

2014

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

**JUSTICE AND COMMUNITY SAFETY LEGISLATION AMENDMENT BILL 2014
(No 2)**

EXPLANATORY STATEMENT

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JUSTICE AND COMMUNITY SAFETY LEGISLATION AMENDMENT BILL 2014 (No 2)

Overview of the Bill

The Justice and Community Safety Legislation Amendment Bill 2014 (No 2) amends a number of Acts. The amendments are described below. The amendments are intended to improve the operation of each amended law without amounting to a major change in policy.

Human Rights implications

This Bill may limit the right to privacy in relation to amendments made to the *Administration and Probate Act 1929* and the *Public Trustee Act 1985*. Section 12 of the *Human Rights Act 2004* provides:

Everyone has the right—

- (a) not to have his or her privacy, family, home or correspondence; interfered with unlawfully or arbitrarily; and
- (b) not to have his or her reputation unlawfully attacked.

Administration and Probate Act 1929

The insertion of a new s 126 (People entitled to inspect will of deceased person) into the Public Trustee Act may limit the right to privacy of third parties who are named in a will.

The right to privacy may be limited by personal information included in the will. For example, in addition to naming a third person, a will may include information such as addresses, profession, and relationship to another person or date of birth.

Currently, beneficiaries and other interested parties have no statutory right to access copies of a will. The only mechanism currently available would be an application to the Supreme Court. The purpose of this amendment is to provide that an interested person, as defined in the Bill, can access wills.

Providing for access to copies of wills ensures transparency of administration of an estate. It also allows interested parties who have a legitimate legal right to access the will for any number of reasons, for example, to assure themselves that a will has been properly made and executed, or to ascertain whether they will receive a benefit from the estate.

The right to privacy of the third parties is balanced by the need for transparency and efficient administration of the estate. The categories of people able to access the documents are limited by law to those who are likely to have a legitimate interest in the administration of the estate.

This limitation is reasonable and justifiable having regard to the community interest in ensuring the open and transparent administration of wills and probate, and in facilitating the effective administration of a deceased person's estate.

The right to privacy is not absolute, and where a person leaves a will, there will be an understanding that the document may be made available to the administrators, courts and interested parties. Appropriate access by interested parties will build confidence in the integrity of the administration process and will make the administration process more efficient. The limitation on the right to privacy is proportionate to the purpose of the

amendment. Creating a right of access is a targeted measure that achieves its purpose of transparency of administration and for ease of access to interested parties. There are no less restrictive means to ensure that wills are made available in an efficient, open and transparent manner.

Public Trustee Act 1985

The insertion of a new s 66 (Public trustee may require information or documents) into the Public Trustee Act may limit the right to privacy by authorising the Public Trustee to access third party information from an entity, but not an individual, that may be relevant to the exercise of his or her functions under the Public Trustee Act, or any other Act under which the Public Trustee exercises functions. The purpose of the amendment is to facilitate the administration of the Public Trustee's responsibilities. For example, in administering an estate, the Public Trustee may require information held by various government or non-government bodies, including in other jurisdictions to identify and locate relevant parties, such as beneficiaries or creditors.

Circumstances in which the public trustee may require information is confined to where the information or documents are relevant to the exercise of the public trustee's functions under the Public Trustee Act or another territory law, such as the *Guardianship and Management of Property Act 1991*. The Public Trustee is bound by the Territory Privacy Principles (TPPs) contained in the *Information Privacy Act 2014*, which restricts the use and disclosure of personal information held by a public sector agency, to the extent that the information is not required under another territory law.

The amendment will ensure the effective and efficient administration of the public trustee's responsibilities. There is no less restrictive means to achieve the purpose of this amendment as the required information is unlikely to be held in any other place than that sought and is unlikely to be in the public domain.

Summary of amendments

Administration and Probate Act 1929

This Bill makes two amendments to the *Administration and Probate Act 1929*.

