



Triple Bottom Line (TBL) Assessment Summary

The Triple Bottom Line Assessment is required to be published in accordance with Part 4, section 23 (1)(b) of the Freedom of Information Act 2016

19/641 Justice Legislation Amendment Bill

Summary of impacts: The TBL assessment indicated that the most significant impacts were on access to services and to justice and crime. These impacts were positive and operate to improve efficiencies in services by removing barriers to participation and improving accuracy of information. A number of amendments that are being introduced will also have positive impacts on justice and crime.

There were no significant economic or environmental impacts of the proposed changes. All social, economic and environmental impacts identified were assessed as having a positive impact on the ACT community.

Level of impact	Positive	Negative	Neutral
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Social		
Level of impact	Impact	Summary
Positive	Gender Equality	<ul style="list-style-type: none"> The proposed amendment to the <i>Discrimination Act 1991</i> to clarify that the protected attribute of 'gender identity' includes 'gender expression', changing 'intersex status' to 'sex characteristics', and broadening the definition of 'sexuality', has a positive impact on protecting against discrimination on these grounds. A number of the proposed amendments to the <i>Human Rights Commission Act 2005</i> provide positive gender impacts: <ul style="list-style-type: none"> Removing the requirement that a conciliation is likely to be successful before it is referred to conciliation will improve access to conciliation to individuals, making it more available to people with discrimination complaints on the grounds of breastfeeding, gender identity, intersex status, pregnancy, record of a person's sex having been altered, relationship status, sex and sexuality. Allowing the Human Rights Commission (the Commission) to refer a Commission initiated consideration to ACT Civil and Administrative Tribunal (ACAT) will allow ACAT to make a determination on the basis of breastfeeding, gender identity, intersex status, pregnancy, record of a person's sex having been altered, relationship status, sex and sexuality. This will allow ACAT to make a determination in matters where an

		<p>individual is unable to bring a complaint, or in discrimination matters of a systemic nature.</p> <ul style="list-style-type: none"> • The proposed amendment to the <i>Spent Convictions Act 2000</i> allows some sexual offence convictions when the person was a child or young person to be spent. There is no specific data available on the gender make up of offenders who would be eligible to make applications under the new provision. However, it is known that women are disproportionately the victims of sexual assault, and as such, victims affected by the crimes for which an application is being made are likely to be female.
Positive	Health (Community and mental health)	<ul style="list-style-type: none"> • The proposed amendment to the <i>Road Transport (Alcohol and Drugs) Act 1977</i> extends an offence to drive or ride a vehicle while under the influence of alcohol to also cover being under the influence of a drug or drugs. This will reduce the risk to road users and pedestrians and improve community safety. • The proposed amendment to the <i>Domestic Animals Act 2000</i> to change the definition of 'serious injury' will provide greater certainty over the definition and align ACT legislation with the international best practice standard, the Dunbar scale
Positive	Access to services	<ul style="list-style-type: none"> • A number of the proposed amendments to the <i>Human Rights Commission Act 2005</i> provide improved access to the Commission's complaints-handling and conciliation service including: <ul style="list-style-type: none"> ○ Removing the requirement that a conciliation is likely to be successful before referring a complaint to conciliation will make conciliation available to more complainants. ○ Removing the requirement to withdraw a complaint in writing means that more complainants will be able to formally withdraw a complaint. ○ Removing the requirement that conciliation of a complaint be separate from and independent to any consideration of a complaint will assist in streamlining the complaints-handling process and reducing the number of officers complainants and respondents will have to deal with, improving continuity of service. ○ Removing the requirement to make a written record of the agreement for a conciliation to be successful will improve access to services by facilitating more swift, informal and flexible resolutions of complaints through conciliation. • The proposed amendment to the <i>Victims of Crime Act 1994</i> and <i>Victims of Crimes (Financial Assistance) Act 2016</i> to remove the requirement for victims of crime levies to be stated on a fine order or penalty notice and instead be provided in a separate written notice will improve access to services for offenders through clear and correct provision of information.

