

2016

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Attorney-General)

Justice and Community Safety Legislation Amendment Bill 2016

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Justice and Community Safety Legislation Amendment Bill 2016

A Bill for

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 **1 Name of Act**

2 This Act is the *Justice and Community Safety Legislation*
3 *Amendment Act 2016*.

4 **2 Commencement**

5 This Act commences on the 7th day after its notification day.

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

8 **3 Legislation amended**

9 This Act amends the legislation mentioned in schedule 1.

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

2 (see s 3)

3 **Part 1.1** **ACT Civil and Administrative**
4 **Tribunal Act 2008**

5 **[1.1]** **Section 112 (1) (d)**

6 *omit*

7 **Part 1.2** **Associations Incorporation**
8 **Act 1991**

9 **[1.2]** **Section 81, new definition of *corporation law***

10 *insert*

11 *corporation law*—see section 82 (1).

12 **[1.3]** **Section 82**

13 *substitute*

14 **82** **Voluntary transfer of incorporation**

15 (1) An incorporated association may apply to the registrar-general for
16 permission to apply for registration of the association under either of
17 the following (a *corporation law*):

18 (a) the [Corporations Act](#);

19 (b) the [Corporations \(Aboriginal and Torres Strait Islander\)](#)
20 [Act 2006](#) (Cwlth).

21 (2) An application for registration under the [Corporations Act](#) must be
22 for registration as a company limited by guarantee.

1 **[1.6] Section 86 (b)**

2 *omit*

3 the company

4 *substitute*

5 registration under a corporation law (the *company*)

6 **[1.7] Dictionary, note 2**

7 *insert*

- 8 • [Corporations Act](#)

9 **[1.8] Dictionary, new definition of *corporation law***

10 *insert*

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

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

15 **[1.9] Section 9 (1) (h) (iii)**

16 *omit*

17 in that period

18 *substitute*

19 in the 6 months before that date

1 **Part 1.4** **Civil Law (Wrongs) Act 2002**

2 **[1.12] Section 4, note 1, 3rd dot point**

3 *omit*

4 **[1.13] Part 15.2**

5 *omit*

6 **[1.14] New chapter 17**

7 *insert*

8 **Chapter 17** **Transitional—Justice and**
9 **Community Safety Legislation**
10 **Amendment Act 2016**

11 **250** **Ongoing confidentiality of general reports of insurers**

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

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

1 **251 Expiry—ch 17**

2 This chapter expires on the day it commences.

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

6 **[1.15] Dictionary, definition of *insurer***

7 *substitute*

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

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

12 **[1.16] Sections 12 and 12A**

13 *omit*

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

16 **[1.17] Section 142 (1)**

17 *substitute*

18 (1) This section applies if—

19 (a) an interstate restraining order is registered under this Act; and

20 (b) an interstate penalty order is registered in the ACT under the
21 [Service and Execution of Process Act 1992](#) (Cwlth).

1 **[1.18] Section 142 (2)**

2 *omit*

3 subsection (1) (c) and (d)

4 *substitute*

5 subsection (1)

6 **Part 1.7 Cooperatives Regulation 2003**

7 **[1.19] Section 26A**

8 *omit*

9 *Aboriginal Councils and Associations Act 1976* (Cwlth)

10 *substitute*

11 *Corporations (Aboriginal and Torres Strait Islander) Act 2006*
12 (Cwlth)

13 **Part 1.8 Coroners Act 1997**

14 **[1.20] Section 57 (5) and (6)**

15 *substitute*

16 (5) A responsible Minister who receives a report under subsection (4)
17 must—

18 (a) present the report to the Legislative Assembly not later than the
19 first sitting week after the end of 6 months after the day the
20 responsible Minister receives the report; and

21 (b) present a statement of the responsible Minister's response to
22 the report on the same day the report is presented to the
23 Legislative Assembly.

1 **[1.25] New section 28A**

2 *insert*

3 **28A Throwing etc objects at vehicles**

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

10 Maximum penalty: imprisonment for 2 years.

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

13 (2) For subsection (1) (b), the vehicle may be moving, parked or
14 otherwise stopped.

15 (3) In a prosecution for an offence against this section it is not
16 necessary to prove that the object made contact with the vehicle.

17 (4) In this section:

18 *railway* includes a light rail.

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

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

- 1 **vehicle** includes the following:
- 2 (a) a motor vehicle;
- 3 (b) a train or tram;
- 4 (c) a bicycle;
- 5 (d) a vehicle drawn by an animal or an animal ridden by a person.

6 **Part 1.11 Firearms Act 1996**

7 **[1.26] Section 35**

- 8 *omit*
- 9 this Act
- 10 *substitute*
- 11 this Act or another territory law

12 **Part 1.12 Land Titles Act 1925**

13 **[1.27] Section 177**

- 14 *omit*

1 **[1.28] New section 178A**

2 *insert*

3 **178A Registrar-general may collect information**

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

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

11 (2) The registrar-general is authorised to—

12 (a) collect the information; and

13 (b) give the information to the Commissioner for Taxation under
14 the *Taxation Administration Act 1953* (Cwlth), section 4.

15 (3) The registrar-general must not include on the register any
16 information that is collected only under this section.

