

2013

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

**JUSTICE AND COMMUNITY SAFETY LEGISLATION AMENDMENT BILL 2013
(No 4)**

EXPLANATORY STATEMENT

**Presented by
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Attorney-General**

JUSTICE AND COMMUNITY SAFETY LEGISLATION AMENDMENT BILL 2013 (NO 4)

Overview of the bill

The Justice and Community Safety Legislation Amendment Bill 2013 (No 4) (the bill) amends a number of laws administered by the Justice and Community Safety Directorate.

Human Rights Implications

There are no human rights implications associated with this bill.

Coroners Act 1997

This bill amends the *Coroners Act 1997* to improve the operation of the Act and to clarify tabling requirements.

Chief Magistrate Walker identified the need for the *Coroners Act 1997* to make express provision for part-heard coroners' matters, where the coroner hearing the matter has ceased to be a coroner. The bill inserts new section 11A into the *Coroners Act 1997* to provide for the circumstance where a coroner constituting the court in a particular matter ceases to hold office as a coroner or is unavailable to complete the matter. This new section will allow the Chief Coroner to arrange for another coroner to constitute the court in the matter.

The bill amends section 57 of the *Coroners Act 1997* to improve operational requirements relating to the provision of Coroner's reports to the Attorney-General and responsible Minister after an inquest or inquiry and the tabling of the reports and responses by the Attorney-General and responsible Minister in the Legislative Assembly.

The bill amends section 98 of the *Coroners Act 1997*, which allows a coroner to order the recovery of witness expenses. The section will be clarified to ensure reference is made to refer to the relevant provisions relating to witness expenses (the *Court Procedures Rules 2006*).

Magistrates Court Act 1930

This bill amends the *Magistrates Court Act 1930* to enable the Chief Magistrate to arrange for another magistrate to constitute the court in civil matters where the presiding magistrate ceases to hold office or ceases to be available to hear the matter. The new section allows the other magistrate to deal with the matter as they consider appropriate.

The bill also amends a section of the *Magistrates Court Act 1930* relating to records of proceedings. The bill will ameliorate an administrative burden on the Magistrates Court, by removing the requirement that records of proceedings under the *Safety, Rehabilitation and Compensation Act 1988* (Cth) and the *Workers Compensation Act 1951* be retained indefinitely. This amendment was sought by an officer of the ACT Law Courts and Tribunal Administration on the basis that maintaining records of proceedings is costly, and records held under the *Safety, Rehabilitation and Compensation Act 1988* (Cth) and *Workers Compensation Act 1951* are not accessed.

Residential Tenancies Act 1997

The bill makes a technical amendment to a note in section 78(3) of the *Residential Tenancies Act 1997* to ensure that it is consistent with the civil jurisdiction of the Magistrates Court.

Road Transport (General) Act 1999

The bill amends the *Road Transport (General) Act 1999* to clarify the information to be included in a suspension notice and in an enforcement notice in relation to a failure to pay an infringement notice penalty and a court imposed fine.

Victims of Crime Act 1994

The bill amends a section of the *Victims of Crime Act 1994* which imposes a victims services levy to provide a source of revenue to improve services for victims of crime. The victims services levy will be increased from \$10 to \$30.

CLAUSE NOTES

Clause 1 Name of Act

This clause provides that the name of the Act is the *Justice and Community Safety Legislation Amendment Act 2013 (No 4)*.

Clause 2 Commencement

This clause provides for the commencement of the Act. The Act will commence on the day after its notification day.

Clause 3 Legislation Amended—sch 1

This clause provides that the legislation mentioned in schedule 1 is amended by the Act.

SCHEDULE 1 LEGISLATION AMENDED

Part 1.1 Coroners Act 1997

Clause 1.1 New section 11A

This clause inserts a new section to provide for circumstances where a coroner constituting the court for a particular matter ceases to hold office or ceases to be available to hear the matter. In this case, the Chief Coroner must arrange for another coroner to constitute the court in the matter. The coroner may then deal with the matter as they consider appropriate. This amendment assists with the timely completion of part-heard matters.

