



Australian Capital Territory

Justice and Community Safety Legislation Amendment Act 2016

A2016-37

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Australian Capital Territory

Justice and Community Safety Legislation Amendment Act 2016

A2016-37

An Act to amend legislation about justice and community safety, and for other purposes

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 2016*.

2 Commencement

This Act commences on the 7th 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

This Act amends the legislation mentioned in schedule 1.

Schedule 1 Legislation amended

(see s 3)

Part 1.1 ACT Civil and Administrative Tribunal Act 2008

[1.1] Section 112 (1) (d)

omit

Part 1.2 Associations Incorporation Act 1991

[1.2] Section 81, new definition of *corporation law*

insert

corporation law—see section 82 (1).

[1.3] Section 82

substitute

82 Voluntary transfer of incorporation

- (1) An incorporated association may apply to the registrar-general for permission to apply for registration of the association under either of the following (a *corporation law*):
 - (a) the [Corporations Act](#);
 - (b) the [Corporations \(Aboriginal and Torres Strait Islander\) Act 2006](#) (Cwlth).
- (2) An application for registration under the [Corporations Act](#) must be for registration as a company limited by guarantee.

- (3) The registrar-general must give the permission if—
- (a) the association has, by special resolution, resolved to apply for registration of the association under a corporation law; and
 - (b) an application lodged with the registrar-general by the association—
 - (i) is signed by the public officer and 2 members of the committee of the association; and
 - (ii) is accompanied by any documents prescribed by regulation; and
 - (iii) includes a statement to the effect that the special resolution mentioned in paragraph (a) has been passed by the association.

Note If a form is approved under s 126 for an application, the form must be used.

[1.4] Sections 83 (2) (a) (i) and 85

omit

the [Corporations Act](#) as a company limited by guarantee

substitute

a corporation law

[1.5] Section 86

omit

that has been registered as a company

[1.6] Section 86 (b)

omit

the company

substitute

registration under a corporation law (the *company*)

[1.7] Dictionary, note 2

insert

- Corporations Act

[1.8] Dictionary, new definition of *corporation law*

insert

corporation law, for part 6 (Transfer of incorporation)—see section 82 (1).

Part 1.3 Civil Law (Sale of Residential Property) Act 2003

[1.9] Section 9 (1) (h) (iii)

omit

in that period

substitute

in the 6 months before that date

[1.10] Section 18 (1) (a) and (b)

omit

latest

substitute

first

[1.11] New part 8

insert

**Part 8 Transitional—Justice and
Community Safety Legislation
Amendment Act 2016**

48 Application of amendments

The amendments of this Act made by the *Justice and Community Safety Legislation Amendment Act 2016*, schedule 1, part 1.3 do not apply in relation to a contract or proposed contract for the sale of residential property if the property was advertised or offered for sale, or listed by an agent for sale, under the contract or proposed contract before that part commenced.

49 Expiry—pt 8

This part expires 1 year after the day it commences.

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

Part 1.4 Civil Law (Wrongs) Act 2002

[1.12] Section 4, note 1, 3rd dot point

omit

[1.13] Part 15.2

omit

[1.14] New chapter 17

insert

Chapter 17 Transitional—Justice and Community Safety Legislation Amendment Act 2016

250 Ongoing confidentiality of general reports of insurers

Despite the repeal of part 15.2 (General reporting requirements of insurers) by the *Justice and Community Safety Legislation Amendment Act 2016*, the following provisions continue to apply in relation to information in a report provided under part 15.2 before its repeal:

- (a) section 204 (Confidentiality of general reports of insurers);
- (b) the *Civil Law (Wrongs) Regulation 2003*, section 12A (Disclosure of confidential information in general reports—Act, s 204 (4) (f)).

251 Expiry—ch 17

This chapter expires on 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).

[1.15] Dictionary, definition of *insurer*

substitute

insurer, of a person in relation to a claim, for chapter 5 (Personal injuries claims—pre-court procedures)—see section 49.

**Part 1.5 Civil Law (Wrongs)
Regulation 2003**

[1.16] Sections 12 and 12A

omit

**Part 1.6 Confiscation of Criminal Assets
Act 2003**

[1.17] Section 142 (1)

substitute

- (1) This section applies if—
- (a) an interstate restraining order is registered under this Act; and
 - (b) an interstate penalty order is registered in the ACT under the [Service and Execution of Process Act 1992](#) (Cwlth).

[1.18] Section 142 (2)

omit

subsection (1) (c) and (d)

substitute

subsection (1)

Part 1.7 Cooperatives Regulation 2003

[1.19] Section 26A

omit

Aboriginal Councils and Associations Act 1976 (Cwlth)

substitute

Corporations (Aboriginal and Torres Strait Islander) Act 2006
(Cwlth)

Part 1.8 Coroners Act 1997

[1.20] Section 57 (5) and (6)

substitute

- (5) A responsible Minister who receives a report under subsection (4) must—
- (a) present the report to the Legislative Assembly not later than the first sitting week after the end of 6 months after the day the responsible Minister receives the report; and
 - (b) present a statement of the responsible Minister's response to the report on the same day the report is presented to the Legislative Assembly.

