2012

THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Attorney-General)

Justice and Community Safety Legislation Amendment Bill 2012 (No 2)

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(Attorney-General)

Justice and Community Safety Legislation Amendment Bill 2012 (No 2)

A Bill for

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 2012 (No 2).
2	Commencement
	This Act commences on the day after its notification day.
	Note The naming and commencement provisions automatically commence or 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
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2 (see s 3)

Part 1.1 Civil Law (Wrongs) Act 2002

Schedule 4, section 4.4 heading [1.1] substitute 5 Preparation and approval of schemes 4.4 Schedule 4, section 4.4 (3) [1.2] omit everything after 8 association, substitute 10 approve a scheme prepared under this section. 11 [1.3] Schedule 4, section 4.5 (1) 12 omit 13 recommending 14 substitute 15 approving 16 [1.4] Schedule 4, section 4.7 (1) 17 omit 18 recommending a scheme in relation to an occupational association 19

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substitute

approving a scheme

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21

page 4

Amendment [1.5]

1	[1.5]	Schedule 4, section 4.9 (1)
2		substitute
3	(1)	The council must submit a scheme approved by it to the Minister.
4	[1.6]	Schedule 4, section 4.9 (2)
5		omit
6		may
7		substitute
8		must
9	[1.7]	Schedule 4, section 4.10 heading
10		substitute
11	4.10	Schemes are subject to disallowance
12	[1.8]	Schedule 4, section 4.10 (1) and (2)
13		substitute
14	(1)	The Minister must—
15		(a) give notice of—
16		(i) the council's approval of the scheme; or
17		(ii) for an interstate scheme—the approval of the scheme by
18 19		the appropriate council for the jurisdiction in which the scheme was prepared; and
20		(b) include the approved scheme in the notice.
21	(2)	A notice is a disallowable instrument.
22 23	(=)	Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

1	[1.9]	Schedule 4, section 4.11 (1)
2		substitute
3	(1)	If the Minister gives notice under section 4.10 of the approval of a scheme, the scheme commences—
5 6		(a) on the date or time (after the notice's notification day) provided for in the notice; or
7 8		(b) if a date or time is not provided for in the notice—2 months after the notice's notification day.
9	[1.10]	Schedule 4, section 4.12 (1)
10		omit
11		approved by the Minister
12		substitute
13		included in a notice under section 4.10
14	[1.11]	Schedule 4, section 4.14 (6)
15		omit
16		section 4.9
17		substitute
18		section 4.9 (2)
19	[1.12]	Schedule 4, section 4.14A (1)
20		omit
21		approves
22		substitute
23		gives notice under section 4.10 in relation to

Amendment [1.13]

1	[1.13]	Schedule 4, section 4.14B (5)
2		omit
3 4		to the extent that it provides for the submission of a scheme that indicates an intention to operate as a scheme of another jurisdiction
5	[1.14]	Schedule 4, section 4.32 (1)
6		omit
7		recommendation for
8		substitute
9		approval of
10	[1.15]	Schedule 4, section 4.37 (1) (a) (i)
4.4		substitute
11		
12 13		(i) giving notice of the approval of schemes, and their amendment and revocation; and
12	[1.16]	11
12 13	[1.16]	amendment and revocation; and
12 13 14	[1.16]	amendment and revocation; and Schedule 4, section 4.50 (1) (b)
12 13 14 15	[1.16]	amendment and revocation; and Schedule 4, section 4.50 (1) (b) omit

Part 1.2 Emergencies Act 2004

2	[1.17]	New section 122 (5) and (6)
3		before the examples, insert
4 5	(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—
6 7 8		(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
9		(b) the fire is under the control of a responsible adult; and
10		(c) an adequate means of putting out the fire is available for use.
11	(6)	In this section:
12		residential land means land leased for a residential purpose.
12 13	[1.18]	residential land means land leased for a residential purpose. Section 123 (6)
-	[1.18]	
13	[1.18] (6)	Section 123 (6)
13		Section 123 (6) substitute
13 14 15		Section 123 (6) substitute This section does not affect— (a) the duties of a person under the Environment Protection

[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.
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1	[1.23]	New section 25A (4)
2		insert
3	(4)	In this section:
4 5		superannuation fund means a complying superannuation fund for the Income Tax Assessment Act 1997 (Cwlth).
6	[1.24]	Dictionary, note 2
7		insert
8		• tribunal
9 10 11	Part 1.	5 Unit Titles (Management) Act 2011 Section 82 (2), new example
12		before the note, insert
13		Example
14 15 16 17 18 19		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 <i>total sinking fund amount</i>).
21 22 23		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).

Schedule 1 Part 1.6 Legislation amended Victims of Crime Act 1994

Amendment [1.26]

1	[1.26]	Section 86, new example
2		insert
3		Example
4		An owners corporation for a units plan approves a sinking fund plan that sets a
5		total sinking fund amount of \$15 000 for each year of the plan. Three years after
6		approving the plan, the owners corporation finds out that major work is required
7		to water and sewerage pipes in the common property at an estimated cost of
8		\$60 000. The owners corporation, by ordinary resolution, amends the sinking
9		fund plan to include the additional expected sinking fund expenditure and require
10		additional contributions of \$10 000 a year for the remaining years of the plan
11		The total sinking fund amount for each financial year after the amendment is
12		\$25 000 (see s 72, def total sinking fund amount).
13		Note An example is part of the Act, is not exhaustive and may extend, but
14		does not limit, the meaning of the provision in which it appears (see
15		Legislation Act, s 126 and s 132).

Part 1.6 Victims of Crime Act 1994

[1.27] New section 22D (4)

before note 1, insert

(4) The Legislation Act, part 19.3.3 does not apply to the appointment of a member mentioned in subsection (1) (a).

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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

2012.

3 Republications of amended laws

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

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