

2004

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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(As presented)

(Attorney-General)

# Justice and Community Safety Legislation Amendment Bill 2004

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2003 241B

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

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(As presented)

(Attorney-General)

# **Justice and Community Safety Legislation Amendment Bill 2004**

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## **A Bill for**

An Act to amend the law relating to justice and community safety

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

1 **Part 1 Preliminary**

2 **1 Name of Act**

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

5 **2 Commencement**

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

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

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

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

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## 1 Part 2 Agents Act 2003

### 2 3 Legislation amended—pt 2

3 This part amends the *Agents Act 2003*.

### 4 4 Dealing with trust money 5 New section 107 (3A)

6 *insert*

7 (3A) A licensed agent commits an offence if the agent pays an amount  
8 out of a trust account maintained by the agent otherwise than—

9 (a) by electronic transfer; or

10 (b) by using a cheque that—

11 (i) is expressed to be payable to a person specified in the  
12 cheque; and

13 (ii) clearly bears across the front of the cheque the addition  
14 of 2 parallel transverse lines with the words ‘not  
15 negotiable’ between, or substantially between, the lines.

16 *Note* This cheque is a ‘crossed cheque’ (see *Cheques Act 1986* (Cwlth), s 53).

17 Maximum penalty: 100 penalty units.

### 18 5 Section 107

19 *renumber subsections when Act next republished under Legislation*  
20 *Act*

1 **Part 3** **Civil Law (Sale of Residential**  
2 **Property) Act 2003**

3 **6** **Legislation amended—pt 3**

4 This part amends the *Civil Law (Sale of Residential Property)*  
5 *Act 2003*.

6 **7** **Definitions for pt 3**  
7 **Section 20, definition of *energy efficiency rating***  
8 ***statement*, paragraph (a)**

9 *substitute*

10 (a) a statement prepared in accordance with the energy guidelines  
11 adopted under the Territory plan that apply to residential  
12 premises; or



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**Part 4** **Civil Law (Wrongs) Act 2002****8** **Legislation amended—pt 4**

This part amends the *Civil Law (Wrongs) Act 2002*.

**9** **Respondent to give documents etc to claimant**  
**Section 68 (2) (b)**

*omit*

claimant's

*substitute*

respondent's

**10** **Application provision for Civil Law (Wrongs) Amendment Act 2003**  
**Section 225**

*insert*

(2A) Chapter 5 applies to a claim based on a cause of action that arose before 8 March 2004 and in relation to which the claimant had not consulted a lawyer as mentioned in subsection (2) as if section 51 (3) (a) (i) and (ii) read as follows:

(i) 8 March 2004; or

(ii) if symptoms of the injury were not immediately apparent and did not appear before 8 March 2004—the day the symptoms of the injury first appear;

**11** **Section 225**

*renumber subsections when Act next republished under Legislation Act*

1 **Part 5** **Civil Law (Wrongs) Regulations**  
2 **2003**

3 **12** **Legislation amended—pt 5**

4 This part amends the *Civil Law (Wrongs) Regulations 2003*.

5 **13** **Modification of Act, ch 16—Act, s 231**  
6 **Regulation 13**

7 *omit*

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## 1 Part 6 Cooperatives Act 2002

### 2 14 Legislation amended—pt 6

3 This part amends the *Cooperatives Act 2002*.

### 4 15 New section 451A

5 *insert*

#### 6 451A Contravention of s 451

- 7 (1) If the registrar is of the opinion that a person is contravening  
8 section 451 (2), the registrar may, by written notice to the person,  
9 identify the contravention and ask the person—
- 10 (a) if the person is a company or society formed or incorporated  
11 elsewhere than in the ACT—to apply under section 451 (4) to  
12 become an exempt body for section 451; or
- 13 (b) in any other case—to become registered as a cooperative.
- 14 (2) If the person complies with the notice within 6 months after the day  
15 the person is given the notice, the person is taken not to have  
16 contravened section 451 (2).

