

Explanatory Statement

Attorney-General's Legislative Amendment Bill 2025

SERIAL NO. 19 LEGISLATIVE ASSEMBLY OF THE NORTHERN TERRITORY

ATTORNEY-GENERAL

GENERAL OUTLINE

The Bill amends various pieces of legislation within the Attorney-General's Department (AGD) portfolio.

The purpose of this Bill is to provide a streamlined and efficient vehicle to address operational issues within a range of different pieces of legislation in a timely manner, for amendments are not extensive enough to warrant their own amendment Bill, but are nevertheless required to ensure the legislation is up-to-date and correct.

NOTES ON CLAUSES

Part 1 Preliminary matters

Clause 1. Short Title.

This is a formal clause which provides for the citation of the Bill. This Bill when passed will be cited as the *Attorney-General Legislation Amendment Act 2025*.

Clause 2. Commencement.

This clause sets out how the amendment Act will be commenced. Subject to subsection (2), this Act commences on the day fixed by the Administrator by *Gazette* notice. If a provision of this Act does not commence before 17 March 2027, it commences on that day.

Part 2 Amendment of Health Care Decision Making Act 2023

Clause 3. Act amended

This Part amends the *Health Care Decision Making Act 2023*.

Clause 4. Section 54A inserted

This clause –provides an ability for the Senior Practitioner to delegate any of the Senior Practitioner's powers and functions under this Act to a public sector employee who the Senior Practitioner is satisfied has the appropriate qualifications and experience to exercise the powers or perform the functions.

Part 3 Amendment of Justices of the Peace Act 1991

Clause 5. Act amended

This Part amends the *Justices of the Peace Act 1991*.

Clause 6. Section 5 amended (Appointment of Justice of the Peace)

This clause inserts a requirement for the Administrator to consider whether a person is fit and proper before appointing the person as a Justice of the Peace. The criteria the Administrator is to consider are:

- (a) whether the person has been convicted of an offence in Australia or a foreign country and if so:
 - i. consideration is to be given as to the nature of the offence;
 - ii. how long ago the offence was committed;
 - iii. the person's age when the offence was committed; and
- (b) any other matter the Administrator considers relevant to the decision.

Clause 7. Section 13 amended (Clerk of the peace)

This clause makes a minor amendment to reflect the current drafting style when referencing the person in charge of a government agency.

Part 4 Amendment of Land Title Act 2000**Clause 8. Act amended**

This Part amends the *Land Title Act 2000*.

Clause 9. Section 44 amended (Issuing of certificates as to title)

This clause amends section 44 to substitute the word 'must' to 'may' to facilitate transition to electronic conveyancing in the Northern Territory. As paper based certificates of title will not be required for electronic conveyancing, the amendment will allow the Registrar-General to exercise discretion around issuing paper certificates in select circumstances outside of electronic conveyancing matters.

Part 5 Amendment of Legal Professional Act 2006**Clause 10. Act amended**

This Part amends the *Legal Profession Act 2006*.

Clause 11. Section 692A inserted

This clause inserts a new section after section 692, in Part 8.1, Division 4 which dispenses with the requirement in section 57 of the *Interpretation Act 1978* that statutory rules are numbered. The effect of the amendment will allow the making of legal profession conduct rules for solicitors and barristers without the need for them to be drafted by Parliamentary Counsel, or published on the government's legislation database.

This clause also inserts a new section 692B that requires the Law Society to publish legal profession rules on its website, in lieu of them being published on the government legislation database, to ensure rules continue to be accessible.

Part 6 Amendment of Misuse of Drugs Act 1990

Clause 12. Act amended

This Part amends the *Misuse of Drugs Act 1990*.

Clause 13. Schedule 1 amended (Dangerous drugs)

This clause amends the Schedule 1 list of drugs to reflect the high potency of the drug fentanyl and its analogues (acetyl-a-methylfentanyl, alfentanil and sufentanil) which have a higher risk of overdose compared to heroin which is currently a Schedule 1 dangerous drug. Further to this clause, additional drugs are to be included in Schedule 1. These drugs are Butonitazene, Clonitazene, Etodesnitazene, Etonitazene, Etonitazepipne, Etonitazepyne, Flunitazene, Isotonitazene, Metodesnitazene, Metonitazene, and Protonitazene, with trafficable and commercial quantities to be set at 0.005 grams and 0.25 grams respectively.

Clause 14. Schedule 2 amended (Other dangerous drugs)

The amendment to this clause removes fentanyl and its analogues, as well as Etonitazene and Clonitazene from Schedule 2 to give effect to the amendments in Clause 13 above.

