

Serial 126
Justice and Other Legislation Further Amendment Bill 2024
Mr Paech

A Bill for an Act to amend legislation administered by the Attorney-General
and Minister for Justice and for related purposes

NORTHERN TERRITORY OF AUSTRALIA

JUSTICE AND OTHER LEGISLATION FURTHER AMENDMENT ACT 2024

Act No. [] of 2024

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NORTHERN TERRITORY OF AUSTRALIA

Act No. [] of 2024

An Act to amend legislation administered by the Attorney-General and
Minister for Justice and for related purposes

[Assented to [] 2024]
[Introduced [] 2024]

The Legislative Assembly of the Northern Territory enacts as follows:

Part 1 Preliminary matters

1 Short title

This Act may be cited as the *Justice and Other Legislation Further Amendment Act 2024*.

2 Commencement

- (1) This Act (except Parts 4, 8, 9 and 10) commences on the day after the day on which the Administrator's assent to this Act is declared.
- (2) Part 4 commences on the commencement of the *Health Care Decision Making Act 2023*.
- (3) Parts 9 and 10 commence on 1 July 2024.
- (4) Subject to subsection (5), Part 8 commences on the day fixed by the Administrator by *Gazette* notice.
- (5) If Part 8 does not commence before 19 March 2026, it commences on that day.

Part 2 Amendment of Business Tenancies (Fair Dealings) Act 2003

3 Act amended

This Part amends the *Business Tenancies (Fair Dealings) Act 2003*.

4 Section 88A inserted

After section 88

insert

88A Commissioner may cancel conference

- (1) The Commissioner may cancel a conference if a party to the application refuses to participate in the conference.
- (2) If the Commissioner cancels a conference under subsection (1), the Commissioner must:
 - (a) give all parties to the application written notice specifying the reasons for cancellation; and
 - (b) determine whether:
 - (i) an inquiry should be held; or
 - (ii) a certificate should be issued.

5 Section 98 amended (When inquiries may be conducted)

Section 98(1)

omit, insert

- (1) An inquiry may be conducted in respect of an application if:
 - (a) the retail tenancy claim has not been settled between the parties at or after a conference; or
 - (b) a conference was cancelled by the Commissioner under section 88A(1).

6 Section 104 amended (Certificate of failure to resolve retail tenancy claim)

(1) Section 104(1)

omit, insert

(1) The Commissioner must issue a certificate to each party to an application if:

(a) in relation to the application, either:

(i) a preliminary conciliation conference has been held; or

(ii) a preliminary conciliation conference was cancelled under section 88A(1); and

(b) an inquiry has not been commenced in respect of the application; and

(c) the Commissioner is satisfied that the parties have failed to resolve the retail tenancy claim and are unlikely to do so; and

(d) the retail tenancy claim is within a court's jurisdiction mentioned in section 105.

(2) Section 104(3)

omit

Part 3 Amendment to construction contracts (security of payments) legislation

Division 1 Amendment of Construction Contracts (Security of Payments) Act 2004

7 Act amended

This Division amends the *Construction Contracts (Security of Payments) Act 2004*.

8 Section 4 amended (Definitions)

Section 4, definition *working day*, paragraph (b)

omit, insert

- (b) a day that is a public holiday in the place in which any relevant act is to be done or may be done (other than a public holiday that is part of a day); or

Division 2 Amendment of Construction Contracts (Security of Payments) Regulations 2005**9 Regulations amended**

This Division amends the *Construction Contracts (Security of Payments) Regulations 2005*.

10 Regulation 5 amended (Prescribed appointers)

Regulation 5(c)

omit

Part 4 Amendment of Correctional Services Act 2014**11 Act amended**

This Part amends the *Correctional Services Act 2014*.

