

2013

**THE LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

CRIMES (SENTENCING) AMENDMENT REGULATION 2013 (No 1)

SL2013-16

EXPLANATORY STATEMENT

Presented by
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Attorney-General

Crimes (Sentencing) Amendment Regulation 2013 (No 1)

Outline

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Section 136(4) (h) of the *Crimes (Sentencing) Act 2005* provides that an entity may be prescribed as a criminal justice entity by regulation.

Section 136 was enacted to overcome past problems with the concerns of agencies to share information with each other on the basis that they might be in breach of their obligations under the National Privacy Principles contained in the *Privacy Act 1988* (Cwlth), and that sharing information might otherwise prejudice the effective operation of their agency. Section 136 puts beyond doubt the ability of criminal justice agencies to share information, and conveys to agencies the strong intention of the ACT Legislature that they cooperate with each other in the exchange of information relating to the criminal justice system.

National Privacy Principle 2.1(h) (i) allows for the exchange of information by criminal justice agencies for the purposes of preventing, detecting, investigating, prosecuting or punishing criminal offences.

In the 2012/2013 Budget the ACT Government committed \$2.2 million over 4 years for the establishment of a sentencing database to improve the reliability and access of sentencing information in the ACT.

The database is to be hosted by the Judicial Commission of New South Wales (the Commission), who will modify their existing Judicial Information Research System to accept sentencing information from the ACT.

An agreement regarding the establishment and operation of an ACT Sentencing Database between the Commission and the ACT Government acting through the Justice and Community Safety Directorate was signed in April 2013. It is appropriate to put in place formal information sharing arrangements with the Commission to support this agreement.

This regulation will prescribe the Judicial Commission of New South Wales as a criminal justice entity pursuant to section 136(4) (h) of the *Crimes (Sentencing) Act 2005*.

Prescribing the Commission as a criminal justice entity together with the privacy considerations set out under the Agreement, will provide protections for both the Commission and the ACT Government in exchanging information to be included in the ACT Sentencing Database.

Summary of Clauses:

1. Name of regulation

This clause establishes the name of the regulation as *Crimes (Sentencing) Amendment Regulation 2013 (No 1)*.

2. Commencement

This is a formal provision specifying when the regulation will commence. The Regulation will commence on the day after its notification.

3. Legislation amended

This clause provides that the regulation amends the *Crimes (Sentencing) Regulation 2006*.

4. New section 3 (f)

This clause provides that the Judicial Commission of New South Wales, which is established under the *Judicial Officers Act 1986 (NSW)*, is a criminal justice entity pursuant to section 136(4)(i) of the *Crimes (Sentencing) Act 2005*.