

2022

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Attorney-General)

Justice and Community Safety Legislation Amendment Bill 2022 (No 2)

Contents

| | | Page |
|---------------|---|------|
| Part 1 | Preliminary | |
| 1 | Name of Act | 2 |
| 2 | Commencement | 2 |
| 3 | Legislation amended | 2 |
| 4 | Legislation repealed | 2 |
| Part 2 | Agents Act 2003 | |
| 5 | Land auctioneers must be licensed Section 21 (2) and (4) | 3 |

J2022-456

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| | Page | |
|---------------|---|----|
| 6 | Displacement of Corporations legislation Section 175 (1), note | 3 |
| 7 | Experienced property agents who elect to become class 1 licensed property agent Section 231 (3) | 3 |
| 8 | New sections 237A to 237C | 4 |
| Part 3 | Evidence (Miscellaneous Provisions) Act 1991 | |
| 9 | Special requirements—particular proceedings Tables 43.1 and 43.2, items 1 and 2, column 3 | 6 |
| 10 | Section 69 heading | 6 |
| 11 | Section 69 (1) and (2) | 6 |
| 12 | Section 69 (3) | 7 |
| 13 | Section 69 (7), definition of <i>related proceeding</i> | 7 |
| Part 4 | Guardianship and Management of Property Act 1991 | |
| 14 | Health attorney may give consent Section 32D (4) | 8 |
| 15 | Health professional must give information to health attorney New section 32G (2) and (3) | 8 |
| Part 5 | Justices of the Peace Act 1989 | |
| 16 | When does a person stop being a justice of the peace? Section 3B (2) | 9 |
| 17 | New section 8 | 9 |
| Part 6 | Land Titles Act 1925 | |
| 18 | Registrar-general must give information about certain transactions and instruments to revenue commissioner Section 178B (2) (k) | 11 |
| Part 7 | Land Titles Regulation 2015 | |
| 19 | Sections 1A and 3 etc | 12 |

| | | Page |
|----------------|--|------|
| Part 8 | Liquor Act 2010 | |
| 20 | Membership of liquor advisory board New section 216 (1) (ca) | 13 |
| 21 | Section 216 (1) (d) (i) | 13 |
| 22 | New part 25 | 13 |
| Part 9 | Powers of Attorney Act 2006 | |
| 23 | Definitions—pt 4.3A Section 41A (1), definition of <i>low-risk research</i> | 15 |
| 24 | Section 41A (2), new definitions | 16 |
| Part 10 | Security Industry Act 2003 | |
| 25 | Immediate suspension of licence Section 29B (4) | 17 |
| 26 | Section 29B (4), new note | 17 |

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FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Attorney-General)

Justice and Community Safety Legislation Amendment Bill 2022 (No 2)

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 2022 (No 2)*.

5 **2 Commencement**

6 This Act 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 **3 Legislation amended**

10 This Act amends the following legislation:

- 11 • [Agents Act 2003](#)
- 12 • [Evidence \(Miscellaneous Provisions\) Act 1991](#)
- 13 • [Guardianship and Management of Property Act 1991](#)
- 14 • [Justices of the Peace Act 1989](#)
- 15 • [Land Titles Act 1925](#)
- 16 • [Land Titles Regulation 2015](#)
- 17 • [Liquor Act 2010](#)
- 18 • [Powers of Attorney Act 2006](#)
- 19 • [Security Industry Act 2003](#).

20 **4 Legislation repealed**

21 The [Agents \(Transitional Provisions\) Regulation 2022](#) (SL2022-9) is
22 repealed.

1 **Part 2** **Agents Act 2003**

2 **5** **Land auctioneers must be licensed**
3 **Section 21 (2) and (4)**

4 *omit*

5 **6** **Displacement of Corporations legislation**
6 **Section 175 (1), note**

7 *omit*

8 *Investment*

9 *substitute*

10 *Investments*

11 **7** **Experienced property agents who elect to become class 1**
12 **licensed property agent**
13 **Section 231 (3)**

14 *omit*

15 on or before 30 June 2024

16 *substitute*

17 before 1 July 2024

8 New sections 237A to 237C*insert***237A Offence against s 21 (1) (b) (i)—exception for licensed real estate, stock and station agents**

- (1) This section applies to a person who—
- (a) because of section 229, is 1 or both of the following:
 - (i) a class 2 licensed real estate agent;
 - (ii) a class 2 licensed stock and station agent; or
 - (b) because of section 230, or an election under section 231 (2), is 1 or both of the following:
 - (i) a class 1 licensed real estate agent;
 - (ii) a class 1 licensed stock and station agent.
- (2) Section 21 (1) (b) (i) does not apply to the person before 1 July 2024.