1 **Part 7 Crimes Act 1900**

2 **16 Legislation amended—pt 7**

3 This part amends the *Crimes Act 1900*.

4 **17 New section 26A**

5 *insert*

6 **26A Common assault—summary offence**

7 (1) A person commits an offence if the person assaults someone else.

8 Maximum penalty: 50 penalty units, imprisonment for 6 months or  
9 both

10 (2) The Criminal Code, chapter 2 (other than the immediately applied  
11 provisions) does not apply to an offence against this section.

12 (3) Subsections (2) and (4) and this subsection expire on the default  
13 application date.

14 (4) In this section:

15 *default application date*—see the Criminal Code, section 10.

16 *immediately applied provisions*—see the Criminal Code, section 10.

1 **Part 8** **Crimes (Forensic Procedures)**  
2 **Act 2000**

3 **18** **Legislation amended—pt 8**

4 This part amends the *Crimes (Forensic Procedures) Act 2000*.

5 **19** **Permissible matching of DNA profiles**  
6 **Section 97 (1)**

7 *substitute*

8 (1) A matching of a DNA profile on an index of the DNA database  
9 system mentioned in table 97, column 1 with a DNA profile on  
10 another index of the system mentioned in column 2, 3, 4, 5, 6, 7 or 8  
11 is not permitted by this Act if—

12 (a) ‘no’ is shown in relation to the index mentioned in column 2,  
13 3, 4, 5, 6, 7 or 8 opposite to the index mentioned in column 1;  
14 or

15 (b) ‘only if within purpose’ is shown in relation to the index  
16 mentioned in column 2, 3, 4, 5, 6, 7 or 8 opposite the  
17 volunteers (limited purposes) index mentioned in column 1 and  
18 the matching is carried out for a purpose other than a purpose  
19 for which the DNA profile placed on the volunteers (limited  
20 purposes) index mentioned in column 1 was so placed.

21 (1A) A matching of a DNA profile on an index of the DNA database  
22 system mentioned in table 97, column 1 with a DNA profile on  
23 another index of the system mentioned in column 2, 3, 4, 5, 6, 7 or 8  
24 is permitted by this Act if—

25 (a) ‘yes’ is shown in relation to the index mentioned in column 2,  
26 3, 4, 5, 6, 7 or 8 opposite to the index mentioned in column 1;  
27 or

- 1 (b) 'only if within purpose' is shown in relation to the index  
2 mentioned in column 2, 3, 4, 5, 6, 7 or 8 opposite the  
3 volunteers (limited purposes) index mentioned in column 1 and  
4 the matching is carried out for a purpose for which the DNA  
5 profile placed on the volunteers (limited purposes) index  
6 mentioned in column 1 was so placed.

**Table 97 Table of permissible matching of DNA profiles**

<b>profile to be matched</b>	<b>Is matching permitted?</b>						
<b>column 1</b>	<b>column 2</b>	<b>column 3</b>	<b>column 4</b>	<b>column 5</b>	<b>column 6</b>	<b>column 7</b>	<b>column 8</b>
	<b>crime scene</b>	<b>suspects</b>	<b>volunteers (limited purposes)</b>	<b>volunteers (unlimited purposes)</b>	<b>serious offenders</b>	<b>missing persons</b>	<b>unknown deceased persons</b>
<b>crime scene</b>	yes	yes	only if within purpose	yes	yes	yes	yes
<b>suspects</b>	yes	no	only if within purpose	no	yes	no	yes

**Part 8**

## Crimes (Forensic Procedures) Act 2000

## Section 19

<b>profile to be matched</b>	<b>Is matching permitted?</b>						
<b>column 1</b>	<b>column 2</b>	<b>column 3</b>	<b>column 4</b>	<b>column 5</b>	<b>column 6</b>	<b>column 7</b>	<b>column 8</b>
	<b>crime scene</b>	<b>suspects</b>	<b>volunteers (limited purposes)</b>	<b>volunteers (unlimited purposes)</b>	<b>serious offenders</b>	<b>missing persons</b>	<b>unknown deceased persons</b>
<b>volunteers (limited purposes)</b>	only if within purpose	only if within purpose	only if within purpose	only if within purpose	only if within purpose	only if within purpose	only if within purpose
<b>volunteers (unlimited purposes)</b>	yes	no	only if within purpose	no	yes	yes	yes
<b>serious offenders</b>	yes	yes	only if within purpose	no	yes	yes	yes



