

2019

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Attorney-General)

Justice and Community Safety Legislation Amendment Bill 2019

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Justice and Community Safety Legislation Amendment Bill 2019

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 **Part 1 Preliminary**

2 **1 Name of Act**

3 This Act is the *Justice and Community Safety Legislation Amendment*
4 *Act 2019*.

5 **2 Commencement**

6 This Act commences on the 7th 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 **3 Legislation amended**

10 This Act amends the following legislation:

- 11 • [ACT Civil and Administrative Tribunal Act 2008](#)
- 12 • [Coroners Act 1997](#)
- 13 • [Emergencies Act 2004](#)
- 14 • [Freedom of Information Act 2016](#)
- 15 • [Human Rights Commission Act 2005](#)
- 16 • [Judicial Commissions Act 1994](#)
- 17 • [Juries Regulation 2018](#)
- 18 • [Legal Aid Act 1977](#)
- 19 • [Legal Profession Regulation 2007](#)
- 20 • [Magistrates Court Act 1930](#)
- 21 • [Notaries Public Act 1984](#)
- 22 • [Residential Tenancies Act 1997](#)
- 23 • [Territory Records Act 2002](#)
- 24 • [Victims of Crime Act 1994](#).

25 *Note* This Act also amends other legislation (see sch 1).

1 **Part 2**2 **ACT Civil and Administrative
Tribunal Act 2008**3 **4 New section 55A**4 *insert*5 **55A Conciliated agreement orders**

- 6 (1) This section applies if a conciliation agreement about a complaint is
7 given to the tribunal under the *Human Rights Commission Act 2005*,
8 section 62 (3) (b).
- 9 (2) The tribunal must keep a copy of the agreement.
- 10 (3) On application by a party, the tribunal may make any order it
11 considers appropriate to give effect to the agreement
- 12 (4) A decision of the tribunal to refuse to make an order under this section
13 does not affect the validity of the conciliation agreement.

1 **Part 3 Coroners Act 1997**

2 **5 Report after inquest or inquiry**
3 **Section 57 (4)**

4 *omit*

5 **6 Section 57 (5)**

6 *substitute*

7 (5) If a report under this section contains comments or recommendations
8 about a matter of public safety, or findings about a risk to public
9 safety, the Attorney-General or another Minister must—

10 (a) present the report to the Legislative Assembly not later than the
11 first sitting week after the end of 6 months after the day the
12 Attorney-General receives the report; and

13 (b) present a response to the report on the same day the report is
14 presented to the Legislative Assembly.

15 **7 Section 57 (6)**

16 *omit*

17 the responsible Minister

18 *substitute*

19 the Minister presenting the report

20 **8 Section 57 (7)**

21 *omit*

1 Part 4 Emergencies Act 2004

2 9 Offences about fire appliances

3 Section 95 (2) (b)

4 *substitute*

- 5 (b) the occupier does not maintain the fire appliance in accordance
6 with a proper maintenance standard.

7 10 New section 95 (7) and (8)

8 *insert*

- 9 (7) In this section:

10 *proper maintenance standard* means—

- 11 (a) AS 1851 (Routine service of fire protection systems and
12 equipment) as in force from time to time; or
13 (b) AS/NZS 2293.2 (Emergency evacuation lighting for buildings
14 Inspection and maintenance) as in force from time to time; or
15 (c) a standard approved for the fire appliance as part of a building
16 approval issued for the premises under the *Building Act 2004*,
17 section 28; or
18 (d) a standard of maintenance prescribed by regulation.

- 19 (8) The *Legislation Act*, section 47 (6) does not apply in relation to an
20 Australian Standard, or an Australian/New Zealand Standard,
21 applied, adopted or incorporated as in force from time to time under
22 this section.

23 *Note* The standards do not need to be notified under the *Legislation Act*
24 because s 47 (6) does not apply (see *Legislation Act*, s 47 (7)). The
25 standards may be purchased at www.standards.org.au.

1 **11 Dictionary, note 2**

2 *insert*

- 3 • AS (see s 164 (1))
- 4 • AS/NZS (see s 164 (2))

1 Part 5 Freedom of Information Act 2016

2 12 Information officers—functions

3 New section 19 (1) (ba)

4 *insert*

5 (ba) to deal with requests made of the agency under part 6;

6 13 Section 19 (2)

7 *omit*

8 subsection (1) (a) or (b)

9 *substitute*

10 subsection (1) (a), (b) or (ba)

11 14 New section 19 (3) (c)

12 *insert*

13 (c) deciding a request to amend personal information.

14 15 Deciding access—respondent may ask for additional time 15 to decide

16 Section 41 (1) and (2)

17 *substitute*

18 (1) A respondent to an access application may ask the applicant for an
19 additional stated amount of time to decide the application.

20 (2) The request must be made—

21 (a) before the end of the period for deciding the application under
22 section 40; or

23 (b) for a second or subsequent request—before the end of the
24 additional time last granted.