Section 64(1) currently provides for a notice to be given by the executor or administrator prior to distributing assets. However, the section does not require an approved form for the notice. The Law Society has expressed concern about the lack of certainty as to whether a form issued under this section would be held by the Supreme Court to be a valid notice.

The amendment will require that a prescribed form be used, if one exists.

The notice would need to be prescribed by the rule-making committee under the *Court Procedures Act 2004*.

The Bill also inserts a new s 126 into the Act to provide a statutory right for interested parties to access copies of current and revoked wills, including codicils and informal wills. There is currently no statutory right for a person to access these documents.

Under this section the interested party bears the costs. The obligation to produce the documents will sit with the person who has control of that document or those documents.

This amendment is consistent with s 54 of the *Succession Act 2006* (NSW).

Agents Act 2003

The Bill amends sections 45, 46 and 47 which set out the registration requirements for real estate salespeople, stock and station salespeople and business salespeople. The amendments clarify that it is an offence for a salesperson not to be registered and to be employed by a licensed agent when providing a service. It is not an offence if a person is licensed to provide the service.

This Bill also removes s 116 of the *Agents Act 2003*.

Section 116 currently requires that a licensed agent who has not held trust money must provide a statutory declaration to the Commissioner for Fair Trading after each audit period.

The renewal process for registration of an agent is every one or three years. Other than to lodge a statutory declaration under this section, there is no need for an agent to make yearly contact with the Commissioner for Fair Trading, unless they have a one year licence. This mainly affects agents who have never and will never hold money on trust (for example they are employed by a principal agent. However, they are still required to lodge an annual statutory declaration to the effect that they have held no money on trust in that audit period. This is not an efficient use of either an agent's or the Commissioner's time.

The amendment, which is consistent with the NSW requirements, will remove unnecessary red tape by only requiring an agent to indicate on their licence renewal form whether they have held money on trust for the period of registration.

In accordance with s 105(4) of the *Agents Act*, the licensed agent must give the Commissioner for Fair Trading the details of each trust account held, and in relation to the opening of new trust accounts. Under s 105(5), the details must be given to the Commissioner within 2 business days after the day the agent becomes a licensed agent or opens the new trust account.

Family Provision Act 1969

Section 20(2)(b)(i) is amended to be consistent with the amendment made earlier this year to s 9(1) of the Act, to reduce the time in which a family provision claim may be made against a deceased estate from 12 months to 6 months after the date when administration has been granted.

Human Rights Commission Act 2005

The Bill amends s 83 of the *Human Rights Commission Act 2005* which currently provides that the Commission may make recommendations to a third-party in a report (a 'third-party report') other than a final report if, after considering a complaint, the Commission has satisfied itself with regard to certain considerations. As it stands, the section implies that the Commission can only provide a third party a copy of a final report if the third party is subject to one or more of the recommendations.

The Commission has advised that there are circumstances where it would be appropriate to provide the final report to a third party, irrespective of whether that party is subject to a recommendation in the report. This may include where it would be in the public interest to address systemic or ongoing interferences or breaches of legislation.

The amendment allows the Commission to provide a report (other than a final report) to a third party in appropriate circumstances, even if it is not subject to a recommendation.

The Bill also amends s 95(2) which currently provides that if the service is provided at premises, the provider must provide information at the premises to service consumers about their right to make complaints under the Act and the Health Practitioner Regulation National Law (ACT) and how feedback may be given to the service provider.

The Commission has indicated that, based on compliance checks, notices are routinely placed in a non-obvious or obstructed location, with the effect of nullifying the objective of this requirement.

The amendment clarifies that the notices must be displayed prominently.

Powers of Attorney Act 2006

Section 13(3) currently prohibits the appointment of a child as an attorney. Although the *Legislation Act 2001* defines a ‘child’ as an individual who is under 18 years old, the Law Society has raised concerns that this provision may be construed to prevent a principal from appointing one of the adult children of the principal as attorney.