[1.21] Section 57 (7), definitions of *Speaker* and *unavailable*

omit

[1.22] Section 76 (3)

substitute

- (3) The Minister who receives a response under subsection (1) must give a copy of the response to the coroner in relation to whose findings the response relates—
- (a) as soon as practicable after receiving it; or
 - (b) if a response under section 57 (5) (b) is required to be presented to the Legislative Assembly in relation to the same inquest, and the Minister believes it is necessary to delay giving the response—no later than the day the response under section 57 (5) (b) is presented to the Legislative Assembly.

Part 1.9 Court Procedures Act 2004

[1.23] Section 5A (2) (b)

substitute

- (b) the efficient use of the judicial and administrative resources available for the purposes of the court;

Part 1.10 Crimes Act 1900

[1.24] Section 7A, note 1, new dot point

insert

- section 28A (Throwing etc objects at vehicles)

[1.25] New section 28A

insert

28A Throwing etc objects at vehicles

- (1) A person commits an offence if—
- (a) the person intentionally throws an object at, drops an object on, or places an object in the path of, a vehicle; and
 - (b) the vehicle is on a road, road related area or railway; and
 - (c) a person is in the vehicle; and
 - (d) the conduct risks the safety of any person.

Maximum penalty: imprisonment for 2 years.

Note The fault element of recklessness applies to paragraphs (b), (c) and (d) (see [Criminal Code](#), s 22 (2)).

- (2) For subsection (1) (b), the vehicle may be moving, parked or otherwise stopped.
- (3) In a prosecution for an offence against this section it is not necessary to prove that the object made contact with the vehicle.
- (4) In this section:

railway includes a light rail.

road—see the [Road Transport \(General\) Act 1999](#), dictionary.

road related area—see the [Road Transport \(General\) Act 1999](#), dictionary.

vehicle includes the following:

- (a) a motor vehicle;
- (b) a train or tram;
- (c) a bicycle;
- (d) a vehicle drawn by an animal or an animal ridden by a person.

Part 1.11 Firearms Act 1996

[1.26] Section 35

omit

this Act

substitute

this Act or another territory law

Part 1.12 Land Titles Act 1925

[1.27] Section 177

omit

[1.28] New section 178A

insert

178A Registrar-general may collect information

- (1) This section applies to information the Territory is required to provide to the commissioner for taxation under the *Taxation Administration Act 1953* (Cwlth), schedule 1, section 396-55.

Note Under that section, the Territory must give the commissioner for taxation information about the transfer of a freehold or leasehold interest in real property situated in the Territory.

- (2) The registrar-general is authorised to—
- (a) collect the information; and
 - (b) give the information to the Commissioner for Taxation under the *Taxation Administration Act 1953* (Cwlth), section 4.
- (3) The registrar-general must not include on the register any information that is collected only under this section.
- (4) The registrar-general must not keep any information collected under this section for longer than 5 years.

Part 1.13 Legal Profession Act 2006

[1.29] Section 304 (2)

substitute

- (2) Subsection (1) does not apply—
- (a) to the extent that the relevant council for the legal practitioner—
 - (i) is unable to resolve the costs dispute and has notified the parties of their entitlement to apply for a costs assessment; or
 - (ii) refers a matter to the Supreme Court for a costs assessment under section 409 (Referral of matters for costs assessment—complaint investigation); or
 - (b) if the costs dispute is withdrawn in accordance with section 400.

Part 1.14 Magistrates Court Act 1930

[1.30] New chapter 13

insert

Chapter 13 Declaration and validation

470 Declaration

Lorraine Anne Walker is declared to have been the Industrial Court Magistrate for the period beginning on 8 November 2013 and ending on 29 March 2016.

471 Validation

- (1) The declaration in section 470 is taken to have operated for the period mentioned in that section as if the declaration had been made under section 291U and notified on the ACT legislation register to commence on 8 November 2013.
- (2) Without limiting subsection (1), and to remove any doubt, anything done, or purporting to have been done, by Lorraine Anne Walker during the period mentioned in section 470 as the Industrial Court Magistrate (whether under that name or the name ‘Industrial Magistrate’) is taken to be, and always to have been, valid.
- (3) Without limiting subsections (1) and (2), and to remove any doubt, anything done, or purporting to have been done, by the Magistrates Court known as the Industrial Court during the period mentioned in section 470 is taken to be, and always to have been, valid.

472 Expiry—ch 13

This chapter expires on the day it commences.

Note 1 If a law validates something, the validating effect of the law does not end only because of the repeal of the law (see [Legislation Act](#), s 88 (1)).