1 **16 Section 41 (3)**

2 *omit*

3 under subsection (1)

4 **17 Information disclosure of which is prohibited under law**
5 **Schedule 1, section 1.3 (2)**

6 *substitute*

7 (2) Information that is protected information under the *Children and*
8 *Young People Act 2008*, section 844, other than information that—

9 (a) is disclosed to a person to whom it relates; and

10 (b) is not sensitive information under that *Act*, section 845.

1 **Part 6** **Human Rights Commission**
2 **Act 2005**

3 **18 Conciliated agreements**
4 **Section 62 (4)**

5 *omit*

6 **19 Section 62, new note**

7 *insert*

8 *Note* The ACAT may make an order in accordance with a conciliation
9 agreement for a complaint (see [ACT Civil and Administrative Tribunal](#)
10 [Act 2008](#), s 55A).

1 **Part 7** **Judicial Commissions Act 1994**

2 **20** **Dictionary, definition of *judicial officer*, paragraph (c)**

3 *substitute*

4 (c) a magistrate (including coroner); or

1 **Part 8** **Juries Regulation 2018**

2 **21 Exempt people**
3 **Schedule 1, table 1.3, item 8, column 2**

4 *substitute*

5 a person engaged in full-time or part-time duties as a member of an emergency
6 service (not including on a casual or volunteer basis)

7 **22 People who may claim exemption**
8 **Schedule 1, table 1.4, item 3, column 2**

9 *omit*

10 engaged in full-time teaching of organised classes

11 *substitute*

12 engaged in full-time or part-time teaching of organised classes (not including on a
13 casual or voluntary basis)

1 **Part 9 Legal Aid Act 1977**

2 **23 Arranging for services of private legal practitioners**
3 **Section 31B (2)**

4 *before*
5 interests of the person
6 *insert*
7 needs and

8 **24 Section 31B (3)**

9 *substitute*
10 (3) The commission must, after taking into account the considerations
11 mentioned in subsection (2), ensure that selection of a listed
12 practitioner to provide legal assistance is made having regard to the
13 practitioner's expertise.

14 **25 Section 35B**

15 *substitute*

16 **35B Power of commission to provide approved negotiation**

17 The commission may provide approved negotiation to all parties in a
18 matter or proceeding whether or not a party is receiving legal
19 assistance from the commission for the matter or proceeding.

26 Section 37*substitute***37 Establishment and constitution of review committees**

- (1) The chief executive officer may establish review committees for this Act.
- (2) A review committee must consist of 3 members.
- (3) The members must be chosen from the following 3 panels:
- (a) the private legal practitioners panel;
 - (b) the Australian legal practitioners panel;
 - (c) the non-legal practitioners panel.
- (4) At least 1 of the members must be a legal practitioner.
- (5) A review committee need not include a member from each of the panels.
- (6) The *private legal practitioners panel* is—
- (a) a panel of up to 14 private legal practitioners nominated by the council of the bar association and approved by the Minister; or
 - (b) if the council does not nominate a panel within 30 days after receiving a written request from the Minister to do so—a panel of private legal practitioners chosen by the Minister.
- (7) The *Australian legal practitioners panel* is—
- (a) a panel of up to 14 Australian legal practitioners nominated by the council of the law society and approved by the Minister; or
 - (b) if the council does not nominate a panel within 30 days after receiving a written request from the Minister to do so—a panel of Australian legal practitioners chosen by the Minister.

- 1 (8) The *non-legal practitioners panel* is a panel of up to 14 people
2 chosen by the Minister who—
- 3 (a) have qualifications or experience relevant to the exercise of the
4 functions of a review committee; but
- 5 (b) are not legal practitioners or members or officers of the
6 commission.

7 **27 Meetings of review committee**
8 **Section 80 (8)**

- 9 *substitute*
- 10 (8) For a meeting of a review committee, a quorum is made up of
11 2 members, at least 1 of whom is a legal practitioner.

1 **Part 10** **Legal Profession**
2 **Regulation 2007**

3 **28** **Criteria for grant or renewal of unrestricted practising**
4 **certificate—Act, s 35**
5 **Table 10, item 3, column 2, new paragraph (b) (iiia)**

6 *insert*

7 (iiia) been engaging in legal practice as an in-house lawyer; or

8 **29** **Withdrawing trust money for legal costs—**
9 **Act, s 229 (1) (b)**
10 **Section 62 (3) (b) (ii)**

11 *substitute*

12 (ii) written notice of the proposed withdrawal and when it will
13 occur.

