

2023

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Attorney-General)

Crimes Legislation Amendment Bill 2023

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(Attorney-General)

Crimes Legislation Amendment Bill 2023

A Bill for

An Act to amend legislation about crimes, and for other purposes

The Legislative Assembly for the Australian Capital Territory enacts as follows:

J2022-1253

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

1 **Part 1 Preliminary**

2 **1 Name of Act**

3 This Act is the *Crimes Legislation Amendment Act 2023*.

4 **2 Commencement**

5 (1) This Act (other than the provisions mentioned in subsections (2) and
6 (3)) 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 (2) Sections 14, 15 and 18 commence 6 months after this Act's
10 notification day.

11 (3) Parts 9 and 10 commence on the later of—

12 (a) the commencement of the *Magistrates Court (Infringement*
13 *Notices) Amendment Act 2020*, section 16; and

14 (b) the day after this Act's notification day.

15 **3 Legislation amended**

16 This Act amends the following legislation:

- 17 • *Bail Act 1992*
- 18 • *Confiscation of Criminal Assets Act 2003*
- 19 • *Crimes Act 1900*
- 20 • *Crimes (Sentencing) Act 2005*
- 21 • *Crimes (Sentencing) Regulation 2006*
- 22 • *Evidence Act 2011*
- 23 • *Juries Act 1967*
- 24 • *Magistrates Court Act 1930*
- 25 • *Magistrates Court Regulation 2009*
- 26 • *Victims of Crime Act 1994*.

1 **Part 2** **Bail Act 1992**

2 **4** **Right of review of bail decisions—prosecution**
3 **Section 44 (5) (b)**

4 *omit*

5 24 hours have passed since notice was given under subsection (4)

6 *substitute*

7 the period for making the application and giving written notice under
8 subsection (3) has ended

- 1 **Part 3** **Confiscation of Criminal Assets**
2 **Act 2003**
- 3 **5** **New section 258A**
- 4 *insert*
- 5 **258A** **Review of unexplained wealth provisions**
- 6 (1) The Minister must—
- 7 (a) review the operation and effectiveness of the unexplained
8 wealth provisions of this Act and any other territory law relating
9 to the provisions, as soon as practicable after 3 August 2025; and
- 10 (b) present a report of the review to the Legislative Assembly by
11 3 August 2026.
- 12 (2) This section expires on 3 August 2027.

1 **Part 4** **Crimes Act 1900**

2 **6** **Destroying or damaging property**
3 **Section 116 (3) (d)**

4 *omit*

1 **Part 5** **Crimes (Sentencing) Act 2005**

2 **7** **Fines—orders to pay**
3 **Section 14 (1)**

4 *omit*

5 that is punishable by a fine

6 **8** **Section 64 (2), definition of *excluded sentence of***
7 ***imprisonment*, paragraph (e)**

8 *omit*

9 **9** **Dictionary, note 2**

10 *insert*

- 11
 - corrections officer

12 **10** **Dictionary, definition of *corrections officer***

13 *omit*

1 **Part 6** **Crimes (Sentencing)**
2 **Regulation 2006**

3 **11 Criminal justice entities—Act, s 136 (4) def *criminal***
4 ***justice entity*, par (i)**
5 **Section 3 (1) (i) and (j)**

6 *substitute*

7 (i) the Domestic, Family and Sexual Violence
8 Coordinator-General;

1 **Part 7** **Evidence Act 2011**

2 **12 Exclusion of evidence of reasons for judicial etc**
3 **decisions**
4 **Section 129 (5) (a) (ii)**

5 *after*
6 *Juries Act 1967,*
7 *insert*
8 section 42BA or

Part 8 Juries Act 1967

13 New section 4

in part 1, insert

4 Offences against Act—application of Criminal Code etc

Other legislation applies in relation to offences against this Act.

Note 1 Criminal Code

The [Criminal Code](#), ch 2 applies to the following offences against this Act (see Code, pt 2.1):

- s 42BA (Improper inquiry by juror about matters relevant to trial).

The chapter sets out the general principles of criminal responsibility (including burdens of proof and general defences), and defines terms used for offences to which the Code applies (eg *conduct*, *intention*, *recklessness* and *strict liability*).

Note 2 Penalty units

The [Legislation Act](#), s 133 deals with the meaning of offence penalties that are expressed in penalty units.

14 Section 38

substitute

37A Definitions—pt 8

In this part:

majority verdict, of a jury consisting of 12 jurors, means a verdict agreed by 11 jurors.

unanimous verdict, of a jury, means a verdict agreed by all jurors.

