of the Justice and Community Safety Legislation Amendment Bill 2014, which was passed by the Legislative Assembly on 8 May 2014.

Clerk of the Legislative Assembly

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