The amendment clarifies that a principal must not appoint a person as an attorney if that person is under 18 years old.

Public Trustee Act 1985

Section 21 sets out the express powers of the Public Trustee in acting as executor, administrator or trustee.

To effectively discharge their responsibilities, the Public Trustee may require information held by other entities, for example, the National Exchange of Vehicle and Driver Information System (NEVDIS) maintained by Austroads. This amendment authorises the Public Trustee to require an entity, but not an individual, to provide information relevant to the exercise of his powers.

This amendment is consistent with s 116 of the *New South Wales Trustee and Guardian Act 2009*.

Information Privacy Act 2014 – consequential amendments

Schedule 1 contains minor and technical amendments to various legislation, resulting from the introduction of the Information Privacy Act and amendments to the *Privacy Act 1988* (Cwlth) that replaced the Information Privacy Principles and the National Privacy Principles with a set of consolidated Australian Privacy Principles.

Previously the Privacy Act, as enacted in 1994, applied to the ACT and was administered by the Australian Privacy Commissioner on behalf of the ACT Government.

The Information Privacy Act introduced ACT specific legislation to regulate the handling of personal information by public sector agencies.

The Information Privacy Act introduced 11 Territory Privacy Principles (TPPs) which set out obligations on public sector agencies when collecting, using, disclosing, storing and destroying personal information.

Generally, consequential changes have been made to change references:

- a) from the Privacy Act to the Information Privacy Act;
- b) from the Privacy Commissioner to the Information Privacy Commissioner;
- c) from the Information Privacy Principles to the Territory privacy principles;
and
- d) from the National Privacy Principles to the Australian Privacy Principles.

Amendments have also been made to specify that the Australian Privacy Principles in the Commonwealth Privacy Act apply to ACTEW Corporation Inc. These amendments include insertion of a new clause 24(ca) which provides that the Information Privacy Act does not apply to ACTEW Corporation Limited, ACTEW Distribution Ltd or ACTEW Retail Ltd.

The Bill also amends section 25(1)(c) to omit unnecessary words, and schedule 1, part 1.5, principles 12.4(a) and 13.5 (a) to change the word ‘or’ to ‘and’, to give effect to the original intent of these provisions.

CLAUSE NOTES

Part 1 Preliminary

Clause 1 Name of Act

This clause names the Act.

Clause 2 Commencement

This clause provides for the commencement of the Act.

Clause 3 Legislation amended

This clause provides that the Act amends the following legislation:

- *Administration and Probate Act 1929*;
- *Agents Act 2003*;
- *Family Provision Act 1969*;
- *Human Rights Commission Act 2005*;
- *Powers of Attorney Act 2006*; and
- *Public Trustee Act 1985*.

This clause also provides that the Act amends other legislation in schedule 1 as consequential amendments to recent changes to privacy law.

Part 2 *Administration and Probate Act 1929*

Clause 4 Distribution of assets, Section 64(1), new note

This clause inserts a note to provide for the use of an approved form, if there is one, under the *Court Procedures Act 2004*.

The form will be used by the Legal Personal Representative to place a potential applicant on notice of the intended distribution of an estate.

Clause 5 New section 126

This clause allows an ‘interested person’ of a deceased estate a statutory right to inspect, or be given copies of, a will or any copies of the will in the person’s possession or control. The interested person must provide their request in writing and must bear any cost of a request.

This clause defines an ‘interested person’ as:

- (a) a person named or referred to in the will, including a beneficiary;
- (b) a person who was named in an earlier will as a beneficiary;
- (c) a domestic partner or child of the deceased person;
- (d) a parent or guardian of the deceased person;
- (e) a parent or guardian of a beneficiary under the will who is younger than 18 years old;
- (f) a parent or guardian of a person younger than 18 years old who would be entitled to a share of the estate if the deceased person had died interstate;

- (g) a person who, immediately before the death of the deceased, was a guardian or manager for the person under the *Guardianship and Management of Property Act 1991*; and
- (h) an attorney under an enduring power of attorney made by the deceased person.