Note The defendant has an evidential burden in relation to the matters mentioned in s (1) (see [Criminal Code](#), s 58).

237B Offence against s 21 (1) (b) (i)—exception for registered assistant real estate, stock and station agents

- (1) This section applies to a person who, because of section 234, is 1 or both of the following:
- (a) a registered assistant real estate agent;
 - (b) a registered assistant stock and station agent.
- (2) Section 21 (1) (b) (i) does not apply to the person before 1 July 2023.

Note The defendant has an evidential burden in relation to the matters mentioned in s (1) (see [Criminal Code](#), s 58).

- 1 **237C Class 1 licensed property agents—equivalent additional**
2 **class 1 training**
- 3 (1) The commissioner for fair trading may decide that a higher
4 qualification, equivalent qualification or substantially equivalent
5 qualification, including a qualification completed before 1 July 2022,
6 satisfies the additional class 1 training required to be completed under
7 section 230 (3) or section 231 (3).
- 8 (2) This section expires on 30 June 2024.

1 **Part 3** **Evidence (Miscellaneous**
2 **Provisions) Act 1991**

3 **9** **Special requirements—particular proceedings**
4 **Tables 43.1 and 43.2, items 1 and 2, column 3**

5 *omit*

6 s 69 (Recording evidence given by audiovisual link)

7 *substitute*

8 s 69 (Recording evidence given by audiovisual link or in courtroom)

9 **10** **Section 69 heading**

10 *substitute*

11 **69** **Recording evidence given by audiovisual link or in**
12 **courtroom**

13 **11** **Section 69 (1) and (2)**

14 *substitute*

15 (1) This section applies if a witness gives evidence in a relevant
16 proceeding under section 68—

17 (a) by audiovisual link; or

18 (b) in the courtroom under an order made by the court under
19 section 68 (2).

20 (2) The evidence given by the witness must be recorded as an audiovisual
21 recording.

22 (2A) However, unless the court otherwise orders, evidence given in the
23 courtroom may be recorded only if the witness consents.

24 (2B) In deciding whether to make an order under subsection (2A), the court
25 must consider the wishes of the witness.

1 **12 Section 69 (3)**

2 *omit*

3 The recording

4 *substitute*

5 A recording of evidence given by a witness in a relevant proceeding
6 under section 68 (whether by audiovisual link or in the courtroom)

7 **13 Section 69 (7), definition of *related proceeding***

8 *omit*

9 by audiovisual link

1 **Part 4** **Guardianship and Management**
2 **of Property Act 1991**

3 **14 Health attorney may give consent**
4 **Section 32D (4)**

5 *after*

6 information

7 *insert*

8 and access to an independent doctor

9 **15 Health professional must give information to health**
10 **attorney**
11 **New section 32G (2) and (3)**

12 *after the note, insert*

13 (2) Also, if a health professional asks a health attorney to consent to a
14 protected person participating in low-risk research that is part of a
15 clinical trial, the health professional must give the health attorney
16 access to an independent doctor to provide further information and
17 answer any questions the health attorney has about the clinical trial.

18 (3) In this section:

19 ***independent doctor***, in relation to low-risk research that is part of a
20 clinical trial, means a doctor who is not involved in, or connected to,
21 the research, other than in having a professional interest in the area of
22 the research.

Part 5 Justices of the Peace Act 1989

16 When does a person stop being a justice of the peace? Section 3B (2)

omit

member's functions

substitute

person's functions as a justice of the peace

17 New section 8

insert

8 Permission to use retirement title

- (1) A person may, in writing, apply to the commissioner for fair trading for permission to use the title "JP (Retired)" (the *retirement title*) after the person's name if—
 - (a) the person's appointment as a justice of the peace has ended; and
 - (b) the person was appointed as a justice of the peace for at least 10 years in total.
- (2) The commissioner for fair trading must not give permission to use the retirement title unless satisfied that the person is of good character and standing in the ACT community.
- (3) The commissioner for fair trading may, in writing, withdraw permission to use the retirement title if—
 - (a) the commissioner is no longer satisfied the person is of good character and standing in the ACT community; or
 - (b) the person notifies the commissioner, in writing, that the person no longer wishes to use the title.