Positive	Housing and Affordable housing	<ul style="list-style-type: none"> • The proposed amendment to the <i>Human Rights Commission Act 2005</i> to remove the requirement that a conciliation is likely to be successful before it is referred to conciliation will improve access to conciliation to individuals with retirement village and occupancy disputes. • The proposed amendment to the <i>Civil Law (Sale of Residential Property) Act 2003</i> allows for better identification of adaptable housing dwellings. • The proposed amendments to the <i>Unit Titles (Management) Act 2011</i> clarifies the opening and operation of bank accounts for owners corporations to assist with their financial management and standardises proxy forms used across strata community for better consistency.
Positive	Access to social inclusion/participation and community activities	<ul style="list-style-type: none"> • The proposed amendment to the <i>Spent Convictions Act 2000</i> to allow some sexual offence convictions when the person was a child or young person to be spent will greatly assist those individuals in participating in community activities. Many community activities require a police check in order to participate, even where the activity does not involve working with vulnerable people. Individuals with a conviction on their record will often experience difficulties being allowed to participate in social and community activities, even where the conviction has no impact on the activity being undertaken.
Positive	Human rights	<ul style="list-style-type: none"> • The proposed amendment to the <i>Spent Convictions Act 2000</i> to allow some sexual offence convictions when the person was a child or young person to be spent positively engages the right to equality and non-discrimination, children's rights, and the right to privacy. • The proposed amendment to the <i>Discrimination Act 1991</i> to clarify that the protected attribute of 'gender identity' includes 'gender expression', changing 'intersex status' to 'sex characteristics', and broadening the definition of 'sexuality', positively engages the right to recognition and equality before the law. • A number of proposed amendments in the <i>Human Rights Commission Act 2005</i> have a positive impact on human rights: <ul style="list-style-type: none"> ○ The removal of the requirement to close a complaint in writing positively engages the right to recognition and equality before the law as it allows all complainants the ability to withdraw complaints regardless of ability to do so in writing. ○ Allowing the Commission to refer a Commission initiated consideration to ACAT positively engages the right to recognition and equality before the law, including where an individual is unable to make a complaint themselves. It also positively engages the right to have rights recognised by law, decided by a competent, independent and

		<p>impartial court or tribunal after a fair and public hearing.</p> <ul style="list-style-type: none"> • A number of proposed amendments in the <i>Human Rights Commission Act 2005</i> permissibly limit the right to privacy: <ul style="list-style-type: none"> ○ Making the provision that allows information to be shared internally within the Commission permanent engages the right to privacy. This amendment is rationally connected to the legitimate objective of a functioning Human Rights Commission, and includes adequate safeguards on the use of that information. • The proposed amendment to the <i>Agents Act 2003</i> has a neutral impact on human rights. The amendment allows the Commissioner for Fair Trading to determine whether a person is a ‘fit and proper’ person for the purpose of holding a licence or registration to practice as a real estate agent or salesperson. The ‘fit and proper’ person test introduced by the Bill has been assessed against the <i>Human Rights Act 2004</i> and seeks to ensure that any limitation on the right to work and the right to equality and non-discrimination is proportionate to a legitimate objective (to enhance public safety) while providing adequate safeguards.
Positive	Aboriginal and Torres Strait Islander	<ul style="list-style-type: none"> • A number of proposed amendments in the <i>Human Rights Commission Act 2005</i> will have a positive impact on Aboriginal and Torres Strait Islander Peoples: <ul style="list-style-type: none"> ○ The removal of the requirement to close a complaint in writing will improve access for complainants for whom English is their second language or who have difficulties with literacy. ○ Removing the requirement that a conciliation is likely to be successful before it is referred to conciliation will improve access to conciliation to individuals with discrimination complaints on the grounds of race. ○ Empowering the Commission to share information internally on an ongoing basis where necessary for its functions will promote the values of the Commission’s Cultural Safety Charter, which prioritises a comfortable, safe and welcoming place and provides safe services that demonstrate privacy, discretion, compassion and integrity. This will allow the Commission to assist Aboriginal and Torres Strait Islanders where they are seeking the Commission’s services in multiple domains, and allow for joined-up services in circumstances where communication or cultural barriers may impede identifying the consumer’s concerns. • Allowing the Commission to refer a Commission initiated consideration to ACAT that deals with discrimination on the basis of race.
Positive	Multicultural	<ul style="list-style-type: none"> • A number of proposed amendments in the <i>Human Rights Commission Act 2005</i> will have a positive impact on people from multicultural backgrounds:

		<ul style="list-style-type: none"> ○ The removal of the requirement to close a complaint in writing will improve access for complainants for whom English is their second language or who have difficulties with literacy. ○ Removing the requirement that a conciliation is likely to be successful before it is referred to conciliation will improve access to conciliation to individuals with discrimination complaints on the grounds of immigration status, race and religious conviction. ○ Empowering the Commission to share information internally on an ongoing basis where necessary for its functions will promote the values of the Commission’s Cultural Safety Charter, which prioritises a comfortable, safe and welcoming place and provides safe services that demonstrate privacy, discretion, compassion and integrity. This will allow the Commission to assist people from different cultural and ethnic backgrounds where they are seeking the Commission’s services in multiple domains, and allow for joined-up services in circumstances where communication or cultural barriers may impede identifying the consumer’s concerns. ○ Allowing the Commission to refer a Commission initiated consideration to ACAT that deals with discrimination on the basis of immigration status, race and religious conviction.
Positive	Impacts on different age groups	<ul style="list-style-type: none"> ● The proposed amendment to the <i>Spent Convictions Act 2000</i> to allow some sexual offence convictions when the person was a child or young person to be spent assist children and young people to be a part of community and improve their prospects of employment. ● A number of proposed amendments in the <i>Human Rights Commission Act 2005</i> will have a positive impact on different age groups: <ul style="list-style-type: none"> ○ The removal of the requirement to close a complaint in writing will improve access for age groups who may not use or have difficulty in using computers. ○ Removing the requirement that a conciliation is likely to be successful before it is referred to conciliation will improve access to conciliation to individuals with discrimination complaints on the grounds of age, complaints about services for children and young people and complaints about services for older people. ○ Empowering the Commission to share information internally on an ongoing basis will give Commission members and staff the scope to discuss their approach in matters involving children and young people and older people, particularly relevant given interaction between the Children and Young People Commissioner and Community Services

		<p>Commissioner, who has jurisdiction for handling children and young people services complaints.</p> <ul style="list-style-type: none"> • Allowing the Commission to refer a Commission initiated consideration to ACAT that deals with discrimination on the basis of age.
Positive	Disability	<ul style="list-style-type: none"> • A number of proposed amendments in the <i>Human Rights Commission Act 2005</i> will have a positive impact on people living with a disability: <ul style="list-style-type: none"> ○ The removal of the requirement to close a complaint in writing will improve access for people who may find that process difficult. ○ Removing the requirement that a conciliation is likely to be successful before it is referred to conciliation will improve access to conciliation to individuals with discrimination complaints on the grounds of age or complaints about disability and community services. ○ Empowering the Commission to share information internally on an ongoing basis will allow for consistent and tailored adjustments to processes and awareness of the need for such supports among Commission members and staff. It may also prompt notification to and responses by the Public Advocate in emergency circumstances. • Allowing the Commission to refer a Commission initiated consideration to ACAT that deals with discrimination on the basis of disability. • The proposed amendment to the <i>Civil Law (Sale of Residential Property) Act 2003</i> allows for better disclosure to relevant persons looking for adaptable housing dwellings available for purchase on the property market.
Positive	Disadvantaged and vulnerable	<ul style="list-style-type: none"> • The proposed amendment to the <i>Crimes (Sentence Administration) Act 2005</i> to clarify that victims can make oral submission to the Sentence Administration Board will increase access for victims to participate. • A number of proposed amendments in the <i>Human Rights Commission Act 2005</i> will have a positive impact on disadvantaged and vulnerable individuals: <ul style="list-style-type: none"> ○ The removal of the requirement to close a complaint in writing will improve access for complainants without access to computers, who have difficulties with literacy or who do not have a fixed address. ○ Removing the requirement that a conciliation is likely to be successful before it is referred to conciliation will improve access to conciliation to disadvantaged and vulnerable individuals, a free service which is inherently more accessible than the courts and tribunal. ○ Allowing the Commission to refer a Commission initiated consideration to ACAT that deals with discrimination on the basis of accommodation status, employment status, irrelevant criminal record, parent, family carer or kinship