1 **Part 11** **Magistrates Court Act 1930**

2 **30** **Personal actions at law—amount or value**
3 **Section 257 (5), new example**

4 *insert*

5 **Example—s (5)**

6 jurisdiction under the *Fair Work Act 2009* (Cwlth), chapter 4, part 4-1 (Civil
7 remedies) to make orders in relation to contraventions of certain civil remedy
8 provisions under that Act

1 **Part 12** **Notaries Public Act 1984**

2 **31** **Schedule 1**

3 *substitute*

4 **Schedule 1** **Oath or affirmation of office**

5 (see s 9)

6 **Notaries' oath**

7 I swear (*or the person taking the oath may promise*) by Almighty God (*or the*
8 *person may name a god recognised by the person's religion*) that I will not
9 make or attest any act, contract or instrument in which I know there is violence
10 or fraud; and in all things I will act uprightly and justly in the office of a notary
11 public according to the best of my skill and ability.

12 **Notaries' affirmation**

13 I solemnly declare and affirm that I will not make or attest any act, contract or
14 instrument in which I know there is violence or fraud; and in all things I will act
15 uprightly and justly in the office of a notary public according to the best of my
16 skill and ability.

1 **Part 13 Residential Tenancies Act 1997**

2 **32 Failure to pay rent—payment order**
3 **New section 49A (2A)**

4 *insert*

5 (2A) The ACAT must not make a payment order unless satisfied the tenant
6 is reasonably likely to make the payments required under the order.

1 **Part 14** **Territory Records Act 2002**

2 **33** **Meaning of *agency***
3 **Section 7, definition of *agency*, paragraph (b)**

4 *substitute*

5 (b) the administrative unit; or

6 **34** **Meaning of *principal officer***
7 **Section 8, definition of *principal officer*, paragraph (b)**

8 *substitute*

9 (b) for an administrative unit—the director-general of the
10 administrative unit; or

11 **35** **Section 8, definition of *principal officer*, paragraph (h)**

12 *substitute*

13 (h) for a royal commission, board of inquiry, judicial commission
14 or the judicial council (the *body*)—the director-general of the
15 administrative unit that provides secretariat support to the body;
16 or

17 **36** **Dictionary, note 2**

18 *insert*

- 19 • administrative unit
20 • director-general (see s 163)
21 • Executive

1 **Part 15** **Victims of Crime Act 1994**

2 **37** **Membership of board**
3 **New section 22C (1) (ba)**

4 *insert*

5 (ba) the coordinator-general for family safety; and

6 **38** **Section 22C (2)**

7 *omit*

8 **39** **Appointed members of board**
9 **Section 22D (1)**

10 *substitute*

11 (1) The director-general must appoint a representative of each of the
12 following as members of the board:

- 13 (a) the DPP;
- 14 (b) the Australian Federal Police;
- 15 (c) the ACT courts;
- 16 (d) the sentence administration board;
- 17 (e) the administrative unit allocated responsibility for the
18 administration of corrective services;
- 19 (f) the administrative unit allocated responsibility for the
20 administration of youth justice;
- 21 (g) the administrative unit allocated responsibility for restorative
22 justice.

23 (1A) The Minister must appoint the following as members of the board:

- 24 (a) 3 people who, in the Minister's opinion, represent the interests
25 of victims services groups;

1 (b) 2 people of different gender who, in the Minister's opinion,
2 represent the interests of indigenous communities;

3 (c) 1 person who is a lawyer.

4 **40 Section 22D (3) and (4), except notes**

5 *substitute*

6 (3) A member appointed under subsection (1A) must not be a public
7 servant.

8 **41 Term of appointment**
9 **New section 22G (1A)**

10 *insert*

11 (1A) The director-general must end the appointment of a member
12 appointed under section 22D (1) if satisfied that the member is no
13 longer the representative of the entity the member was appointed to
14 represent.

15 **42 Section 22G (2)**

16 *substitute*

17 (2) The Minister must end the appointment of a member appointed under
18 section 22D (1A) if satisfied that the member—

19 (a) no longer represents the interests of the group or community the
20 member was appointed to represent; or

21 (b) is no longer eligible for appointment.

22 **43 Section 22G (3)**

23 *omit everything before paragraph (a), substitute*

24 (3) The director-general or Minister may end the appointment of a
25 member appointed by the director-general or Minister respectively—

1 **44 Dictionary, note 2**

2 *insert*

- 3
 - DPP

1 **Schedule 1** **Other amendments**

2 (see s 3)

3 **Part 1.1** **Confiscation of Criminal Assets**
4 **Act 2003**

5 **[1.1]** **Section 12 (2), example**

6 *omit*
7 husband

8 *substitute*
9 spouse

10 **Part 1.2** **Discrimination Act 1991**

11 **[1.2]** **Dictionary, definition of *relationship status*, paragraph (i)**

12 *substitute*
13 (i) the surviving spouse; or

14 **Part 1.3** **Evidence Act 2011**

15 **[1.3]** **Section 73 (1) (b)**

16 *substitute*
17 (b) whether 2 people cohabiting at a particular time were married to
18 each other at the time; or

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 21 March 2019.

2 Notification

Notified under the [Legislation Act](#) on 2019.

3 Republications of amended laws

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

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