<b>profile to be matched</b>	<b>Is matching permitted?</b>						
<b>column 1</b>	<b>column 2</b>	<b>column 3</b>	<b>column 4</b>	<b>column 5</b>	<b>column 6</b>	<b>column 7</b>	<b>column 8</b>
	<b>crime scene</b>	<b>suspects</b>	<b>volunteers (limited purposes)</b>	<b>volunteers (unlimited purposes)</b>	<b>serious offenders</b>	<b>missing persons</b>	<b>unknown deceased persons</b>
<b>missing persons</b>	yes	yes	only if within purpose	yes	yes	yes	yes
<b>unknown deceased persons</b>	yes	yes	only if within purpose	yes	yes	yes	yes

- 1 **20 Section 97**
- 2 *renumber subsections when Act next republished under Legislation*
- 3 *Act*

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## Part 9 Domestic Relationships Act 1994

### 21 Legislation amended—pt 9

This part amends the *Domestic Relationships Act 1994*.

### 22 Section 31

*substitute*

### 31 Meaning of *agreement* for pt 4

In this part:

*agreement* means a domestic relationship agreement or a termination agreement.

### 23 New section 33 (3), (4) and (5)

*insert*

- (3) If a certificate mentioned in subsection (1) (d) is furnished before the commencement of the amendment of this section made by the *Justice and Community Safety Legislation Amendment Act 2004*, the certificate is as valid, and is taken always to have been as valid, as it would have been if it had been furnished after that commencement.
- (4) Subsection (3) is declared to be a law to which the Legislation Act, section 88 (Repeal does not end effect of transitional laws etc) applies.
- (5) Subsections (3) and (4) and this subsection expire on the day they commence.

1 **Part 10 Justices of the Peace Act 1989**

2 **24 Legislation amended—pt 10**

3 This part amends the *Justices of the Peace Act 1989*.

4 **25 Title**

5 *substitute*

6 An Act about justices of the peace

7 **26 Section 1**

8 *substitute*

9 **1 Name of Act**

10 This Act is the *Justices of the Peace Act 1989*.

11 **27 Sections 3 and 3A**

12 *substitute*

13 **3 Appointments**

14 (1) The Minister may appoint a person as a justice of the peace.

15 *Note 1* For the making of appointments, see Legislation Act, pt 19.3.

16 *Note 2* A person's appointment ends if the person resigns (see Legislation Act,  
17 s 210).

18 (2) The Legislation Act, division 19.3.3 (Appointments—Assembly  
19 consultation) does not apply to an appointment under this section.

20 (3) An appointment under this section is a notifiable instrument.

21 *Note* A notifiable instrument must be notified under the Legislation Act.

- 1 (4) Before beginning to perform the duties of office, a justice of the  
2 peace must take an oath of office, or make an affirmation of office,  
3 before a judge, in accordance with the relevant form in schedule 1.

4 **28 Register**  
5 **Section 4**

6 *omit*

7 shall

8 *substitute*

9 must

10 **29 Section 4A**

11 *renumber as section 5*

12 **30 Sections 5 and 6**

13 *omit*

14 **31 New section 7**

15 *insert*

16 **7 Application of Legislation Act, s 88**

17 (1) Section 5 and section 6, as in force immediately before the  
18 commencement of this section, are declared to be laws to which the  
19 Legislation Act, section 88 (Repeal does not end effect of  
20 transitional laws etc) applies.

21 (2) This section expires on the day it commences.