12 Section 91 amended (Notification of critical illness or injury or death)

Section 91, note 2

omit, insert

- 2 *Other persons with decision making authority may include the following:*
- (a) *a guardian under the Guardianship of Adults Act 2016;*
 - (b) *a decision maker under the Advance Personal Planning Act 2013;*
 - (c) *a health care decision maker under the Health Care Decision Making Act 2023.*

Part 5 Amendment of Court Security Act 1998**13 Act amended**

This Part amends the *Court Security Act 1998*.

14 Section 4 amended (Definitions)

Section 4, definition ***offensive weapon***

omit, insert

offensive weapon, see section 1 of the Criminal Code.

Part 6 Amendment of Information Act 2002**15 Act amended**

This Part amends the *Information Act 2002*.

16 Section 4 amended (Definitions)

Section 4

insert

client organisation, in relation to a processing arrangement, see section 155A(1).

processing arrangement, see section 155A(1).

supporting organisation, in relation to a processing arrangement, see section 155A(1).

17 Section 136B amended (Approval of records retention and disposal schedule)

(1) Section 136B, before "A"

insert

(1)

(2) Section 136B

omit

all words after "the records"

insert

service and archives service.

- (3) Section 136B, at the end

insert

- (2) If the records retention and disposal schedule is prepared for records relating to a function or activity that a particular public sector organisation is specifically responsible for, the schedule must also be approved by the chief executive officer of the public sector organisation.

18 Section 141 amended (When should records be transferred to the archives service?)

- (1) Section 141, heading

omit, insert

141 Transfer of permanent records to the archives service

- (2) Before section 141(1)

insert

- (1AA) A public sector organisation must, within the time provided by this section, transfer a record to the archives service for inclusion in the Territory Archives if the record:

- (a) belongs to a class of record which has permanent status under a records retention and disposal schedule; or
- (b) having regard to any archives standard, is otherwise a permanent record.

- (3) Section 141(1)(a) and (b)

omit

a record

insert

the record

19 Section 143 amended (Archives in public access period to be publicly available)

Section 143, heading

omit

public

insert

open

20 Section 144 amended (Accessing and correcting archives not yet publicly available)

(1) Section 144(1)

omit

An

insert

Subject to subsections (3) to (5), an

(2) After section 144(3)

insert

(4) Subsection (5) applies in relation to an application to correct personal information in an archive that is made to a public sector organisation that is taken to hold the archive.

(5) When making a correction, if any, to the information in the archive on the application, the public sector organisation must not:

(a) delete the information from the archive; or

(b) otherwise destroy the archive.

21 Section 151 amended (Protection from liability)

(1) Section 151(1)(a), after "in"

insert

connection with

(2) After section 151(1)

insert

(1A) To avoid doubt, subsection (1) extends to an act done or omitted to be done by a person in sharing information in accordance with a processing arrangement, or purportedly in accordance with a processing arrangement, between 2 public sector organisations.

(3) Section 151(2)

omit

Subsection (1)

insert

This section

(4) Section 151(2)

omit

that subsection,

insert

this section,

22 Section 155A inserted

After section 155

insert

155A Processing arrangements between public sector organisations for applications and complaints

- (1) A public sector organisation (the ***client organisation***) may enter into an arrangement or agreement (a ***processing arrangement***) with another public sector organisation (the ***supporting organisation***) for:
- (a) the officers or employees of the supporting organisation to provide administrative assistance to the client organisation in:
 - (i) dealing with applications made to the client organisation from time to time; and
 - (ii) responding to complaints made in relation to the client organisation from time to time; and
 - (b) the sharing of information held by the client organisation with the supporting organisation for the purpose of enabling administrative assistance to be provided to the client organisation.

- (2) Despite any law of the Territory to the contrary, the following information held by the client organisation may be shared with the supporting organisation in accordance with the processing arrangement:
- (a) any information relevant to, or potentially relevant to, the determination of an application:
 - (i) made to the client organisation; and
 - (ii) for which administrative assistance is to be provided to the client organisation under the arrangement;
 - (b) any information relevant to, or potentially relevant to, the resolution of a complaint:
 - (i) made in relation to the client organisation; and
 - (ii) for which administrative assistance is to be provided to the client organisation under the arrangement.

