

2003

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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(As presented)

(Attorney-General)

# Justice and Community Safety Legislation Amendment Bill 2003 (No 2)

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(As presented)

(Attorney-General)

## **Justice and Community Safety Legislation Amendment Bill 2003 (No 2)**

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### **A Bill for**

An Act to amend the law relating to justice and community safety, and for other purposes

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

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2003 104B

Authorised by the ACT Parliamentary Counsel—also accessible at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)

1 **Part 1 Preliminary**

2 **1 Name of Act**

3 This Act is the *Justice and Community Safety Legislation*  
4 *Amendment Act 2003 (No 2)*.

5 **2 Commencement**

6 This Act commences on the 14th 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)).

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

### 2 **3 Legislation amended—pt 2**

3 This part amends the *Agents Act 2003*.

### 4 **4 Agents must not obtain beneficial interest in land** 5 **Section 86 (3)**

6 *omit*

### 7 **5 Salespeople must not obtain beneficial interest in land** 8 **Section 87 (3)**

9 *omit*

### 10 **6 Section 168**

11 *substitute*

## 12 **168 Review of reviewable decisions**

13 (1) The following people may apply to the consumer and trader tribunal  
14 for a review of a reviewable decision of a relevant person:

- 15 (a) a person mentioned in schedule 1, column 4 in relation to the  
16 decision;
- 17 (b) any other person whose interests are affected by the decision.

18 (2) In this section:

19 ***relevant person*** means—

- 20 (a) for a reviewable decision mentioned in schedule 1, column 3,  
21 items 1 to 17—the commissioner for fair trading; or
- 22 (b) for a reviewable decision mentioned in schedule 1, column 3,  
23 item 18—the chief executive.

1 **7 Keeping of agents' records**  
2 **Section 202**

3 *omit*

4 *Agents Act 1959*

5 *substitute*

6 *Agents Act 1968*



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## 1 Part 3 Consumer Credit Act 1995

### 2 8 Legislation amended—pt 3

3 This part amends the *Consumer Credit Act 1995*.

### 4 9 Definitions for Act 5 Section 3

6 *insert*

7 ***annual percentage rate***, for part 3A (Maximum annual percentage  
8 rate and disclosure)—see section 8A.

9 ***code***, for part 3A (Maximum annual percentage rate and  
10 disclosure)—see section 8A.

11 ***contract document***, for part 3A (Maximum annual percentage rate  
12 and disclosure)—see section 8A.

13 ***credit***, for part 3A (Maximum annual percentage rate and  
14 disclosure)—see section 8A.

15 ***credit contract***, for part 3A (Maximum annual percentage rate and  
16 disclosure)—see section 8A.

17 ***credit fees and charges***, for part 3A (Maximum annual percentage  
18 rate and disclosure)—see section 8A.

19 ***short-term credit contract***, for part 3A (Maximum annual  
20 percentage rate and disclosure)—see section 8A.

1 **10 New part 3A**

2 *insert*

3 **Part 3A Maximum annual percentage**  
4 **rate and disclosure**

5 **8A Definitions for pt 3A**

6 In this part:

7 *annual percentage rate*—see the code, section 25 (Definitions  
8 relating to interest).

9 *code* means the Consumer Credit (Australian Capital Territory)  
10 Code.

11 *contract document*—see the code, schedule 1 (Principal  
12 definitions), clause 1 (1).

13 *credit*—see the code, section 4 (1).

14 *credit contract*—see the code, section 5.

15 *credit fees and charges*—see the code, schedule 1 (Principal  
16 definitions), clause 1 (1).

17 *short-term credit contract* means—

18 (a) a contract for the provision of credit to which the code applies  
19 that is limited to a total period not longer than 62 days; or

20 *Note* For contracts for the provision of credit to which the code does not  
21 apply, see the code, s 7 (1) (Short term credit).

22 (b) a contract prescribed under the regulations.

---

**8B Maximum annual percentage rate**

- 1
- 2 (1) The regulations may prescribe a maximum annual percentage rate  
3 for credit contracts.
- 4 (2) For a short-term credit contract, the regulations may require interest  
5 charges, and all credit fees and charges, under the contract to be  
6 included for the purpose of working out the maximum annual  
7 percentage rate.
- 8 (3) The code, part 2 (Credit contracts), division 2 (Debtor's monetary  
9 obligations) applies in relation to a maximum annual percentage rate  
10 prescribed under subsection (1) as if the rate had been prescribed by  
11 the code.

**8C Disclosure of cost of credit**

- 12
- 13 (1) This section applies to a short-term credit contract.
- 14 (2) For the code, section 15 (C) (Annual percentage rate or rates), the  
15 contract document must state an annual percentage rate worked out  
16 on the basis of charges under the contract that are interest charges  
17 (whether or not they are described in the contract as interest  
18 charges).
- 19 (3) For the code, section 15 (E) (Total amount of interest charges  
20 payable), the total amount of interest charges payable under the  
21 contract includes an amount that is an interest charge (whether or  
22 not it is described in the contract as an interest charge).
- 23 (4) For the code, section 14 (Precontractual disclosure), the  
24 precontractual statement must also set out the matters mentioned in  
25 subsections (2) and (3).