The clause provides that a will includes a revoked will, an informal will or a codicil.

Clause 6 Dictionary, note 2

This clause inserts a reference to the definition of ‘domestic partner’ under s 169(1) of the Legislation Act. The reference is included to be consistent with new s 126.

Part 3 *Agents Act 2003*

Clause 7 Real estate salespeople must be registered, Section 45(1) (b)

This clause replaces the words ‘pretends to be employed’ with ‘is, or pretends to be, employed’ to clarify the intent that real estate salespeople are to be registered when they are employed by a licensed real estate agent to provide a real estate agent service.

The clause makes it an offence for a person who is not a registered real estate salesperson and is, or pretends to be employed by a licensed real estate agent to provide a real estate agent service.

Clause 8 New section 45(3)

Section 45(3) is inserted to clarify that a person does not commit an offence under s 45 (1) if they are licensed to provide the service.

Clause 9 Stock and station salespeople must be registered, Section 46(1) (b)

This clause replaces the words ‘pretends to be employed’ with ‘is, or pretends to be, employed’ to clarify the intent that stock and station salespeople must be registered when they are employed by a licensed stock and station agent to provide a stock and station agent service.

The clause makes it an offence for a person who is not a registered stock and station salesperson and is, or pretends to be employed by a licensed stock and station agent to provide a stock and station agent service.

Clause 10 New section 46(3)

Section 46(3) is inserted to clarify that a person does not commit an offence under s 46 (1) if they are licensed to provide the service.

Clause 11 Business salespeople must be registered, Section 47(1) (b)

This clause replaces the words ‘pretends to be employed’ with ‘is, or pretends to be, employed’ to clarify the intent that business salespeople must be registered when they are employed by a licensed business agent to provide a business agent service.

The clause makes it an offence for a person who is not a registered business salesperson and is, or pretends to be employed by a licensed business agent to provide a business agent service.

Clause 12 New section 47(3)

Section 47(3) is inserted to clarify that a person does not commit an offence under s47 (1) if they are licensed to provide the service.

Clause 13 If no trust money held during audit period, Section 116

This clause omits s116 to remove the requirement for a licensed agent to provide a statutory declaration to the Commissioner for Fair Trading notifying the Commissioner that the licensed agent has held no trust money during an audit period.

The agent is now required to indicate on their renewal form whether they have held money on trust for the period of registration, thereby reducing red tape.

The removal of this mandatory requirement will make the renewal process less complex, especially with online applications.

Part 4 *Family Provision Act 1969*

Clause 14 Property available for provision, Section 20(2) (b) (i)

This clause replaces the reference to ‘12 months’ with ‘6 months’.

This substitution follows a previous amendment to s 9(1) of the Act reducing the time in which a family provision claim may be made against a deceased estate from 12 months to 6 months after the date when administration has been granted.

The substitution amends the time period to be consistent with s 9(1) and provides that the Supreme Court shall not direct that provision be made for a person out of any property that has been the subject of a distribution referred to in s 20(1), if the distribution was made more than 6 months after the date when administration of the estate was granted.

Part 5 *Human Rights Commission Act 2005*

Clause 15 Third-party reports Section 83(1) and example and note

This clause allows the Human Rights Commission to give a report, other than a final report, to a third party if, in considering a complaint, the Commission is satisfied:

(a) that:

- i. the third party has acted inconsistently with an applicable standard that applies to the third party, or is otherwise failing to adequately do something the third party is required to do; or

- ii. the report raises matters of public policy; or
- iii. the report is about matters that the third-party has an appropriate interest in;
and

(b) it is in the public interest to give the report.

The clause includes examples of the people to whom a third party report may be given and what a third party report may be about.