- 1 **38** **Majority verdict sufficient for offences against territory**
2 **laws at certain criminal trials**
- 3 (1) This section applies in relation to a verdict of a jury at a criminal trial
4 if—
- 5 (a) the verdict is for an offence against a territory law; and
6 (b) the jury has retired to consider the verdict; and
7 (c) the jury consists of 12 jurors.
- 8 (2) A majority verdict is a sufficient verdict, and must be taken to be the
9 verdict of the jury, if the judge is satisfied—
- 10 (a) that a reasonable period (of at least 6 hours) for the jury to
11 deliberate on the verdict has passed, taking into account the
12 complexity and nature of the trial; and
- 13 (b) after examination on oath of 1 or more jurors, that the jury is not
14 likely to reach a unanimous verdict.
- 15 **39** **Discharge of jury where no verdict likely to be reached**
- 16 If a jury has retired to consider its verdict at a criminal trial, the judge
17 may discharge the jury if the judge is satisfied—
- 18 (a) that a reasonable period (of at least 6 hours) for the jury to
19 deliberate on the verdict has passed, taking into account the
20 complexity and nature of the trial; and
- 21 (b) after examination on oath of 1 or more jurors, that the jury is not
22 likely to reach—
- 23 (i) a unanimous verdict; or
24 (ii) if a majority verdict would be a sufficient verdict under
25 section 38 (2)—a majority verdict.

1 **15** **Adjournment of trial on discharge of jury for**
2 **disagreement**
3 **Section 40**

4 *omit*

5 section 38

6 *substitute*

7 section 39

8 **16** **New section 42BA**

9 *insert*

10 **42BA** **Improper inquiry by juror about matters relevant to trial**

11 (1) A person commits an offence if—

12 (a) the person is a juror for a criminal trial; and

13 (b) the person makes an inquiry; and

14 (c) the inquiry was made—

15 (i) after the person is sworn as a juror and before being
16 discharged; and

17 (ii) for the purpose of obtaining information about any matter
18 relating to the trial; and

19 (d) the inquiry was not made in the proper exercise of the person's
20 functions as a juror.

21 Maximum penalty: imprisonment for 2 years.

22 (2) Subsection (1) does not apply to a person making an inquiry
23 authorised by the court.

24 *Note* The defendant has an evidential burden in relation to the matters
25 mentioned in s (2) (see [Criminal Code](#), s 58).

1 (3) For this section, an inquiry made in contravention of a direction, or
2 permission, given to the jury by the judge is not a proper exercise of
3 the person's functions as a juror.

4 (4) In this section:
5 *making an inquiry* includes any of the following:

- 6 (a) asking a question of another person;
7 (b) conducting any research;
8 (c) viewing or inspecting any place or object;
9 (d) conducting an experiment;
10 (e) causing another person to make an inquiry.

11 **Examples—making an inquiry**

- 12 1 conducting research using the internet to search an electronic database for
13 information
14 2 bringing information into the jury room, such as news articles, research papers
15 or books

16 **17 Confidentiality of jury deliberations and identities**
17 **Section 42C (11), new definition of *offence relating to jury***
18 ***deliberations***

19 *insert*

20 *offence relating to jury deliberations* includes an offence against
21 section 42BA (1).

22 **18 Dictionary, new definitions**

23 *insert*

24 *majority verdict*, of a jury consisting of 12 jurors, for part 8
25 (Disagreement of jury)—see section 37A.

26 *unanimous verdict*, of a jury, for part 8 (Disagreement of jury)—see
27 section 37A.

1 **Part 9** **Magistrates Court Act 1930**

2 **19** **Extension of time to pay penalty**
3 **Section 124 (1) (a)**

4 *after*

5 stated in the

6 *insert*

7 infringement notice or

8 **20** **New section 124 (3)**

9 *insert*

- 10 (3) If the time to pay an infringement notice penalty is extended and a
11 territory law limits the period to begin a prosecution for the
12 infringement notice offence, the period to begin the prosecution is
13 extended until 1 year after payment of the penalty is required.

14 **21** **Effect of payment of infringement notice penalty**
15 **Section 125 (3)**

16 *after*

17 section 127 (Withdrawal of infringement notice)

18 *insert*

19 and section 131ACB (Infringement notice management plan—effect
20 of cancellation)

1 **22 Application for infringement notice management plan or**
2 **addition to plan—decision**
3 **New section 131AB (4A)**

4 *insert*

5 (4A) Despite subsections (3) and (4), the administering authority may
6 refuse the application if—

- 7 (a) the applicant had an infringement notice management plan
8 covering the same infringement notice offence; and
9 (b) the plan was cancelled under section 131ACA.

10 **23 New sections 131ACA and 131ACB**

11 *insert*

12 **131ACA Cancellation of infringement notice management plan**

13 (1) This section applies if—

- 14 (a) a person has an infringement notice management plan; and
15 (b) the administering authority is satisfied on reasonable grounds
16 that—
17 (i) circumstances prescribed by regulation apply to the
18 person; or
19 (ii) in any other case—the person has failed to comply with
20 the plan; and
21 (c) notice disputing liability for an infringement notice offence
22 covered by the plan has not been given to the administering
23 authority in accordance with this part.