Note 2 The expiry of transitional provisions does not end their effect (see [Legislation Act](#), s 88).

Part 1.15 Medicines, Poisons and Therapeutic Goods Act 2008

[1.31] New section 37 (2A)

insert

- (2A) A person does not commit an offence under the [Criminal Code](#), section 45 (Complicity and common purpose) in relation to an offence committed by another person under subsection (1) or (2) of this section only because the person supplies sterile injecting equipment to the other person for the purpose of preventing the spread of blood-borne disease.

[1.32] New section 74 (1A)

insert

- (1A) Subsection (1) does not apply if the person supplies sterile injecting equipment to someone else for the purpose of preventing the spread of blood-borne disease.

[1.33] New section 74 (3)

insert

- (3) A person does not commit an offence under the [Criminal Code](#), section 45 (Complicity and common purpose) in relation to an offence committed by another person under subsection (2) of this section only because the person supplies sterile injecting equipment to the other person for the purpose of preventing the spread of blood-borne disease.

Part 1.16 Prohibited Weapons Act 1996

[1.34] Section 17 (2) and notes

omit

Part 1.17 Security Industry Act 2003

[1.35] Section 8 (1), definition of *security equipment*, paragraph (b)

substitute

- (b) mechanical, electronic, acoustic or other equipment designed or adapted specifically to provide or enhance security or for the protection or watching of any property;

Examples—par (b)

- 1 security screen doors that have reinforced steel mesh
- 2 security windows that have a fixed panel of reinforced stainless steel mesh in the window frame
- 3 security window grilles that are steel bars fixed to the wall outside the window
- 4 security window roller shutters that are made of reinforced aluminium and are lockable

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).

Part 1.18 Security Industry Regulation 2003

[1.36] Section 5

omit

[1.37] New section 6 (1) (l)

before the note, insert

- (l) a person who sells security equipment by wholesale only (other than directly to the public).

[1.38] New section 6 (2A)

insert

- (2A) A person is exempt from the requirement to hold a licence authorising the person to act as a monitoring service operator if—
 - (a) the monitoring service is provided—
 - (i) to a property in the ACT; and
 - (ii) from a place outside the ACT; and
 - (b) the person holds an authority (however described) issued under the law of another State authorising the person to act as a monitoring service operator in the other State.

[1.39] Table 8, item 4

omit

Part 1.19 **Supreme Court Act 1933**

[1.40] Section 46

substitute

46 Appointments

- (1) The Attorney-General must appoint a person as the registrar of the Supreme Court.

Note 1 For the making of appointments (including acting appointments), see the [Legislation Act](#), pt 19.3.

Note 2 In particular, a person may be appointed for a particular provision of a law (see [Legislation Act](#), s 7 (3)) and an appointment may be made by naming a person or nominating the occupant of a position (see [Legislation Act](#), s 207).

Note 3 Certain Ministerial appointments require consultation with an Assembly committee and are disallowable (see [Legislation Act](#), div 19.3.3).

- (2) The director-general must appoint a person as the sheriff of the Territory.
- (3) The registrar may appoint the deputy registrars of the court and other officers of the court that are necessary.
- (4) The sheriff may appoint the deputy sheriffs of the Territory.
- (5) A person appointed under subsection (3) or (4) must be a public servant.

Part 1.20 Territory Records Act 2002

[1.41] Section 8 (b) to (d)

substitute

- (b) for the Supreme Court, the Magistrates Court or Coroner's Court, or the ACAT—the principal registrar appointed under the *Court Procedures Act 2004*, section 11A; or

Part 1.21 Victims of Crime (Financial Assistance) Act 2016

[1.42] New section 48 (d)

insert

- (d) if the applicant is a child—as a payment to the public trustee and guardian to be held on trust for the applicant.

[1.43] Dictionary, note 2

insert

- child
- public trustee and guardian

Part 1.22 **Workplace Privacy Amendment Act 2016**

[1.44] Section 2

substitute

2 Commencement

- (1) This Act (other than section 5 and sections 7 to 16) commence on a day fixed by the Minister by written notice.

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

Note 2 A single day or time may be fixed, or different days or times may be fixed, for the commencement of different provisions (see [Legislation Act](#), s 77 (1)).

Note 3 If a provision has not commenced within 6 months beginning on the notification day, it automatically commences on the first day after that period (see [Legislation Act](#), s 79).

- (2) Section 5 and sections 7 to 16 commence 2 years after this Act's notification day

[1.45] Section 13 **Proposed new section 34A (2)**

after

commencement of the amending Act

insert

, section 5

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 5 May 2016.

2 Notification

Notified under the [Legislation Act](#) on 22 June 2016.

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 2016, which was passed by the Legislative Assembly on 9 June 2016.

Clerk of the Legislative Assembly

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