

2015

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Attorney-General)

Justice and Community Safety Legislation Amendment Bill 2015

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J2014-586

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Justice and Community Safety Legislation Amendment Bill 2015

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 **1 Name of Act**

2 This Act is the *Justice and Community Safety Legislation*
3 *Amendment Act 2015*.

4 **2 Commencement**

- 5 (1) This Act (other than schedule 1, amendments 1.1 to 1.3, 1.11 and
6 1.16 to 1.20) commences on the day after its notification day.

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

- 9 (2) Schedule 1, amendments 1.1 and 1.16 to 1.20 commence on the later
10 of—

11 (a) the commencement of the *Classification (Publications, Films*
12 *and Computer Games) Amendment (Classification Tools and*
13 *Other Measures) Act 2014* (Cwlth), schedule 3, part 3; and

14 (b) the commencement of this Act, section 3.

- 15 (3) Schedule 1, amendments 1.2, 1.3 and 1.11 commence on the later
16 of—

17 (a) the commencement of the *Classification (Publications, Films*
18 *and Computer Games) Amendment (Classification Tools and*
19 *Other Measures) Act 2014* (Cwlth), schedule 4; and

20 (b) the commencement of this Act, section 3.

- 21 (4) The [Legislation Act](#), section 79 (Automatic commencement of
22 postponed law) does not apply to this Act.

23 **3 Legislation amended**

24 This Act amends the legislation mentioned in schedule 1.

1 **Schedule 1** **Legislation amended**

2 (see s 3)

3 **Part 1.1** **Classification (Publications,**
4 **Films and Computer Games)**
5 **(Enforcement) Act 1995**

6 **[1.1] New section 6 (c)**

7 *insert*

8 (c) publications, films or computer games that are subject to a
9 conditional cultural exemption.

10 **[1.2] Section 7 (3) (b)**

11 *after*

12 section 21 (2)

13 *insert*

14 or (3)

15 **[1.3] Section 17 (2) (b)**

16 *after*

17 section 21 (2)

18 *insert*

19 or (3)

- 1 **[1.4] Section 19 (4) (a)**
- 2 *after*
- 3 Commonwealth Act,
- 4 *insert*
- 5 section 22CH (4) (Revocation of classification by approved
- 6 classification tool),
- 7 **[1.5] Section 29 (4) (a)**
- 8 *after*
- 9 Commonwealth Act,
- 10 *insert*
- 11 section 22CH (4) (Revocation of classification by approved
- 12 classification tool),
- 13 **[1.6] Section 29 (4) (b)**
- 14 *after*
- 15 similar to a classified item)
- 16 *insert*
- 17 or section 22CH (1) (Revocation of classification by approved
- 18 classification tool)
- 19 **[1.7] Section 30 (7) (a)**
- 20 *after*
- 21 Commonwealth Act,
- 22 *insert*
- 23 section 22CH (4) (Revocation of classification by approved
- 24 classification tool),

1 **[1.8] Section 30 (7) (b)**

2 *after*

3 similar to a classified item)

4 *insert*

5 or section 22CH (1) (Revocation of classification by approved
6 classification tool)

7 **[1.9] Section 34 (4) (a)**

8 *after*

9 Commonwealth Act,

10 *insert*

11 section 22CH (4) (Revocation of classification by approved
12 classification tool),

13 **[1.10] Section 34 (4) (b)**

14 *after*

15 similar to a classified item)

16 *insert*

17 or section 22CH (1) (Revocation of classification by approved
18 classification tool)

19 **[1.11] New section 38 (3)**

20 *insert*

21 (3) A person does not commit an offence against this section only
22 because a computer game is sold or demonstrated in a public place
23 with modifications mentioned in the Commonwealth Act,
24 section 21 (2) or (3).

- 1 **[1.12] Section 44 (7) (a)**
- 2 *after*
- 3 Commonwealth Act,
- 4 *insert*
- 5 section 22CH (4) (Revocation of classification by approved
- 6 classification tool),
- 7 **[1.13] Section 53B (3) (a)**
- 8 *after*
- 9 Commonwealth Act,
- 10 *insert*
- 11 section 22CH (4) (Revocation of classification by approved
- 12 classification tool),
- 13 **[1.14] Section 53C (5) (a)**
- 14 *after*
- 15 Commonwealth Act,
- 16 *insert*
- 17 section 22CH (4) (Revocation of classification by approved
- 18 classification tool),
- 19 **[1.15] Section 53C (5) (b)**
- 20 *after*
- 21 similar to a classified item)
- 22 *insert*
- 23 or section 22CH (1) (Revocation of classification by approved
- 24 classification tool)

1 **[1.16] Sections 56 and 57**

2 *omit*

3 **[1.17] Section 57A**

4 *substitute*

5 **56 Ministerial directions and guidelines**

6 In exercising any power under section 55, the director must give
7 effect to any directions or guidelines issued by the Minister in
8 relation to the application of that section.

9 **[1.18] New part 15**

10 *insert*

11 **Part 15 Transitional—Justice and**
12 **Community Safety Legislation**
13 **Amendment Act 2015**

14 **150 Definitions—pt 15**

15 In this part:

16 *commencement day* means the day the *Justice and Community*
17 *Safety Legislation Amendment Act 2015*, amendment 1.16
18 commences.

19 *repealed sections* means section 56 (Exemption—approved
20 organisation) and section 57 (Organisations may be approved) as in
21 force immediately before the commencement day.