- 1 (2) The administering authority may, by serving a notice (a *cancellation*
2 *notice*) on the person, cancel the infringement notice management
3 plan, but only if—
- 4 (a) the administering authority gives the person written notice of the
5 proposed cancellation (a *proposed cancellation notice*); and
- 6 (b) the proposed cancellation notice—
- 7 (i) sets out the grounds for the proposed cancellation; and
- 8 (ii) states that the person may, within 28 days after the
9 administering authority gives the proposed cancellation
10 notice to the person, give the authority written reasons why
11 the plan should not be cancelled; and
- 12 (c) the cancellation notice is served after the end of the period
13 mentioned in paragraph (b) (ii).
- 14 (3) The cancellation notice must state—
- 15 (a) the identifying number (however described) for the person’s
16 infringement notice management plan; and
- 17 (b) that the plan has been cancelled and, in general terms, the effect
18 of section 131ACB; and
- 19 (c) for each infringement notice and reminder notice covered by the
20 infringement notice management plan—
- 21 (i) the identifying number for the infringement notice or
22 reminder notice; and
- 23 (ii) the outstanding amount payable by the person for the
24 infringement notice penalty; and
- 25 (d) the matters mentioned in section 122 (1); and
- 26 (e) any other information prescribed by regulation and any
27 additional information that the administering authority
28 considers appropriate.

- 1 (4) A regulation may make provision in relation to—
- 2 (a) matters the administering authority must consider when
- 3 deciding under subsection (1) (b) (ii) whether a person has failed
- 4 to comply with the person’s infringement notice management
- 5 plan; and
- 6 (b) matters the administering authority must consider when
- 7 deciding whether to cancel an infringement notice management
- 8 plan; and
- 9 (c) information to be given to the administering authority by the
- 10 person or anyone else in relation to the person’s compliance with
- 11 the plan.

12 **131ACB Infringement notice management plan—effect of**

13 **cancellation**

- 14 (1) This section applies if an infringement notice management plan is
- 15 cancelled under section 131ACA.
- 16 (2) For each infringement notice offence that was covered by the
- 17 infringement notice management plan—
- 18 (a) section 125 ceases to apply, and is taken never to have applied,
- 19 to the offence because of the plan; and
- 20 (b) this part has effect as if the infringement notice or reminder
- 21 notice for the offence had been served on the person when the
- 22 plan was cancelled; and
- 23 (c) a proceeding for the offence may be taken in a court against
- 24 anyone (including the person) as if the person had not entered
- 25 into the plan.

- 1 (3) If the person had paid any instalments under the infringement notice
2 management plan before it was cancelled, the instalments are taken
3 to have been paid—
- 4 (a) if the plan covered 1 infringement notice penalty only—as part
5 of the penalty; or
- 6 (b) if the plan covered more than 1 infringement notice penalty—as
7 part of the penalties, apportioned in the way the administering
8 authority considers appropriate.
- 9 (4) If a territory law limits the period to begin a prosecution for an
10 infringement notice offence covered by the cancelled infringement
11 notice management plan, the period is extended until 1 year after the
12 plan was cancelled.

1 **Part 10** **Magistrates Court**
2 **Regulation 2009**

3 **24** **New sections 3B and 3C**

4 *insert*

5 **3B** **Cancellation of infringement notice management plan**
6 **allowing payment by instalment—Act, s 131ACA (1) (b) (i)**

7 Any of the following circumstances are prescribed:

- 8 (a) the person fails to pay 3 or more consecutive instalments in
9 accordance with the plan;
- 10 (b) the person fails to pay 6 or more instalments in accordance with
11 the plan in any 12-month period.

12 **3C** **Matters to consider when deciding whether to cancel**
13 **infringement notice management plan—Act, s 131ACA**
14 **(4) (b)**

15 The following matters are prescribed:

- 16 (a) any reasons given to the administering authority by the person
17 about why they failed to make the payments as mentioned in
18 section 3B or otherwise failed to comply with the plan;
- 19 (b) whether it is likely the person will—
- 20 (i) if a circumstance mentioned in section 3B applies—fail to
21 pay further instalments in accordance with the plan; or
- 22 (ii) in any case—fail to comply with the plan in the future.

1 **Part 11** **Victims of Crime Act 1994**

2 **25** **Membership of board**
3 **Section 22C (c)**

4 *substitute*

5 (c) the Domestic, Family and Sexual Violence
6 Coordinator-General; and

Endnotes

1 **Presentation speech**

Presentation speech made in the Legislative Assembly on 26 October 2023.

2 **Notification**

Notified under the [Legislation Act](#) on 2023.

3 **Republications of amended laws**

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