1                      **Part 11                                      Legislation Act 2001**

2                      **32                      Legislation amended—pt 11**

3                                      This part amends the Legislation Act.

4                      **33                      When must prosecutions begin?**  
5                                      **Section 192 (1)**

6                                      *substitute*

7                                      (1) A prosecution for the following offences against a Territory law  
8                                      may be begun at any time:

9    (a) an offence by an individual punishable by imprisonment for  
10    longer than 6 months;

11    (b) an offence by a corporation punishable by a fine of more than  
12    100 penalty units;

13    *Note*      See section 161 for the fines that may be imposed on a  
14    corporation for offences punishable only by imprisonment.

15    (c) an aiding and abetting offence by an individual in relation to an  
16    offence by a corporation punishable by a fine of more than 100  
17    penalty units;

18    (d) an offence against the Criminal Code, section 321 (Minor  
19    theft).

1 **Part 12** **Ombudsman Act 1989**

2 **34** **Legislation amended—pt 12**

3 This part amends the *Ombudsman Act 1989*.

4 **35** **Functions**  
5 **New section 5 (2) (ca)**

6 *insert*

7 (ca) action taken by a tribunal, a member of a tribunal, or a member  
8 of the staff of a tribunal, in the exercise of the tribunal's  
9 deliberative functions; or

10 **36** **Section 5 (2)**

11 *renumber paragraphs when Act next republished under Legislation*  
12 *Act*

1 **Part 13 Security Industry Act 2003**

2 **37 Legislation amended—pt 13**

3 This part amends the *Security Industry Act 2003*.

4 **38 General suitability criteria**  
5 **Section 21 (1) (a) (iii)**

6 *substitute*

7 (ii) the applicant satisfies any condition prescribed under the  
8 regulations for the licence; and

9 (iv) it is otherwise in the public interest to license the  
10 applicant; and

11 **39 Section 21 (1) (b) (ii)**

12 *substitute*

13 (ii) if competency standards are prescribed under the  
14 regulations—has satisfied the standards.

15 **40 Section 52 heading**

16 *substitute*

17 **52 Regulation-making power**



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**41 Section 52 (2) (f)**

*substitute*

(f) anything relating to licences, including—

(i) qualifications and conditions for licences; and

**Example**

membership of a trade or industry association

*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).

(ii) details to be included on licences; and

(iii) notification by licensees of any change in the details;

1 **Part 14** **Security Industry Regulations**  
2 **2003**

3 **42** **Legislation amended—pt 14**

4 This part amends the *Security Industry Regulations 2003*.

5 **43** **Regulation 7**

6 *substitute*

7 **7** **Prescribed information to accompany licence**  
8 **application—Act, s 17 (3)**

9 For an application for a master licence by a person who is not a  
10 locksmith, the prescribed information is evidence of membership of  
11 an industry association approved by the commissioner for fair  
12 trading under regulation 7A.

13 **7A** **Conditions for certain master licences—Act, s 21 (1) (a)**  
14 **(iii)**

- 15 (1) An applicant for a master licence who is not a locksmith must be a  
16 member of an approved industry association.
- 17 (2) However, if the commissioner for fair trading believes on  
18 reasonable grounds that a person has a conscientious or religious  
19 objection to membership of an industry association, the  
20 commissioner may, in writing, exempt the person from  
21 subregulation (1).
- 22 (3) For this regulation, the commissioner for fair trading may approve  
23 an entity as an industry association.

1 (4) An approval is a notifiable instrument.

2 *Note* A notifiable instrument must be notified under the Legislation Act.

3 (5) In this regulation, an ***approved industry association*** means an entity  
4 approved as an industry association under subregulation (3).

1 **Part 15 Trade Measurement Act 1991**

2 **44 Legislation amended—pt 15**

3 This part amends the *Trade Measurement Act 1991*.

4 **45 Exemptions from Act**  
5 **New section 6 (2) (a)**

6 *insert*

7 (a) a quantity of reticulated electricity, reticulated gas or  
8 reticulated water;

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**Endnotes**

**1 Presentation speech**

Presentation speech made in the Legislative Assembly on 2004.

**2 Notification**

Notified under the Legislation Act on 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).

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