23 Section 156 amended (Fees for applications and complaints)

- (1) Section 156(1)
- omit*
- all words after "may"
- insert*
- charge:
- (a) a fee in respect of the making of an application (an **application fee**); and
 - (b) a fee in respect of the time taken, and the costs incurred, by the public sector organisation in response to an application (a **processing fee**).
- (2) After section 156(1)
- insert*
- (1A) If the public sector organisation is a client organisation under a processing arrangement with a supporting organisation, the processing fee that may be charged under subsection (1)(b) may include time taken, and costs incurred, by officers or employees of the supporting organisation in response to the application.

(3) Section 156(7)

omit

24 Schedule 2 amended (Information Privacy Principles)

(1) Schedule 2, after IPP 2.1(f)

insert

(fa) the use or disclosure of the information is in accordance with a processing arrangement between the organisation and another public sector organisation;

(2) Schedule 2, IPP 10.1(c)

omit

and imminent

insert

or imminent

Part 7 Amendment of Land Title Act 2000

25 Act amended

This Part amends the *Land Title Act 2000*.

26 Section 54G amended (Registration of documents required for termination of development)

Section 54G(1)(c), before "a"

insert

if Part 4 of the Termination Act applies –

Part 8 Amendment of Local Court (Criminal Procedure) Act 1928

27 Act amended

This Part amends the *Local Court (Criminal Procedure) Act 1928*.

28 Section 172 amended (Notice of appeals)

- (1) Section 172(1)(b)
- omit, insert*
- (b) the conviction, order or adjudication appealed against under section 163(1) or (3); and
- (c) the nature and grounds of the appeal.
- (2) After section 172(3)
- insert*
- (4) If 2 or more convictions, orders or adjudications are made by the Local Court in respect of charges that have been heard and determined together, the appellant may serve one notice of appeal under this section to institute an appeal against all or any of those convictions, orders or adjudications by stating in the notice of appeal:
- (a) each conviction, order or adjudication appealed against under section 163(1) or (3); and
- (b) for each conviction, order or adjudication appealed against – the nature and grounds of the appeal.

Part 9 Amendment to sentencing legislation

Division 1 Amendment of Sentencing Act 1995

29 Act amended

This Division amends the *Sentencing Act 1995*.

30 Section 3 amended (Interpretation)

- (1) Section 3(1)
- insert*
- approved member***, for Part 6, Division 3A, see section 107A.
- (2) Section 3(1), definition ***Law and Justice Group***
- omit*
- 107C

insert

107C(2)

31 Section 107A amended (Definitions)

(1) Section 107A

insert

approved member, of a Law and Justice Group, means a member of the Law and Justice Group who is approved under section 107C(3).

(2) Section 107A, definition **Law and Justice Group**

omit

107C

insert

107C(2)

32 Section 107B amended (Aboriginal experience report)

Section 107B(1), after "by"

insert

approved

33 Section 107C replaced

Section 107C

repeal, insert

107C Law and Justice Group

(1) The Minister may, by *Gazette* notice, approve a place for which a Law and Justice Group may be established and recognised for the purposes of:

(a) this Division; and

(b) Part 5, Division 4 of the *Youth Justice Act 2005*.

(2) A **Law and Justice Group** for a place approved under subsection (1) is a community group established by the community for the place.

