



Australian Capital Territory

Justice and Community Safety Legislation Amendment Act 2017 (No 2)

A2017-14

Contents

	Page
Part 1	Preliminary
1	Name of Act 2
2	Commencement 2
3	Legislation amended 3
4	Legislation repealed 3
Part 2	Civil Law (Wrongs) Act 2002
5	Notice of claim Section 51 (1), note 2 4
6	Section 51 (3) and (4) 4

J2016-761

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	Page
7	4
8	4
Part 3	
Common Boundaries Act 1981	
9	5
10	5
Part 4	
Criminal Code 2002	
11	6
12	6
13	6
14	7
15	7
Part 5	
Dangerous Goods (Road Transport) Act 2009	
16	8
17	8
Part 6	
Evidence Act 2011	
18	9
Part 7	
Freedom of Information Act 2016	
19	10
20	10
21	10
22	11

	Page
23	11
Mediation for applications Section 81 (4)	
Part 8	
Gaming Machine Act 2004	
24	12
Required payment to problem gambling assistance fund Section 163A (2) (a)	
Part 9	
Heavy Vehicle National Law (ACT) Act 2013	
25	13
Section 19	
Part 10	
Judicial Commissions Act 1994	
26	14
Dictionary, definition of <i>complaint</i>	
Part 11	
Legal Aid Act 1977	
27	15
Establishment and constitution of review committees Section 37 (3) (a), (4) (a) and (5)	
28	15
Personnel management Section 68A	
29	15
Dictionary, note 2	
Part 12	
Legal Profession Act 2006	
30	16
Purposes and application—pt 2.4 Section 33 (2) (b)	
31	16
Section 33 (3), definition of <i>in-house lawyer</i> , paragraph (b)	
32	16
Conditions on practising certificate—government lawyer and in-house lawyer Section 38 (1) (b)	
33	16
Section 38 (2) (b)	
34	17
New section 38 (5)	
35	17
Professional indemnity insurance—interstate legal practitioners Section 72 (2)	
36	17
Definitions—pt 2.6 Section 99 (2), definition of <i>related body corporate</i>	
37	17
Dictionary, definition of <i>related body corporate</i>	

	Page
Part 13	Limitation Act 1985
38	Section 21C heading 18
39	Section 21C (1) (a) 18
40	Section 21C (4), definitions of <i>institution</i> , <i>institutional context</i> and <i>official</i> 18
41	Special provision in relation to children—claims relating to health services
	Section 30B (1) (b) (ii) 18
Part 14	Magistrates Court (Sale of Motor Vehicles Infringement Notices) Regulation 2005
42	Dictionary
	Section 4, note 1 19
43	Section 4, note 2 19
44	Administering authority
	Section 6 19
45	Dictionary, note 2 19
46	Dictionary, definition of <i>registrar</i> 19
Part 15	Public Unleased Land Act 2013
47	Direction to remove objects from public unleased land
	Section 98 (7), definition of <i>park</i> 20
Part 16	Rail Safety National Law (ACT) Act 2014
48	Meaning of generic terms for Rail Safety National Law (ACT)
	Section 9 (1), definition of <i>Australian Road Rules</i> 21
49	Section 9 (1), definition of <i>shared path</i> 21
Part 17	Road Transport (General) Act 1999
50	Dictionary, definition of <i>Australian Road Rules</i> 22
51	Dictionary, definition of <i>bicycle</i> , notes 2 and 3 22
52	Dictionary, new definitions 22

		Page
Part 18	Road Transport (Public Passenger Services) Act 2001	
53	Dictionary, note 3	23
54	Dictionary, definition of <i>taxi zone</i>	23
Part 19	Road Transport (Safety and Traffic Management) Act 1999	
55	Dictionary, definition of <i>road user</i>	24



Australian Capital Territory

Justice and Community Safety Legislation Amendment Act 2017 (No 2)

A2017-14

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:

J2016-761

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Part 1 Preliminary

1 Name of Act

This Act is the *Justice and Community Safety Legislation Amendment Act 2017 (No 2)*.

2 Commencement

- (1) This Act (other than the following provisions) commences on the 7th day after its notification day:
 - part 5 (Dangerous Goods (Road Transport) Act 2009)
 - sections 20 to 23
 - part 8 (Gaming Machine Act 2004)
 - part 9 (Heavy Vehicle National Law (ACT) Act 2013)
 - part 15 (Public Unleased Land Act 2013)
 - part 16 (Rail Safety National Law (ACT) Act 2014)
 - part 17 (Road Transport (General) Act 1999)
 - part 18 (Road Transport (Public Passenger Services) Act 2001)
 - part 19 (Road Transport (Safety and Traffic Management) Act 1999).
- Note* The naming and commencement provisions automatically commence on the notification day (see [Legislation Act](#), s 75 (1)).
- (2) Parts 5, 9, 15, 16, 17, 18 and 19 commence on the later of—
 - (a) the commencement of the *Road Transport (Road Rules) Regulation 2017*, section 3; and
 - (b) the commencement of this Act, section 3.
- (3) Sections 20 to 23 commence on the commencement of the [Freedom of Information Act 2016](#), section 3.
- (4) Part 8 commences on 1 July 2017.

