

YOUTH LAW MATTERS

**A LEGAL GUIDE FOR YOUNG PEOPLE
IN THE ACT**

WRITTEN BY THE YOUTH LAW CENTRE ACT.



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INTRODUCTION

What is this handbook for?

Youth Law Matters was created to help you understand some of the laws that are about young people and can affect you.

It aims to help by providing:

- A quick source of information on common legal issues affecting young people in the ACT, including school, work, income support, safety, sex, police, drugs, cars, debt and consumer problems; and
- A list of services and websites you can use to get further information and help.

Feedback and Comments

We would love to hear your feedback or comments on this publication. For example, have we left out a legal issue? Should we give more detailed information about a certain topic?

If you let us know what you think we'll be able to make some improvements for our next edition. Please email community.education@legalaidACT.org.au or phone 02 6173 5410.

Finding out about our legal system – it's not as hard as you think!

Reading this handbook is a great way to begin learning about the laws and legal processes that affect you. Keep looking into these issues – the more you know, the easier it is to participate in decisions that affect you.

'Youth Law Matters' has references to youth services, websites and phone numbers that young people can use to get more information.

There are a lot of websites out there with useful information, including:

Legal Aid ACT	www.legalaidACT.org.au
Youth Law Centre ACT	www.legalaidACT.org.au
Lawstuff	www.lawstuff.org.au
ACT Legislation Register	www.legislation.act.gov.au
Family Court of Australia	www.familycourt.gov.au
NSW Law and Justice Foundation	www.lawfoundation.net.au
Public Interest Advocacy Centre	www.piac.asn.au

WHEN CAN I?

This Handbook is intended as a general guide only. If you have questions, it is a good idea to get advice about your particular situation.

For free and confidential information about any of these issues, contact:

Youth Law Centre ACT	www.legalaidact.org.au	6173 5410
Legal Aid ACT	www.legalaidact.org.au	1300 654 314

At any age

- Make a complaint
- Get legal advice
- Open a bank account (with parent or guardian's consent)
- Talk to a counsellor
- Get a tattoo (with parent or guardian's consent)¹
- Buy condoms they are free from most Family Planning clinics)
- Visit a doctor or Sexual Health and Family Planning ACT with a parent or carer

At 10 years old

- Be charged with a crime. However, the law presumes that a child under 14 cannot be convicted of an offence unless the child understood what they did was wrong

At 14 years old

- See a doctor or visit Sexual Health and Family Planning ACT by yourself

At 15 years old

- Leave school (as long as you participate in full-time training or employment until completing Year 12 or equivalent, or turn 17)
- Get a Medicare card
- Get a job (as long as this does not affect your education if you are still enrolled in school)²
- At 15 years and 9 months – apply for a Learner driver's licence (L-Plate) to drive a car
- Apply for Centrelink payment

¹ Children and Young People Act 2008 (ACT) s 877.

² Ibid s 782(b)

At 16 years old

- Have sex (as long as both people are over the age of 16 and give consent)
- Get a prescription for contraceptives (eg. birth control pill)
- Apply to ACT Housing for a place to live
- Apply for Youth Allowance at Centrelink
- Open a bank account (without your parent or guardian's consent)
- Get married (with the court's permission)
- Consent to a medical procedure without parental permission

At 17 years old

- Apply for a provisional driver's licence (P Plates)
- Leave school without needing to participate in full time training or employment

At 18 years old

- Change your name (without your parent or guardian's consent)
- Get a tattoo (without your parent or guardian's permission)
- Buy alcohol, tobacco and cigarettes
- Get married
- Enter into a civil partnership
- Vote in elections and stand for Parliament
- Sign contracts
- Go into a licensed venue (pub, club etc)
- Make a will
- Enter a casino or gamble
- Be sent to an adult prison

Legal Information and Advice

If you have a legal question, or want some advice on a particular situation, then you can easily access some free and confidential services.