- (3) The CEO may, by *Gazette* notice, approve a member of the Law and Justice Group that is established for the place to perform the functions of an approved member of the Group under:
- (a) this Division; and
 - (b) Part 5, Division 4 of the *Youth Justice Act 2005*.
- (4) In deciding whether to approve a member of the Law and Justice Group under subsection (3), the CEO must be satisfied that the member is an appropriate person to perform the functions of an approved member, having regard to the member's character, skills and experience.
- (5) The CEO may approve guidelines in relation to the approval of members of a Law and Justice Group under subsections (3) and (4).
- (6) Without limiting subsection (5), the guidelines may include criteria that are to be considered in making a decision under subsections (3) and (4).
- (7) Any guidelines approved under subsection (5) must be published on the Agency's website.
- (8) In this section:

CEO means the Chief Executive Officer of the Agency.

34 Section 107E amended (Community court sentencing procedure)

Section 107E(2)(b) and (4)(a) and (b), before "members"

insert

approved

35 Part 12, Division 14 inserted

Before Schedule 2

insert

**Division 14 Transitional matters for Justice and Other
Legislation Further Amendment Act 2024**

154 Definitions

In this Division:

amending Act means the *Justice and Other Legislation Further Amendment Act 2024*.

commencement means the commencement of Part 9 of the amending Act.

155 Continuation of approved places for Law and Justice Groups

An approval of a place under section 107C(1) of the Act that is in effect immediately before the commencement continues in effect after the commencement as if the place had been approved under section 107C(1), as inserted by the amending Act.

**156 Continuation of appointed members as approved members of
Law and Justice Groups**

- (1) Subsection (2) applies to a person who was appointed as a member of a Law and Justice Group for a place referred to in section 155, under regulation 19 of the *Sentencing Regulations 1996* as in force immediately before the commencement.
- (2) The person is taken to have been approved under section 107C(3), as inserted by the amending Act, to be an approved member of the Law and Justice Group for the place after the commencement.

Division 2 Amendment of Sentencing Regulations 1996

36 Regulations amended

This Division amends the *Sentencing Regulations 1996*.

37 Part 4 repealed (Law and Justice Groups)

Part 4

repeal

Part 10 Amendment of Youth Justice Act 2005**38 Act amended**

This Part amends the *Youth Justice Act 2005*.

39 Section 5 amended (Interpretation)

- (1) Section 5(1)

insert

approved member, for Part 5, Division 4, see section 80A.

- (2) Section 5(1), definition **Law and Justice Group**

omit

107C

insert

107C(2)

40 Section 80A amended (Definitions)

- (1) Section 80A

insert

approved member, of a Law and Justice Group, means a member of the Law and Justice Group who is approved under section 107C(3) of the *Sentencing Act 1995*.

- (2) Section 80A, definition **Law and Justice Group**

omit

see section 107C

insert

for a place, see section 107C(2)

41 Section 80D amended (Community court sentencing procedure)

Section 80D(2)(b) and (5)(a) and (b), before "members"

insert

approved

Part 11 Other laws amended

42 Other laws amended

The Schedule amends the laws mentioned in it.

Part 12 Repeal of Act

43 Repeal of Act

This Act is repealed on the day after it commences.

Schedule Other laws amended

section 42

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
<i>Gaming Control Act 1993</i>		
section 15(5)	his or her of perform	the gaming inspector's or perform
<i>Independent Commissioner Against Corruption Act 2017</i>		
section 142(2)	the Inspector's	Inspector
<i>Information Regulations 2003</i>		
regulation 8	32	19
<i>Liquor Act 2019</i>		
section 72(6)	whole subsection	(6) The Director must inform the Commissioner of Police of the application, as soon as reasonably practicable after receiving it.
<i>Local Government Act 2019</i>		
section 37(3)	16(1)(h).	16(1)(i).
<i>Serious Sex Offenders Act 2013</i>		
Schedule 2, entry for section 47AC of the <i>Summary Offences Act 1923</i>	Loitering by sexual offender	
<i>Sex Industry Act 2019</i>		
section 4, definition <i>Director</i>	26A.	22A.

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
<i>Work Health Court Rules 1999</i>		
rule 23.09(3)(a)	<i>Court Rules</i>	<i>Court (Civil Jurisdiction) Rules</i>