3 Legislation amended

This Act amends the following legislation:

- *Civil Law (Wrongs) Act 2002*
- *Common Boundaries Act 1981*
- *Criminal Code 2002*
- *Dangerous Goods (Road Transport) Act 2009*
- *Evidence Act 2011*
- *Freedom of Information Act 2016*
- *Gaming Machine Act 2004*
- *Heavy Vehicle National Law (ACT) Act 2013*
- *Judicial Commissions Act 1994*
- *Legal Aid Act 1977*
- *Legal Profession Act 2006*
- *Limitation Act 1985*
- *Magistrates Court (Sale of Motor Vehicles Infringement Notices) Regulation 2005*
- *Public Unleased Land Act 2013*
- *Rail Safety National Law (ACT) Act 2014*
- *Road Transport (General) Act 1999*
- *Road Transport (Public Passenger Services) Act 2001*
- *Road Transport (Safety and Traffic Management) Act 1999.*

4 Legislation repealed

The following legislation is repealed:

- *Director of Public Prosecutions Direction 2006 (No 1)* (NI2006-390)
- *Director of Public Prosecutions Direction 2016 (No 1)* (NI2016-164).

Part 2 Civil Law (Wrongs) Act 2002

5 Notice of claim Section 51 (1), note 2

omit
institutional

6 Section 51 (3) and (4)

omit
an institutional child abuse claim
substitute
a child abuse claim

7 Section 51 (10), new definition of *child abuse claim*

insert
child abuse claim, by or on behalf of a person, means a claim in relation to a personal injury that arises from sexual abuse to which the person was subjected when the person was a child.

8 Section 51 (10), definitions of *institutional child abuse claim* and *institutional context*

omit

Part 3 Common Boundaries Act 1981

9 Application to ACAT—repair cost determination Section 6 (1) (b)

omit

people living in premises

substitute

people lawfully at premises

10 New section 6 (5)

insert

(5) In this section:

people lawfully at premises includes a person—

- (a) living in the premises; or
- (b) invited to visit the premises by a person living in the premises;
or
- (c) otherwise lawfully entitled to be at the premises.

Part 4 Criminal Code 2002

11 Codification Section 5 (2) and (3)

omit

default

12 Delayed application of ch 2 to certain offences Section 8 (5)

omit

default

13 Section 10

substitute

10 Definitions—*applied provisions* and *application date*

(1) In this Act:

application date means a date declared by the Minister.

applied provisions means the following provisions of this chapter:

- section 15 (5) (which deals with evidence of self-induced intoxication)
- division 2.3.1 (Lack of capacity—children)
- division 2.3.2 (Lack of capacity—mental impairment)
- division 2.3.3 (Intoxication)
- part 2.4 (Extensions of criminal responsibility)
- part 2.5 (Corporate criminal responsibility)

- part 2.6 (Proof of criminal responsibility)
- part 2.7 (Geographical application).

Note Div 2.3.2 and s 66 (2) (d) became applied provisions on the commencement of the *Criminal Code (Mental Impairment) Amendment Act 2006*. Pt 2.5 became an applied provision on 9 April 2004. The other applied provisions have been applied provisions since the commencement of the Code on 1 January 2003.

- (2) A declaration under subsection (1) is a notifiable instrument.

Note A notifiable instrument must be notified under the [Legislation Act](#).

- (3) This section expires on the application date.

14 Dictionary, new definition of *application date*

insert

application date—see section 10.

15 Dictionary, definition of *default application date*

omit

Part 5 Dangerous Goods (Road Transport) Act 2009

16 Dictionary, definition of *Australian Road Rules*

omit

17 Dictionary, definitions of *road* and *road related area*

substitute

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

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

Part 6 Evidence Act 2011

18 Privilege in relation to self-incrimination in other proceedings Section 128 (7)

omit

examine—

substitute

examine evidence—

Part 7 Freedom of Information Act 2016

19 Commencement Section 2

omit

1 July 2017

substitute

1 January 2018

20 What is *open access information*? Section 23 (1), definition of *open access information*, of an agency

omit

held by the agency that

substitute

held by the agency that came into existence on or after
1 January 2018 and

21 Section 23 (1), definition of *open access information*, of a Minister, paragraph (a)

omit

held by the Minister that

substitute

held by the Minister that came into existence on or after
1 January 2018 and

**22 Open access information declarations
New section 65 (2A)**

insert

- (2A) The ombudsman must not declare government information that came into existence before 1 January 2018 to be open access information.

**23 Mediation for applications
Section 81 (4)**

substitute

- (4) Unless the ombudsman directs otherwise, the decision-maker—
- (a) must pay the costs of conducting the mediation; but
 - (b) is not required to pay the costs incurred by the applicant or any other person who participates in the review.