Clause 16 Section 83(2) and (3)

This clause replaces the words ‘recommendation’ with ‘third-party report’ to be consistent with the new s 83(1) to allow the Human Rights Commission to give a third party a report when the Commission is satisfied with the criteria in s 83(1).

Clause 17 Information about complaints, Section 95(2)

This clause inserts the words ‘in a prominent position’ to clarify that information to consumers about their right to make complaints under the Act and the *Health Practitioner Regulation National Law (ACT)* and about giving feedback to the service provider, must be placed in a prominent position at the premises.

Part 6 Powers of Attorney Act 2006

Clause 18 Appointment of attorneys, Section 13(3)

The amendment clarifies that a principal must not appoint a person as an attorney if that person is under 18 years old.

Part 7 Public Trustee Act 1985

Clause 19 New section 66

This clause inserts a new section to authorise the Public Trustee to require an entity (other than an individual), by written notice, to provide information and documents relevant to the exercise of the public trustee’s powers under the Act or another territory law.

Section 66 provides that a reasonable period of notice (not less than 14 days) must be given for the information to be provided. This requirement is consistent with the requirement under the *NSW Trustee and Guardian Act 2009*.

Schedule 1 Information Privacy Act 2014 – Consequential amendments

Part 1.1 ACT Teacher Quality Institute Act 2010

Clause 1.1 Section 42 (3), note

This clause substitutes the note in s 42(3) to provide that the Territory privacy principles contained in the *Information Privacy Act 2014* apply to the Institute.

Part 1.2 *Adoption Regulation 1993*

Clause 1.2 Section 21

This clause replaces a reference to the *Privacy Act 1988* (Cwlth) with a reference to the *Information Privacy Act 2014*. This clause makes it an offence for a private adoption agency to breach a Territory privacy principle within the meaning of the Information Privacy Act, if it were a public sector agency.

Part 1.3 *Children and Young People Act 2008*

Clause 1.3 Section 280 (5), definition of *protected mail*, paragraph (e)

This clause replaces ‘the privacy commissioner’ with ‘the information privacy commissioner’ to update the definition of ‘protected mail’ as being between a young detainee and the information privacy commissioner.

Clause 1.4 Section 875 (2), examples

This clause inserts the *Information Privacy Act 2014* into the examples of other laws which set out rules for information sharing that do not affect the operation of the Children and Young People Act.

Clause 1.5 Dictionary, note 2

This clause inserts the information privacy commissioner into note 2 of the dictionary.

Clause 1.6 Dictionary, note 2

This clause omits the privacy commissioner in note 2 of the dictionary to be consistent with clause 1.5.

Part 1.4 *Construction Occupations (Licensing) Act 2004*

Clause 1.7 Section 102 (1), note 1

This clause substitutes note 1 with words to provide that the Territory privacy principles apply to the registrar. The note refers to schedule 1 of the Information Privacy Act.

Part 1.5 *Crimes (Forensic Procedures) Act 2000*

Clause 1.8 Section 96 (2) (g)

This clause substitutes s 96(2)(g) to provide that a person may access information stored on the ACT DNA database for the purpose of investigation of a complaint by the information privacy commissioner (or someone who has corresponding functions under the law of another participating jurisdiction).

Clause 1.9 Section 96 (3) (d)

This clause replaces the reference to the privacy commissioner with the information privacy commissioner.

Clause 1.10 Section 111 (2) (h)

This clause substitutes s 111(2)(h) to provide that a person may disclose information stored on the ACT DNA database for the purpose of the investigation of a complaint by the privacy commissioner (or someone who has corresponding functions under the law of another participating jurisdiction).

Clause 1.11 Dictionary, note 2

This clause inserts the information privacy commissioner as a term defined in the Legislation Act.

Clause 1.12 Dictionary, note 2

This clause omits the privacy commissioner as a term defined in the Legislation Act, as that position has been substituted with the information privacy commissioner, consistent with clause 1.11.