Legal Representation

You may need a lawyer to represent you if you have to go to court, or are dealing with a legal issue over a long period.

Young people go to court for different reasons, including being charged with a crime, care and protection matters, and family proceedings. Sometimes they need to talk to a lawyer to guide them through legal issues like car accident claims, employment disputes or sexual harassment allegations.

The Youth Law Centre and Legal Aid ACT can help you.

Youth Law Centre ACT	www.legalaidACT.org.au	6173 5410
Legal Aid ACT	www.legalaidACT.org.au	1300 654 314

THE AUSTRALIAN LEGAL SYSTEM

The Australian legal system was created by the Constitution on January 1st 1901. There are two main features of this legal system: Federalism and the Separation of Powers.

Federalism

Federalism comes from the United States and is one of the most important ways we stop the Government from exercising too much power. In a nutshell, no matter where you are in Australia, there are two Governments that look after you – your State/Territory Government and the Federal Government. For example, if you are in Ballarat, the Victorian Government and the Federal Government look after you. If you are in Tathra, the governments looking after you are the NSW Government and the Federal Government.

Separation of Powers

Separation of Powers means Government functions are divided into three parts:

- The power to make laws – the Legislature (Parliament)
- The power to use those laws to make decisions – the Executive (the Queen, the Governor General, the Prime Minister and the Cabinet)
- The power to determine rights and duties, and to judge and punish criminal guilt – the Judiciary (Courts).

In Australia, the Courts protect this balance by resolving disagreements that arise.

The Legal System in the ACT

The law in Australia can be made in two different ways: court cases and legislation. The laws from cases are the decision of judges in a Court. The laws from legislation, or statutes, are the Acts passed by Members of Parliament, or the Legislative Assembly.

Commonwealth legislation is created by 'Federal Parliament', and applies throughout the whole of Australia. Each State also has its own 'State Parliament'. The Northern Territory

and the ACT have a 'Legislative Assembly'. These parliaments can pass legislation. This legislation only applies in its own State or Territory.

Because of this, some laws are different between States and/or Territories. For example, laws about public housing, drugs, police powers, child protection and domestic violence orders vary greatly from State to State/Territory and the laws in the ACT can be different to those in NSW.

Please be aware that this handbook is about the laws in the ACT. If you go into NSW (even just across to Queanbeyan), your rights and responsibilities may be different.

Courts and the Law

You have probably heard about the terms civil, criminal and public law.

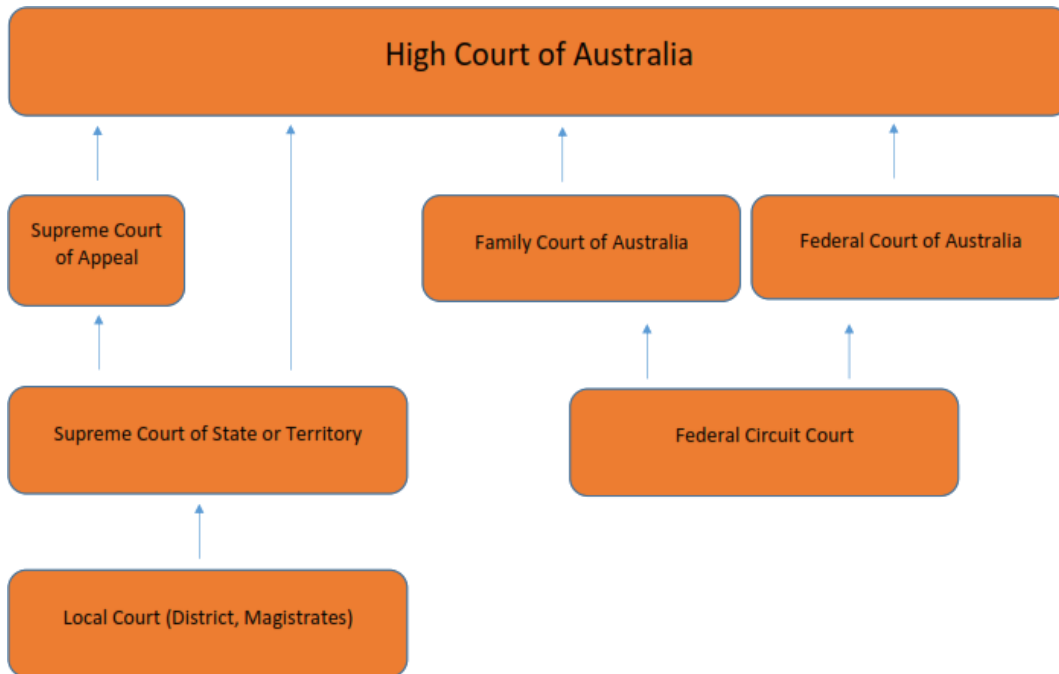
Civil law involves any disagreement between people or companies so can sometimes be called 'private law'. Examples are if someone hurts you in a car accident, a fencing dispute with a neighbour, or a mining company losing money because a shipping company was late. In all of these cases, the people 'hurt' can go to Court and ask for money as compensation. This is called seeking damages.