1 (4) Permission to use the retirement title does not authorise a person to
2 exercise any function of a justice of the peace.

3 (5) The commissioner for fair trading may make guidelines in relation to
4 the use of the retirement title.

5 (6) A guideline is a notifiable instrument.

6 *Note* The commissioner for fair trading may delegate the commissioner's
7 functions under this section to a public servant (see *Fair Trading*
8 (*Australian Consumer Law*) Act 1992, s 34).

1 **Part 6** **Land Titles Act 1925**

2 **18 Registrar-general must give information about certain**
3 **transactions and instruments to revenue commissioner**
4 **Section 178B (2) (k)**

5 *substitute*

6 (k) the kind of documents used to verify the purchaser's identity in
7 accordance with the verification of identity rules as in force at
8 the time of verification;

1 **Part 7 Land Titles Regulation 2015**

2 **19 Sections 1A and 3 etc**

3 *omit*

- 4 • sections 1A and 3
- 5 • schedule 1
- 6 • dictionary

1 **Part 8** **Liquor Act 2010**

2 **20** **Membership of liquor advisory board**

3 **New section 216 (1) (ca)**

4 *insert*

5 (ca) a police officer nominated, in writing, by the chief police officer;
6 and

7 **21** **Section 216 (1) (d) (i)**

8 *omit*

9 **22** **New part 25**

10 *insert*

11 **Part 25** **Transitional—Justice and**
12 **Community Safety Legislation**
13 **Amendment Act 2022 (No 2)**

14 **273** **Liquor advisory board—existing Australian Federal**
15 **Police member**

16 (1) Until the chief police officer makes a nomination under
17 section 216 (1) (ca) (the *new provision*), the member of the liquor
18 advisory board under section 216 (1) (d) (i), as in force immediately
19 before the commencement day, is taken to be the member of the board
20 nominated under the new provision.

21 (2) In this section:

22 *commencement day* means the day the *Justice and Community Safety*
23 *Legislation Amendment Act 2022 (No 2)*, part 8 commences.

1 **274 Expiry—pt 25**

2 This part expires 12 months after the day it commences.

3 *Note* A transitional provision is repealed on its expiry but continues to have
4 effect after its repeal (see [Legislation Act](#), s 88).

Part 9 Powers of Attorney Act 2006

23 Definitions—pt 4.3A Section 41A (1), definition of *low-risk research*

substitute

low-risk research, in relation to a person—

- (a) means research carried out for medical or health purposes that—
- (i) poses no foreseeable risk of harm to the person, other than any harm usually associated with the person's condition; and
 - (ii) does not change the treatment appropriate for the person's condition; but
- (b) does not include research that is part of a clinical trial, unless the trial is evaluating only the following:
- (i) a therapeutic good that is included in the Australian Register of Therapeutic Goods (other than the part of the Register for goods known as provisionally registered goods);
 - (ii) a health care procedure, process or technique supported by a substantial number of practitioners in the relevant field of health care.

Examples

- 1 a comparative assessment of the effects of different methods of drug administration proven to be beneficial in the treatment of a condition (such as a continuous infusion as opposed to a once-a-day administration)
- 2 a comparative assessment of the angle at which to set a tilt bed to best assist a person's breathing
- 3 research comparing the effectiveness of paracetamol and ibuprofen during routine health care

24 Section 41A (2), new definitions

2 *insert*

3 *Australian Register of Therapeutic Goods* means the register
4 maintained under the *Therapeutic Goods Act 1989* (Cwlth),
5 section 9A.

6 *Note* The Australian Register of Therapeutic Goods can be accessed at
7 www.tga.gov.au/resources/artg.

8 *therapeutic goods*—see the *Therapeutic Goods Act 1989* (Cwlth),
9 section 3.

1 **Part 10** **Security Industry Act 2003**

2 **25** **Immediate suspension of licence**
3 **Section 29B (4)**

4 *omit*

5 30 days

6 *substitute*

7 60 days

8 **26** **Section 29B (4), new note**

9 *insert*

10 *Note* The ACAT may make interim orders extending the suspension of a
11 licence (see *ACT Civil and Administrative Tribunal Act 2008*, s 53).

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 24 November 2022.

2 Notification

Notified under the [Legislation Act](#) on 2022.

3 Republications of amended laws

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

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