Clause 1.2 New section 57 (3A)

This clause inserts a new section to provide that, where a coroner reports to the Attorney-General, the coroner must also provide a copy of the report to the responsible Minister. That is, the Minister responsible for responding to a public safety issue raised in a report. This will improve efficiency by ensuring that the relevant Ministers are aware of the issue at the same time as the Attorney-General.

Clause 1.3 Section 57 (4) (a)

This clause clarifies that the Attorney-General has a six month period in which to present a coroner's report to the Legislative Assembly. This period begins on the day after the Attorney-General receives the report from the coroner. This reference has been inserted in order to clarify other amendments made in section 57 that refer to the six month period.

Clause 1.4 Section 57 (4) (b)

This clause clarifies that the term 'Executive' in section 57 (4) (b) refers to the Attorney-General and the responsible Minister.

Clause 1.5 New section 57 (5) and (6)

This clause inserts two new subsections under section 57 to provide for circumstances where the Attorney-General believes that it will not be reasonably practicable to present the coroner's report on a sitting day within the six-month period provided in section 57(4). In such cases, the Attorney-General must give the report and response, and a copy for each member of the Legislative Assembly, to the Speaker before the end of the six month period. The Speaker must then present the report and response to the Legislative Assembly on the next available sitting day.

Under these provisions, the report is taken to have been presented to the Legislative Assembly on the day it is given to the Speaker.

This clause also defines the terms 'responsible Minister', 'Speaker' and 'unavailable' to assist with interpretation and assignation of responsibility.

Clause 1.6 Part 9 heading

This clause substitutes the heading for part 9 to improve the applicability of the heading.

Clause 1.7 Section 98

This clause replaces the existing section 98 to simplify the phrasing of the section and replace reference to the *Magistrates Court Act 1930* with *Court Procedures Rules 2006*, schedule 4 under which witnesses expenses are assessed.

Clause 1.8 Dictionary, note 2

This clause amends the dictionary to include reference to new terms inserted into the *Coroners Act 1997* by the bill.

Part 1.2 Magistrates Court Act 1930

Clause 1.9 New section 5A

This clause inserts a new section to provide for circumstances where a magistrate constituting the court for a particular civil matter ceases to hold office or ceases to be available to hear the matter. In this case, the Chief Magistrate must arrange for another magistrate to constitute the court in the matter. This amendment is consistent with the new section inserted in the *Coroners Act* by clause 1.1 of this bill.

Clause 1.10 Section 316 (6)

This clause replaces the existing section 316(6), removing the requirement that records of proceedings under the *Safety, Rehabilitation and Compensation Act 1988* (Cth) and *Workers Compensation Act 1951* must not be erased unless a transcript of the record of that part of the proceeding has been prepared. This means that records of proceedings under the *Safety, Rehabilitation and Compensation Act 1988* (Cth) and *Workers Compensation Act 1951* will be treated the same way as all other records of proceedings and will not need be kept indefinitely.

Part 1.3 Residential Tenancies Act 1997

Clause 1.11 Section 78 (3), note

This clause makes a technical amendment to the note in section 78(3) to accurately reflect the civil jurisdiction of the Magistrates Court by substituting reference to \$50,000 with a reference to \$250,000.

Part 1.4 Road Transport (General) Act 1999

Clause 1.12 Section 44 (3) (b)

This amendment substitutes the word “by” in the paragraph with the word “before”.

This amendment clarifies that payment of an infringement notice penalty must be made before the suspension date. The word “by” in the section would technically allow payment to be made on the actual suspension date. This has the potential to create confusion.

Clause 1.13 Section 44A (3) (b)

This amendment substitutes the word “by” in the paragraph with the word “before”.

This amendment clarifies that the person must resume complying with his or her infringement notice penalty plan before the suspension date. The word “by” in the section would technically allow the person to resume complying on the actual suspension date. This has the potential to create confusion.

Clause 1.14 Section 84 (3) (b)

This amendment substitutes the word “by in the paragraph with the word “before”.

This amendment clarifies that the person must pay the outstanding court fine before the enforcement date. The word “by” in the section would technically allow the person to pay the outstanding court fine on the actual enforcement date. This has the potential to create confusion.

Part 1.5 *Victims of Crime Act 1994*

Clause 1.15 Section 24 (2)

This amendment omits the amount \$10 from section 24(2) and substitutes it with \$30. This increases the levy by \$20.