Criminal law is where the police charge someone with a crime and a Court decides if they should be punished. This could involve a fine or jail. Criminal law is between the accused person and the Department of Public Prosecutions. Examples include stealing property and deliberately hurting other people.

Public law involves a dispute about the actions of Government. Examples include if someone's house is compulsorily acquired or if a Minister cancels someone's visa.

In all of these cases, a judge of a court will listen to both sides of the story, look at all the facts (evidence) and make a decision that both parties will have to follow. It is possible to have higher Courts in Australia review the decision by having an appeal. This could be from a local court to a Supreme Court (the highest court in a State or Territory), from a Supreme Court to a Court of Appeal, or even from a Court of Appeal to the High Court of Australia.

People will likely need a lawyer to represent them in Court.



What do Lawyers do?

Lawyers have training that makes them able to research the law, write legal documents and comfortably appear in Court.

Lawyers are able to listen to a problem and work out which problems are legal and social. They can also help you access other services that can help such as financial counselling, mediation and social workers.

‘Lawyer’ is a general term. Barristers and solicitors are also lawyers.

Do you need legal help?

There are many legal services that are here to help you with the process of identifying and resolving your legal issues. This document is a good place to start to find the right service to help you.

If you have been arrested, served with a notice to attend court, have committed a crime, feel you have been harmed physically, financially or even maybe treated unfairly by someone, it can be worth talking to a lawyer as soon as possible.

ALCOHOL AND DRUGS

Alcohol

You must be 18 or older to buy alcohol or drink alcohol in a public place. This includes pubs, clubs and nightclubs. You are not even allowed to carry alcohol if you are under 18 – you may be fined up to \$800 if you are found guilty of these offences.³

If you are under 18, you must not go into the adults-only area of a location where alcohol is being served, unless accompanied by a parent or a person who would be able to supervise your visit to the area. If you are under 18 and you go into a place where alcohol is served without a responsible adult, you can be fined up to \$800.⁴

The police can charge a person with an offence if they buy or supply alcohol for a person under 18.⁵

Regardless of your age, it is against the law to drink alcohol, or have an open bottle or can of alcohol, in a place where the ACT Government has banned public drinking. Some of these places include within 50 metres of a bus interchange, within 50 metres of a shop or licensed premises or at a place that has been declared alcohol free, such as Summernats.⁶ The fine for this offence is up to \$800.⁷

It is against the law to give alcohol to someone under the age of 18 in a private place (such as a home) unless:

- The person supplying the alcohol is a parent or guardian, or has the permission of the parent or guardian; and
- There is reasonable supervision of the person under 18.⁸

³ Liquor Act 2010 (ACT) ss 202, 206.