17 (4) The registrar-general must not keep any information collected under
18 this section for longer than 5 years.

1 **Part 1.13 Legal Profession Act 2006**

2 **[1.29] Section 304 (2)**

3 *substitute*

4 (2) Subsection (1) does not apply—

5 (a) to the extent that the relevant council for the legal
6 practitioner—

7 (i) is unable to resolve the costs dispute and has notified the
8 parties of their entitlement to apply for a costs
9 assessment; or

10 (ii) refers a matter to the Supreme Court for a costs
11 assessment under section 409 (Referral of matters for
12 costs assessment—complaint investigation); or

13 (b) if the costs dispute is withdrawn in accordance with
14 section 400.

15 **Part 1.14 Magistrates Court Act 1930**

16 **[1.30] New chapter 13**

17 *insert*

18 **Chapter 13 Declaration and validation**

19 **470 Declaration**

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

1 **471 Validation**

2 (1) The declaration in section 470 is taken to have operated for the
3 period mentioned in that section as if the declaration had been made
4 under section 291U and notified on the ACT legislation register to
5 commence on 8 November 2013.

6 (2) Without limiting subsection (1), and to remove any doubt, anything
7 done, or purporting to have been done, by Lorraine Anne Walker
8 during the period mentioned in section 470 as the Industrial Court
9 Magistrate (whether under that name or the name ‘Industrial
10 Magistrate’) is taken to be, and always to have been, valid.

11 (3) Without limiting subsections (1) and (2), and to remove any doubt,
12 anything done, or purporting to have been done, by the Magistrates
13 Court known as the Industrial Court during the period mentioned in
14 section 470 is taken to be, and always to have been, valid.

15 **472 Expiry—ch 13**

16 This chapter expires on the day it commences.

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

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

1 **Part 1.15** **Medicines, Poisons and**
2 **Therapeutic Goods Act 2008**

3 **[1.31] New section 37 (2A)**

4 *insert*

5 (2A) A person does not commit an offence under the [Criminal Code](#),
6 section 45 (Complicity and common purpose) in relation to an
7 offence committed by another person under subsection (1) or (2) of
8 this section only because the person supplies sterile injecting
9 equipment to the other person for the purpose of preventing the
10 spread of blood-borne disease.

11 **[1.32] New section 74 (1A)**

12 *insert*

13 (1A) Subsection (1) does not apply if the person supplies sterile injecting
14 equipment to someone else for the purpose of preventing the spread
15 of blood-borne disease.

16 **[1.33] New section 74 (3)**

17 *insert*

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

1 **Part 1.16** **Prohibited Weapons Act 1996**

2 **[1.34] Section 17 (2) and notes**

3 *omit*

4 **Part 1.17** **Security Industry Act 2003**

5 **[1.35] Section 8 (1), definition of *security equipment*,**
6 **paragraph (b)**

7 *substitute*

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

11 **Examples—par (b)**

- 12 1 security screen doors that have reinforced steel mesh
13 2 security windows that have a fixed panel of reinforced stainless steel
14 mesh in the window frame
15 3 security window grilles that are steel bars fixed to the wall outside the
16 window
17 4 security window roller shutters that are made of reinforced aluminium
18 and are lockable

19 *Note* An example is part of the Act, is not exhaustive and may extend,
20 but does not limit, the meaning of the provision in which it
21 appears (see [Legislation Act](#), s 126 and s 132).

22 **Part 1.18** **Security Industry**
23 **Regulation 2003**

24 **[1.36] Section 5**

25 *omit*

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

2 *before the note, insert*

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

5 **[1.38] New section 6 (2A)**

6 *insert*

7 (2A) A person is exempt from the requirement to hold a licence
8 authorising the person to act as a monitoring service operator if—

9 (a) the monitoring service is provided—

10 (i) to a property in the ACT; and

11 (ii) from a place outside the ACT; and

12 (b) the person holds an authority (however described) issued under
13 the law of another State authorising the person to act as a
14 monitoring service operator in the other State.

15 **[1.39] Table 8, item 4**

16 *omit*

1 **Part 1.19** **Supreme Court Act 1933**

2 **[1.40] Section 46**

3 *substitute*

4 **46 Appointments**

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

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

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

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

- 15 (2) The director-general must appoint a person as the sheriff of the
16 Territory.

- 17 (3) The registrar may appoint the deputy registrars of the court and
18 other officers of the court that are necessary.

- 19 (4) The sheriff may appoint the deputy sheriffs of the Territory.

- 20 (5) A person appointed under subsection (3) or (4) must be a public
21 servant.

1 **Part 1.20 Territory Records Act 2002**

2 **[1.41] Section 8 (b) to (d)**

3 *substitute*

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

7 **Part 1.21 Workplace Privacy Amendment**
8 **Act 2016**

9 **[1.42] Section 2**

10 *substitute*

11 **2 Commencement**

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

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

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

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

22 (2) Section 5 and sections 7 to 16 commence 2 years after this Act’s
23 notification day

1 **[1.43] Section 13**
2 **Proposed new section 34A (2)**

3 *after*
4 commencement of the amending Act
5 *insert*
6 , 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 2016.

3 Republications of amended laws

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