		<p>responsibilities and subjection to domestic or family violence.</p> <ul style="list-style-type: none"> • The proposed amendment to the <i>Victims of Crime Act 1994</i> and <i>Victims of Crimes (Financial Assistance) Act 2016</i> to remove the requirement for victims of crime levies to be stated on a fine order or penalty notice and instead be provided in a separate written notice will assist disadvantages and vulnerable groups as they are often over-represented as defendants and clients of ACT Court and Tribunal services. • Changes to allow the Commissioner for Fair Trading to undertake binding conciliation under the <i>Fair Trading (Australian Consumer Law) Act 1992</i> may support vulnerable consumers to receive redress
Positive	Justice and Crime	<ul style="list-style-type: none"> • The proposed amendment to the <i>Crimes (Sentence Administration) Act 2005</i> to clarify that victims can make oral submission to the Sentence Administration Board will increase access for victims to participate in justice processes. • The proposed amendment to the <i>Crimes (Sentence Administration) Act 2005</i> to support the functions of the Sentence Administration Board will support community safety and support the rehabilitation of offenders. • The proposed amendment to the <i>Road Transport (Alcohol and Drugs) Act 1977</i> extends an offence to drive or ride a vehicle while under the influence of alcohol to also cover being under the influence of a drug or drugs. This ensures that enforcement can be taken against any road user who is under the influence of drugs while travelling on a vehicle or animal while on a road or road related area. • The proposed amendment to the <i>Domestic Animals Act 2000</i> to improve traceability of sales of cats and dogs will improve ability to address illegal online breeding. • A number of proposed amendments in the <i>Human Rights Commission Act 2005</i> will have a positive impact on access to justice: <ul style="list-style-type: none"> ○ Removing the requirement that a conciliation is likely to be successful before it is referred to conciliation will improve access to conciliation, an alternative dispute resolution mechanism. ○ Empowering the Commission to share information internally will allow for efficient and joined-up service delivery to victims of crime, including informed decisions by other Commission members about whether a particular consumer is appropriate for referral to the Victim Support Scheme. ○ Allowing the Commission to refer a Commission initiated consideration to ACAT will improve access to justice by allowing ACAT to make a determination in matters where an individual is unable to bring a complaint, or in discrimination matters of a systemic nature.

		<ul style="list-style-type: none"> • The presence of convictions on criminal records is correlated with increased recidivism. The proposed amendment to the <i>Spent Convictions Act 2000</i> to allow some sexual offence convictions when the person was a child or young person to be spent where it is in the public interest to do so may reduce contact with the criminal justice system. • The proposed amendment to the <i>Victims of Crime Act 1994</i> and <i>Victims of Crimes (Financial Assistance) Act 2016</i> to remove the requirement for victims of crime levies to be stated on a fine order or penalty notice and instead be provided in a separate written notice will improve efficiencies of ACT Court and Tribunal administration and ensure correct application of fees and levies. <p>The proposed amendment to the <i>Fair Trading (Australian Consumer Law) Act 1992</i> will introduce a low-cost avenue for dispute resolution between consumers and businesses of up to \$5,000, and have positive impacts to access to justice for consumers.</p>
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Economic		
Level of impact	Impact	Summary
Positive	ACT Government Budget	<ul style="list-style-type: none"> • Some of the proposals to amend the <i>Human Rights Commission Act 2005</i> are likely to impact the costs and resourcing at the ACT Human Rights Commission. <ul style="list-style-type: none"> ○ The proposed amendment to amend Division 4.2 to allow Commission-initiated complaints to be referred to the ACAT may result in increased costs for the Commission associated with potential increased litigation. The proposal to remove the requirement in section 51(1)(a) that a complaint is likely to be successfully conciliated before being able to refer it to conciliation may result in a small increase in the numbers of matters conciliated at the Commission. • Conversely, while not a direct financial impact, the proposal to remove the requirement in section 61 that conciliation of a complaint be separate from consideration of the complaint may lead to a small decrease in resources required to consider complaints by reducing time spent handing over files. Further, by removing the requirement that a complaint may be closed as successfully conciliated only after there is a written record of the agreement will allow the Commission to more accurately close matters under section 78(1)(g), and therefore more accurately report on successful conciliation conferences and better inform budget decisions. • Introducing a 'fit and proper' person test in the Agents Act and a process for the Commissioner to conciliate consumer disputes in the <i>Fair Trading (Australian Consumer Law) Act 1992</i> will have staffing