22 **151 Exemption in force before commencement day**

23 (1) This section applies if an exemption is in force under the repealed
24 sections immediately before the commencement day.

1 **Part 1.2 Commercial Arbitration Act 1986**

2 **[1.21] New section 53 (4)**

3 *insert*

4 (4) In this section:

5 *court* includes a tribunal.

6 **[1.22] Dictionary, note 2**

7 *insert*

- 8 • tribunal

9 **Part 1.3 Coroners Act 1997**

10 **[1.23] New section 51B**

11 *in division 5.3, insert*

12 **51B Privilege in relation to self-incrimination in coronial**
13 **inquest or inquiry**

14 (1) This section applies if a witness for an inquest or inquiry objects to
15 giving particular evidence, or evidence on a particular matter, on the
16 ground that the evidence may tend to prove that the witness—

17 (a) has committed an offence against or arising under an
18 Australian law or a law of a foreign country; or

19 (b) is liable to a civil penalty.

20 (2) The coroner for the inquest or inquiry must decide whether or not
21 there are reasonable grounds for the objection.

- 1 (3) Subject to subsection (4), if the coroner decides that there are
2 reasonable grounds for the objection, the coroner must not require
3 the witness to give the evidence and must tell the witness—
- 4 (a) that the witness need not give the evidence unless required by
5 the coroner to do so under subsection (4); and
- 6 (b) that the coroner will give a certificate under this section if the
7 witness—
- 8 (i) willingly gives the evidence without being required to do
9 so under subsection (4); or
- 10 (ii) gives the evidence after being required to do so under
11 subsection (4); and
- 12 (c) of the effect of the certificate.
- 13 (4) The coroner may require the witness to give the evidence if the
14 coroner is satisfied that—
- 15 (a) the evidence does not tend to prove that the witness has
16 committed an offence against or arising under, or is liable to a
17 civil penalty under, a law of a foreign country; and
- 18 (b) the interests of justice require that the witness give the
19 evidence.
- 20 (5) If the witness either willingly gives the evidence without being
21 required to do so under subsection (4), or gives it after being
22 required to do so under that subsection, the coroner must give the
23 witness a certificate under this section in relation to the evidence.
- 24 (6) The coroner must also give a witness a certificate under this section
25 if—
- 26 (a) the objection has been overruled; and
- 27 (b) after the evidence has been given, the coroner finds that there
28 were reasonable grounds for the objection.

- 1 (7) In any proceeding in an ACT court or before any entity authorised
2 by a territory law, or by consent of parties, to hear, receive and
3 examine evidence, the following evidence cannot be used against a
4 person:
- 5 (a) evidence given by the person in relation to which a certificate
6 under this section has been given;
- 7 (b) evidence of any information, document or thing obtained as a
8 direct or indirect consequence of the person having given
9 evidence.
- 10 (8) However, subsection (7) does not apply to a criminal proceeding in
11 relation to the falsity of the evidence.
- 12 (9) Subsection (7) has effect despite any challenge, review, quashing or
13 calling into question on any ground of the decision to give, or the
14 validity of, the certificate.
- 15 (10) A reference in this section to doing an act includes a reference to
16 failing to act.
- 17 (11) A certificate under this section may only be given to a witness who
18 is an individual.

19 **Part 1.4 Court Procedures Act 2004**

20 **[1.24] Section 45 (2) (c)**

21 *substitute*

- 22 (c) must comply with any written policy made in relation to
23 searches under this section by—
- 24 (i) the Chief Justice; or
- 25 (ii) the Chief Magistrate; or
- 26 (iii) the general president of the ACAT.

1 **Part 1.7** **Legal Profession Act 2006**

2 **[1.28] Section 278, note**

3 *omit*

4 **[1.29] Section 281A**

5 *relocate to division 3.2.3 as section 278A*

6 **Part 1.8** **Public Trustee Act 1985**

7 **[1.30] New section 25A (2) (d)**

8 *insert*

9 (d) if an amount is paid, or property given, under paragraph (c)—
10 manage the superannuation fund on behalf of the person.

11 **Part 1.9** **Utilities Act 2000**

12 **[1.31] Section 51 (2) and note and (3)**

13 *substitute*

14 (2) A utility must deal with personal information in accordance with the
15 following as if it were a prescribed authority to which the [Privacy](#)
16 [Act](#) applies:

17 (a) the Australian Privacy Principles;

18 (b) the [Privacy Act](#), part 3A (Credit reporting);

1 (c) the registered CR code.

2 *Note* An Act of the Territory generally cannot apply the [Privacy Act](#) to
3 utilities. However, this section would oblige utilities to observe the
4 Australian Privacy Principles and credit reporting requirements under
5 the [Privacy Act](#) as if the Act applied to them. The arrangement does not
6 allow complaints about utilities to be made to the privacy commissioner
7 under that Act, nor for the application of remedies under the [Privacy](#)
8 [Act](#).

9 (3) In this section:

10 *Australian Privacy Principles* means the Australian Privacy
11 Principles under the [Privacy Act](#), schedule 1.

12 *prescribed authority*—see the [Freedom of Information Act 1989](#),
13 dictionary.

14 *Privacy Act* means the [Privacy Act 1988](#) (Cwlth).

15 *registered CR code*—see the [Privacy Act](#), section 26M.

16 *Note* The *registered CR code* is a written code of practice about credit
17 reporting registered under the [Privacy Act](#).

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 26 March 2015.

2 Notification

Notified under the [Legislation Act](#) on 2015.

3 Republications of amended laws

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

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