**11 Maximum annual percentage rate**  
**Section 10**

26  
27  
28 *omit*

1 **Part 4** **Consumer Credit Regulations**  
2 **1996**

3 **12 Legislation amended—pt 4**

4 This part amends the *Consumer Credit Regulations 1996*.

5 **13 Maximum annual percentage rate**  
6 **Regulation 5**

7 *omit*

8 section 10 (1)

9 *substitute*

10 section 8B (1)

---

## 1 Part 5 Cooperatives Act 2002

### 2 14 Legislation amended—part 5

3 This part amends the *Cooperatives Act 2002*.

### 4 15 Application for transfer of registration etc 5 Section 307 (1) (e)

6 *substitute*

- 7 (e) a corporation incorporated, registered or otherwise established  
8 under a law of the Commonwealth, or a State, Territory or  
9 foreign country, that is prescribed under the regulations for this  
10 section.

### 11 16 Section 375

12 *substitute*

### 13 375 Registrar to be told of certain changes in relation to 14 foreign cooperatives

- 15 (1) A foreign cooperative commits an offence if—
- 16 (a) the foreign cooperative is registered under section 373  
17 (Registration of foreign cooperative); and
- 18 (b) a notifiable change happens in relation to the foreign  
19 cooperative; and
- 20 (c) the foreign cooperative fails to file with the registrar particulars  
21 of the change, accompanied by any documents prescribed  
22 under the regulations, within 28 days after the day the  
23 notifiable change happens.

24 Maximum penalty: 10 penalty units.

Section 17

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- 1 (2) An offence against this section is a strict liability offence.
- 2 (3) In this section:
- 3 *notifiable change*, in relation to a foreign cooperative, means a
- 4 change in—
- 5 (a) the rules or constitution of the foreign cooperative; or
- 6 (b) the directors of the foreign cooperative; or
- 7 (c) the agents of the foreign cooperative (or their addresses); or
- 8 (d) the person appointed as the person on whom notices and legal
- 9 process may be served on behalf of the foreign cooperative; or
- 10 (e) the address of the registered office in the ACT or elsewhere of
- 11 the foreign cooperative; or
- 12 (f) the name under which the foreign cooperative carries on
- 13 business.

14 **17 Deputy registrar and other staff**

15 **Section 430 (1)**

16 *substitute*

- 17 (1) The chief executive may appoint a deputy registrar and assistant
- 18 registrars.

19 *Note* For the making of appointments (including acting appointments), see

20 Legislation Act, pt 19.3.

1 **Part 6** **Cooperatives Regulations**  
2 **2003**

3 **18 Legislation amended—pt 6**

4 This part amends the *Cooperatives Regulations 2003*.

5 **19 New part 8A**

6 *insert*

7 **Part 8A** **Mergers, transfers of**  
8 **engagements and winding-up**

9 **26A Application for transfer of registration—Act, s 307 (1) (e)**

10 A cooperative may apply to become registered or incorporated as a  
11 corporation established under the *Aboriginal Councils and*  
12 *Associations Act 1976* (Cwlth).

1 **Part 7** **Fair Trading Act 1992**

2 **20** **Legislation amended—pt 7**

3 This part amends the *Fair Trading Act 1992*.

4 **21** **Offences against pt 2**  
5 **Section 41 (1)**

6 *omit everything from*

7 who

8 *to*

9 a provision

10 *substitute*

11 who contravenes a provision

12 **22** **Section 41 (5)**

13 *omit*

14 **23** **Section 41**

15 *renumber subsections when Act next republished under Legislation*  
16 *Act*



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1 **Part 8** **Magistrates Court (Civil**  
2 **Jurisdiction) Act 1982**

3 **24 Legislation amended—pt 8**

4 This part amends the *Magistrates Court (Civil Jurisdiction) Act*  
5 *1982*.

6 **25 Definitions for pt 22**  
7 **Section 394, definition of *debt declaration***

8 *substitute*

9 ***debt declaration***, in relation to proceedings, means an order  
10 declaring that—

- 11 (a) the applicant is or is not indebted to the respondent; or  
12 (b) the applicant is or is not indebted to the respondent in a stated  
13 amount; or  
14 (c) the applicant is or is not indebted to the respondent in an  
15 amount that is more than a stated amount.

16 **26 Section 461**

17 *substitute*

18 **461 Debt declarations—orders**

19 The Small Claims Court may make a debt declaration in a  
20 proceeding on an application for a debt declaration.

1 **Part 9 Protection Orders Act 2001**

2 **27 Legislation amended—pt 9**

3 This part amends the *Protection Orders Act 2001*.

4 **28 Service of non-emergency orders**  
5 **Section 33 (2) and note**

6 *substitute*

7 (2) Service under subsection (1) (a) must be personal service unless—

8 (a) the respondent is present when the protection order is made; or

9 (b) the Magistrates Court makes an order under section 98 (If  
10 service impracticable or impossible).

11 *Note* See pt 11 (Service) for service of the order if personal service is not  
12 required.

**Part 10 Security Industry Act 2003****29 Legislation amended—pt 10**

This part amends the *Security Industry Act 2003*.

**30 Section 37**

*substitute*

**37 Review of reviewable decisions**

An applicant for a licence or variation to a licence may apply to the consumer and trader tribunal for a review of a reviewable decision of the commissioner for fair trading in relation to the licence.

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**Endnotes****1 Presentation speech**

Presentation speech made in the Legislative Assembly on 2003.

**2 Notification**

Notified under the Legislation Act on 2003.

**3 Republications of amended laws**

For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

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