Part 1.6 *Crimes (Surveillance Devices) Act 2010*

Clause 1.13 Section 34 (7) (h)

This clause substitutes s 34(7)(h) to provide that protected information may be used, communicated or published if it is necessary to do so for the purpose of an investigation under the *Information Privacy Act 2014* or another law of the Territory, a participating jurisdiction or the Commonwealth concerning the privacy of personal information.

Part 1.7 *Government Procurement Act 2001*

Clause 1.14 Section 35(1), note 1

This clause substitutes note 1 to provide that the Territory privacy principles apply to a Territory entity.

Clause 1.15 Section 35 (4), definition of personal information

This clause substitutes the definition of personal information in section 35(4) with the new definition introduced by the Information Privacy Act.

Clause 1.16 Section 41, note 2

This clause substitutes note 2 to provide that the Territory privacy principles under the Information Privacy Act provide for the disclosure of personal information in certain circumstances.

Part 1.8 *Health (National Health Funding Pool and Administration) Act 2013*

Clause 1.17 New section 31 (ba)

This clause inserts the *Information Privacy Act 2014* into the list of ACT legislation which will not apply to the administrator or in relation to a function exercised by the administrator.

This is consistent with the exclusion of other similar Territory laws which must be excluded to allow the operation of the national scheme.

Part 1.9 *Heavy Vehicle National Law (ACT) Act 2013*

Clause 1.18 New section 9 (1) (ca)

This clause inserts the *Information Privacy Act 2014* into the list of ACT legislation which will not apply to the Regulator and the Board, consistent with the exclusion of other similar Territory laws which must be excluded to allow the operation of the national scheme.

Clause 1.19 Section 9 (1), note

This clause substitutes the note in section 9(1) to remove the reference to the Commonwealth *Privacy Act 1988* which no longer applies to acts or practices of ACT public sector agencies.

Part 1.10 *Information Privacy Act 2014*

Clause 1.20 Section 9 (f)

This clause substitutes section 9(f) with ACTTAB Limited. This technical amendment, and clause 1.21 below, clarify that the other territory owned corporation listed in schedule 1 of the *Territory-owned Corporations Act 1990* - ACTEW Corporation Limited - is covered by the Australian Privacy Principles in the Commonwealth *Privacy Act 1988*. ACTTAB Limited is not covered by the Commonwealth Privacy Act and so is maintained within the definition of a public sector agency in the Information Privacy Act.

Clause 1.21 New section 24 (ca)

This clause inserts a section 24 (ca) to exempt ACTEW Corporation Limited, ACTEW Distribution Ltd or ACTEW Retail Ltd from the application of the Information Privacy Act. By exempting the ACTEW group from the application of the Information Privacy Act, it is clear that the Privacy Act and the Australian Privacy Principles apply.

Clause 1.22 Section 25 (1) (c)

This clause omits the phrase ‘other than an act done, or a practice engaged in, by the Office’ in section 25(1)(c). The intention of this provision is to prevent the Information Privacy Act from applying to the acts or practices of the Office of the Legislative Assembly in exercising a function in relation to a proceeding of the Legislative Assembly. This amendment will give effect to the original intention of the provision and provide for the separation of powers and the operation of parliamentary privilege.

Clause 1.23 Schedule 1, part 1.5, principle 12.4 (a)

This clause omits ‘or’ and inserts ‘and’ to correct a drafting error and make this principle consistent with the corresponding Australian Privacy Principle 12. This change requires public sector agencies to respond to requests for access to personal information within 30 days and requires the agency to give access to the information in the way requested by the individual, if it is reasonable and practicable to do so.

Clause 1.24 Schedule 1, part 1.5, principle 13.5 (a)

This clause omits ‘or’ and inserts ‘and’ to correct a drafting error and make this principle consistent with the corresponding Australian Privacy Principle 13. This change requires public sector agencies to respond to requests for correction of personal information within 30 days and prohibits the agency from charging the individual for making a request, correcting the personal information or associating a statement with the information.