		<p>implications and to the extent that supplementary budget funding is considered necessary, Access Canberra will separately progress a budget bid in future years for this purpose.</p>
Positive	Productivity	<ul style="list-style-type: none"> • Employers often require a police check prior to employment. It is not uncommon for an offer of employment to be revoked due to the police check having a criminal conviction on it, particularly where the conviction is for a sexual offence. The proposed amendment to the <i>Spent Convictions Act 2000</i> to allow some sexual offence convictions when the person was a child or young person to be spent may increase productivity by improving employment outcomes. • The proposed amendment to the <i>Victims of Crime Act 1994</i> and <i>Victims of Crimes (Financial Assistance) Act 2016</i> to remove the requirement for victims of crime levies to be stated on a fine order or penalty notice and instead be provided in a separate written notice will ensure ongoing efficiencies with the ACT Courts and Tribunal including utilising the full capacity of the Integrated Court and Tribunal Management System in issuing fine orders.
Positive	Employment and labour force	<ul style="list-style-type: none"> • Employers often require a police check prior to employment. It is not uncommon for an offer of employment to be revoked due to the police check having a criminal conviction on it, particularly where the conviction is for a sexual offence. The proposed amendment to the <i>Spent Convictions Act 2000</i> to allow some sexual offence convictions when the person was a child or young person to be spent may improve employment outcomes.
Positive	Small business impact	<ul style="list-style-type: none"> • The proposed amendment to the <i>Domestic Animals Act 2000</i> to improve traceability of sales of cats and dogs has a positive impact on small business as pet shops may benefit from a reduction in illegal online sales meaning higher demand for legitimate sales through their small businesses. • Changes to allow for binding conciliation under the <i>Fair Trading (Australian Consumer Law) Act 1992</i> may encourage greater compliance with the Australian Consumer Law but may also assist small businesses in their dealings with other traders. • Changes to the <i>Agents Act</i> to introduce a 'fit and proper' person test will impact on real estate businesses but may also build greater confidence in the profession.
Positive	Investment and Economic Growth	<ul style="list-style-type: none"> • The proposed amendment to the <i>Fair Trading (Fuel Prices) Act 1993</i> to include hydrogen within the definition of 'fuel' sets market frameworks for hydrogen fuels which could help to encourage uptake of hydrogen vehicles – a type of zero emissions vehicle. Uptake of zero emissions vehicles are an

		important part of the ACT's strategy towards reducing greenhouse gas emissions associated with the transport sector, as well as creating new industries under the energy transition landscape for the ACT.
Positive	Competition	<ul style="list-style-type: none"> The proposed amendment to the <i>Fair Trading (Fuel Prices) Act 1993</i> to include hydrogen within the definition of 'fuel' will ensure business will comply with obligations and responsibilities of the fuel industry. Changes to allow the Commissioner for Fair Trading to undertake binding conciliation under the <i>Fair Trading (Australian Consumer Law) Act 1992</i> may encourage greater compliance with the Australian Consumer Law and a more equal playing field.
Positive	Cost of living	<ul style="list-style-type: none"> The proposed amendment to the <i>Fair Trading (Fuel Prices) Act 1993</i> to include hydrogen within the definition of 'fuel' will ensure the costs of this emerging energy source will be regulated just like any other fuel in the ACT. Changes to allow the Commissioner for Fair Trading to undertake binding conciliation under the <i>Fair Trading (Australian Consumer Law) Act 1992</i> may allow for small claims to be addressed more quickly and easily.

Environmental		
Level of impact	Impact	Summary
Positive	Climate Change mitigation	<ul style="list-style-type: none"> The proposed amendment to the <i>Fair Trading (Fuel Prices) Act 1993</i> to include hydrogen within the definition of 'fuel' will ensure that emerging hydrogen technology is incorporated into relevant regulations and will assist in stimulating emerging zero-emissions alternative fuels for the transport sector. Uptake of zero emissions vehicles are an important part of the ACT's strategy towards reducing greenhouse gas emissions associated with the transport sector.