Part 7 Amendment of Northern Territory Civil and Administrative Tribunal legislation

Division 1 Northern Territory Civil and Administrative Tribunal Act 2014

Clause 15. Act amended

This Division amends the *Northern Territory Civil and Administrative Tribunal Act 2014*.

Clause 16. Section 131 amended (Parties bear own costs)

This clause amends section 131 to clarify that subject to the provisions within this Division, the general position is that each party is to bear their own costs associated with proceedings in the NTCAT.

Clause 17. Section 132 amended (Tribunal may make costs orders)

This clause amends section 132 of the NTCAT Act to make it clear that NTCAT may make cost orders in favour of a party who has been substantially successful for the recovery of its costs associated with filling and serving documents as required under the Act, and other costs associated with those processes.

Clause 18. Regulations amended

This Division amends the *Northern Territory Civil and Administrative Tribunal Regulations 2014*.

Clause 19. Schedule amended (Fees)

This clause is a minor amendment which will remove the fee for an application made under the *Health Care Decision Making Act 2023*.

Part 8 Amendment of Oaths, Affidavits and Declarations Act 2010

Clause 20. Act amended

This Part amends the *Oaths, Affidavits and Declarations Act 2010*.

Clause 21. Section 23 amended (Commissioners for oaths)

This clause inserts a requirement for the Minister to consider whether a person is fit and proper before appointing the person as a commissioner of oaths. The criteria the Minister is to consider are:

- (a) whether the person has been convicted of an offence in Australia or a foreign country and if so:
 - i. consideration is to be given as to the nature of the offence;
 - ii. how long ago the offence was committed;
 - iii. the person's age when the offence was committed; and
- (b) any other matter the Minister considers relevant to the decision.

Part 9 Amendment of Residential Tenancies Act 1999

Clause 22. Act amended

This Part amends the *Residential Tenancies Act 1999*.

Clause 23. Section 7 amended (Exemptions)

This clause amends section 7 to exempt tenancies under the *Housing Act 1982* from the operation of sections 18A and 18B of the *Residential Tenancies Act 1999*.

Clause 24. Section 16 amended (Tenancy Trust Account)

This clause amends section 16 of the Act to make it clear that funding can be provided to either the Commissioner of Tenancies, bodies representing landlords, and bodies representing tenants, or any combination.

Part 10 Amendment of Sentencing Act 1995

Clause 25. Act amended

This Part amends the *Sentencing Act 1995*.

Clause 26. Section 3 amended (Interpretation)

This clause amends the current definition of *home detention condition* to support the amendments made to section 48.

Clause 27. Section 48 amended (Conditions of order imposed by court)

This clause inserts a new provision within section 48 to explicitly allow for a home detention condition to be ordered for a portion of an intensive community correction order. The amendment will make it clear that the community corrections order can contain a home detention condition that applies for part of the duration of the order.

Clause 28. Section 53 amended (Fixing of non-parole period by sentencing court)

This clause amends section 53(1) of the Act to remove reference to sections 53A and 54, and insert references to new sections 53AA and 53A, reflecting the respective omission and replacement of those provisions through clauses 29 and 30 below.

Clause 29. Section 53AA inserted

This clause inserts a new section, section 53AA which applies general non-parole periods to the sentencing of offenders for offences other than an offence to which section 53A, 55, 55A, or 148 applies.

Clause 30. Section 54 repealed (Fixed non-parole period for certain offences)

This clause repeals section 54 as it is replaced by the new section 53AA.

Clause 31. Section 55A amended (Fixed non-parole periods for offences against persons under 16 years)

This clause is a minor amendment to replace the word “Fixed” to “Minimum” in the section title. This amendment reflects the minimum non-parole period to be imposed for offences against persons under 16 years.

Clause 32. Section 57 amended (Fixing of new non-parole period in respect of multiple sentences)

This clause replaces reference to repealed sections 53A and 54 with reference to the new sections 53AA and 53A.

Part 11 Amendment of other laws**Clause 33. Other laws amended**

The Schedule makes minor amendments to the following legislation:

- (a) *Bail Regulations 1983*,
- (b) *Criminal Code*;
- (c) *Evidence (National Uniform Legislation) act 2011*,
- (d) *Information Act 2002*,
- (e) *Local Court Surrogacy Rules 2022*.

Part 12 Repeal**Clause 34. Repeal of Act**

This is a standard clause that provides that the *Attorney-General Legislation Amendment Act 2025* will be repealed on the day after it commences. On commencement, the provisions in this Bill automatically amend the Acts and Regulations listed above, thereby completing the Bill’s purpose. This is a standard provision to ensure that amendment Acts do not remain on the Statute Book after their commencement.

Schedule Other laws amended

This part establishes the Schedule which makes minor amendments to legislation as listed in Clause 33.