Clause 1.25 Dictionary, note 2

This clause amends note 2 in the Dictionary to remove the reference to territory-owned corporation, consistent with the amendment in clause 1.20 above.

Part 1.11 *Legislation Act 2001*

Clause 1.26 Dictionary, part 1, new definition of information privacy commissioner

This clause is a technical clause that inserts the definition of information privacy commissioner into the Legislation Act. The privacy commissioner is now the information privacy commissioner appointed under section 26 of the Information Privacy Act.

Clause 1.27 Dictionary, part 1, definition of privacy commissioner

This clause removes the definition of privacy commissioner from the Legislation Act, consistent with clause 1.25.

Part 1.12 *Planning and Development Act 2007*

Clause 1.28 Section 395B (1), note 1

This clause substitutes note 1 to provide that the Territory privacy principles apply to the planning and land authority. The note refers to schedule 1 of the *Information Privacy Act 2014*.

Part 1.13 *Racing Act 1999*

Clause 1.29 Section 61W (1)

This clause substitutes s61W(1) to provide that the provisions in section 61 apply to a relevant controlling body if neither the Territory privacy principles under the *Information Privacy Act 2014* nor the Australian Privacy Principles under the *Commonwealth Privacy Act 1988 (Cwlth)* apply to the handling of confidential information by the controlling body.

Clause 1.30 Section 61W (2) and (3)

This clause substitutes the reference to the NPPs with a reference to the Australian Privacy Principles to reflect the current Privacy Act.

Part 1.14 *Residential Tenancies Act 1997*

Clause 1.31 Section 97 (1) (b)

This clause substitutes a reference to the national privacy principles, which no longer exist under the Privacy Act, with a reference to the Territory privacy principles or the Australian

Privacy Principles, that now apply under the Information Privacy Act or the Privacy Act. The amendment retains the requirement that a database operator must not keep personal information about a person in the residential tenancy database for longer than then time specified.

Clause 1.32 Section 97 (4)

This clause substitutes s 97(4) to provide the definition for the Australian Privacy Principles under the *Privacy Act 1988* (Cwlth) and the Territory privacy principles under the *Information Privacy Act 2014*.

Part 1.15 Retirement Villages Regulation 2013

Clause 1.33 Sections 22 (3) and 33 (d)

This clause removes the reference to the National Privacy Principles, which no longer exist in the Privacy Act 1998, and replaces those words with the Australian Privacy Principles.

Part 1.16 Road Transport (Driver Licensing) Act 1999

Clause 1.34 Section 9, note 1

This clause substitutes note 1 to provide that the Territory privacy principles apply to the road transport authority. The clause refers to the *Information Privacy Act 2014*, schedule 1.

Clause 1.35 Section 36 (1), note

This clause substitutes the note to provide that the Territory privacy principles apply to the road transport authority. The clause refers to the *Information Privacy Act 2014*, schedule 1.

Clause 1.36 Section 37 (1), note 1

This clause substitutes note 1 to provide that the Territory privacy principles apply to the road transport authority. The clause refers to the *Information Privacy Act 2014*, schedule 1.

Clause 1.37 Section 38 (1), note

This clause substitutes the note to provide that the Territory privacy principles apply to the road transport authority. The clause refers to the *Information Privacy Act 2014*, schedule 1.

Part 1.17 Road Transport (Driver Licensing) Regulation 2000

Clause 1.38 Section 73ZZD (1), note

This clause substitutes the note to provide that the Territory privacy principles apply to the road transport authority. The clause refers to the *Information Privacy Act 2014*, schedule 1.

Part 1.18 Road Transport (General) Act 1999

Clause 1.39 Section 83E, note 1

This clause substitutes note 1 to provide that the Territory privacy principles apply to the road transport authority. The clause refers to the *Information Privacy Act 2014*, schedule 1.