Examples—par (a)

- 1 cost of hiring the venue for the mediation
- 2 fees for the accredited mediator

Examples—par (b)

- 1 legal costs
- 2 travel costs
- 3 income lost due to participation in mediation

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 8 Gaming Machine Act 2004

24 Required payment to problem gambling assistance fund Section 163A (2) (a)

substitute

(a) 0.75%; or

Part 9 **Heavy Vehicle National Law
(ACT) Act 2013**

25 **Section 19**

substitute

19 **Road Rules—the Law, s 5**

The *Road Transport (Road Rules) Regulation 2017* is declared to be the Road Rules for the *Heavy Vehicle National Law (ACT)*.

Part 10 Judicial Commissions Act 1994

26 Dictionary, definition of *complaint*

substitute

complaint means—

- (a) a complaint made under section 14; or
- (b) an allegation in relation to which notice has been given to the council under section 14.

Part 11 Legal Aid Act 1977

27 Establishment and constitution of review committees Section 37 (3) (a), (4) (a) and (5)

omit

not more than 9

substitute

not more than 14

28 Personnel management Section 68A

omit

program

substitute

policy

29 Dictionary, note 2

insert

- legal practitioner

Part 12 Legal Profession Act 2006

30 Purposes and application—pt 2.4 Section 33 (2) (b)

substitute

- (b) an in-house lawyer for a corporation in relation to the provision of in-house legal services for the corporation (or a related body corporate).

31 Section 33 (3), definition of *in-house lawyer*, paragraph (b)

omit

corporation

substitute

corporation (or a related body corporate)

32 Conditions on practising certificate—government lawyer and in-house lawyer Section 38 (1) (b)

substitute

- (b) an in-house lawyer.

33 Section 38 (2) (b)

substitute

- (b) for an application by an in-house lawyer—imposes a condition on the certificate that the in-house lawyer for a corporation must not engage in legal practice otherwise than by providing in-house legal services to the corporation (or a related body corporate).

34 New section 38 (5)

insert

(5) In this section:

in-house lawyer—see section 33.

**35 Professional indemnity insurance—interstate legal practitioners
Section 72 (2)**

omit

the corporation

substitute

the corporation (or a related body corporate)

**36 Definitions—pt 2.6
Section 99 (2), definition of *related body corporate***

omit

37 Dictionary, definition of *related body corporate*

substitute

related body corporate means—

- (a) for a company within the meaning of the [Corporations Act](#)—a related body corporate within the meaning of that Act, section 50; or
- (b) for any other corporation prescribed by regulation—a person prescribed by regulation.

Part 13 Limitation Act 1985

38 Section 21C heading

substitute

21C Personal injury resulting from sexual abuse of child

39 Section 21C (1) (a)

omit

in an institutional context

40 Section 21C (4), definitions of *institution*, *institutional context* and *official*

omit

**41 Special provision in relation to children—claims relating to health services
Section 30B (1) (b) (ii)**

omit

institutional

Part 14 **Magistrates Court (Sale of Motor
Vehicles Infringement Notices)
Regulation 2005**

42 **Dictionary**
Section 4, note 1

omit

43 **Section 4, note 2**

omit

(including a signpost definition)

44 **Administering authority**
Section 6

omit

registrar

substitute

commissioner for fair trading

45 **Dictionary, note 2**

insert

- commissioner for fair trading

46 **Dictionary, definition of *registrar***

omit

Part 15 Public Unleased Land Act 2013

47 Direction to remove objects from public unleased land Section 98 (7), definition of *park*

substitute

park—see the *Road Transport (Road Rules) Regulation 2017*, dictionary.

Part 16 Rail Safety National Law (ACT) Act 2014

48 **Meaning of generic terms for Rail Safety National Law (ACT)**
Section 9 (1), definition of *Australian Road Rules*

omit

49 **Section 9 (1), definition of *shared path***

substitute

shared path—see the *Road Transport (Road Rules) Regulation 2017*, dictionary.

Part 17 Road Transport (General) Act 1999

50 Dictionary, definition of *Australian Road Rules*

omit

51 Dictionary, definition of *bicycle*, notes 2 and 3

omit

52 Dictionary, new definitions

insert

wheelchair—see the *Road Transport (Road Rules) Regulation 2017*, dictionary.

wheeled recreational device—see the *Road Transport (Road Rules) Regulation 2017*, dictionary.

wheeled toy—see the *Road Transport (Road Rules) Regulation 2017*, dictionary.

Part 18 Road Transport (Public Passenger Services) Act 2001

53 Dictionary, note 3

omit

- Australian Road Rules

54 Dictionary, definition of *taxi zone*

substitute

taxi zone—see the *Road Transport (Road Rules) Regulation 2017*, section 182.

Part 19 Road Transport (Safety and Traffic Management) Act 1999

55 Dictionary, definition of *road user*

substitute

road user—see the *Road Transport (Road Rules) Regulation 2017*, section 14.

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 30 March 2017.

2 Notification

Notified under the [Legislation Act](#) on 17 May 2017.

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 2017 (No 2), which originated in the Legislative Assembly as the Justice and Community Safety Legislation Amendment Bill 2017 and was passed by the Assembly on 11 May 2017.

Clerk of the Legislative Assembly

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