Part 1.19 *Road Transport (Public Passenger Services) Act 2001*

Clause 1.40 Section 7, note 1

This clause substitutes note 1 to provide that the Territory privacy principles apply to the road transport authority. The clause refers to the *Information Privacy Act 2014*, schedule 1.

Part 1.20 *Road Transport (Public Passenger Services) Regulation 2002*

Clause 1.41 Section 31, note 2

This clause substitutes note 2 to provide that when collecting personal information, the accredited operator may also have to comply with the Australian Privacy Principles under the *Privacy Act 1988* (Cwlth) or the Territory privacy principles under the *Information Privacy Act*.

Clause 1.42 Section 32 (5), note

This clause substitutes a note to provide that the accredited operator may also have to comply with the Australian Privacy Principles under the *Privacy Act 1988* (Cwlth) or the Territory privacy principles under the *Information Privacy Act 2014* about the collection, storage, use and disclosure of security camera recordings.

Clause 1.43 Section 68 (2), note 1

This clause substitutes a note to provide that the *Privacy Act 1988* (Cwlth) imposes obligations on some private sector organisations and the *Information Privacy Act 2014* imposes obligations on public sector agencies in relation to the collection, storage, use and disclosure of personal information collected about an individual in relation to security cameras in buses.

Clause 1.44 Section 79 (5), note etc

This clause omits the words National Privacy Principles and replaces those words with Australian Privacy Principles in the following sections:

- section 79 (5), note
- section 103, note
- section 189 (1), note
- section 194 (6), note
- section 259 (1), note 2
- section 264 (5), note

Part 1.21 *Road Transport (Vehicle Registration) Act 1999*

Clause 1.45 Section 11, note 1

This clause substitutes note 1 to provide that the Territory privacy principles apply to the road transport authority. The clause refers to the *Information Privacy Act 2014*, schedule 1.

Part 1.22 *Security Industry Regulation 2003*

Clause 1.46 Section 16 (1)

This clause substitutes s 16(1) to provide that the provisions in section 16 apply to the master licensee if neither Territory privacy principle 6 (use or disclosure of personal information) under the *Information Privacy Act 2014* nor Australian Privacy Principle 6 (use or disclosure of personal information) under the Commonwealth *Privacy Act 1988* apply to the master licensee.

Clause 1.47 Section 16 (2)

This clause omits the words ‘schedule 3, national privacy principle 2’ and replaces those words with ‘schedule 1, Australian Privacy Principle 6’, in relation to its application to the master licensee.

Clause 1.48 Section 16 (3)

This clause omits the words ‘national privacy principle 2’ and replaces those words with ‘Australian Privacy Principle 6’ to provide that s 47(6) of the Legislation Act does not apply in relation to Australian Privacy Principle 6.

Part 1.23 *Unit Titles (Management) Act 2011*

Clause 1.49 Section 113 (2), note etc

This clause omits the words ‘national privacy principles’ in the note and replaces those words with ‘Australian Privacy Principles’ in the following sections:

- section 113 (2), note
- section 116 (4), note 1
- schedule 2, part 2.1, section 2.1 (1) (f), note.

Part 1.24 *Utilities Act 2000*

Clause 1.50 Section 51

This clause substitutes s 51 to provide for the protection of personal information in relation to personal information gained by a utility in the provision of a utility service. The clause provides that a utility must deal with personal information in accordance with the Australian Privacy Principles as if it were a prescribed authority, within the meaning of the *Freedom of Information Act 1989*, to which the *Privacy Act 1988* (Cwlth) applies.

The clause also provides a note which states that an Act of the Territory generally cannot apply the *Privacy Act 1988* (Cwlth) to utilities. However, the section obliges utilities to observe the Australian Privacy Principles under the Privacy Act as if the Act applied to them.