⁴ Ibid s 121.

⁵ Ibid ss 110 – 112, 204.

⁶ Ibid s 199.

⁷ Ibid.

⁸ Ibid s 204A.

What will happen if I am caught drinking underage?

A police officer or an inspector from the Liquor Licensing Board can ask you to prove your age. You can use a Driver's Licence or a Proof of Age Card to prove that you are 18 or over. Police officers and Liquor Licensing Board inspectors are allowed to ask this type of information, and take away from you any alcohol that you are drinking or have in your possession.

You may be taken to a police station if you cannot or will not provide ID showing that you are over 18. You can also be taken to a police station if you lie about your age or give a fake ID.

At the police station, you will either be let off with a warning or charged with an offence. If you are given a warning, but are caught committing the same offence within the next 12 months, you will likely be charged and taken to court.

If you are caught using a fake ID to enter into an adults-only area, you may be charged up to \$800.⁹ If you are caught using a fake ID to buy alcohol, you may be charged up to \$800.¹⁰

You should also remember that anything you say to an inspector or a police officer can be used in court.

If you think that you have been mistreated, you should be sure to contact the Commonwealth Ombudsman:

Youth Law Centre ACT	www.legalaidACT.org.au	6173 5410
Legal Aid ACT	www.legalaidACT.org.au	1300 654 314
Commonwealth Ombudsman	www.ombudsman.gov.au	1300 362 072
Directions ACT	www.directionsact.com	6122 8000

Cigarettes

You cannot buy cigarettes if you are under 18 years old.¹¹

If you are under 18, it is illegal for someone to sell you cigarettes or tobacco.

⁹ Ibid s 122.

¹⁰ Ibid s 203.

¹¹ Tobacco and Other Smoking Products Act 1927 (ACT) s 14.

It is also illegal for someone to let you buy cigarettes from a vending machine, or for someone to buy them for you.¹²

Quitline	www.quitnow.gov.au	13 78 48
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Other Drugs

The law separates drugs into two categories:

- Controlled drugs: including amphetamines/speed, MDMA/ecstasy, ice, cocaine and heroin; and
- Prohibited substances – including cannabis (marijuana) – cannabis offences are different to other drug offences in the ACT.

Controlled Drugs

The main offences for controlled drugs (including speed, ecstasy, heroin, cocaine and ice) are:

Trafficking:

- ‘Trafficking’ includes possessing, selling, preparing, transporting or concealing drugs.
- This means you can be charged with trafficking even if you have never seen or touched the drugs – for example, if you were responsible for guarding the drugs.
- Penalties include heavy fines and imprisonment. The maximum penalty for trafficking in a commercial quantity of a controlled drug is \$400,000 in fines, up to 25 years imprisonment or both.¹³

Supply:

- Selling drugs, or possessing, preparing, transporting or hiding drugs with the intention of selling them, or with the belief that someone else intends to sell them, equates to the supply of drugs.
- Supplying a small amount of a drug (such as one ecstasy tablet or 1 gram of heroin) carries the maximum penalty of \$80,000 in fines, 5 years imprisonment or both.¹⁴
- Supplying larger quantities of a drug carries the maximum penalty of life imprisonment.

¹² Ibid s 15.

¹³ Criminal Code 2002 (ACT) s 603(3).

¹⁴ Drugs of Dependence Act 1989 (ACT) s 164.

Possession:

- 'Possession' means having drugs on your premises (such as at home, school or at work) or on your body (such as in your pocket or bag), and it can be shown that you have physical control over the drugs.
- The maximum penalty is \$8,000, 2 years imprisonment or both.¹⁵

Administration to Others:

- Injecting someone with a drug or putting a drug into another person's mouth (unless you are a doctor, pharmacist, nurse or midwife) equates to administration to other. For example, spiking someone else's drink would be an administration of drugs.
- The maximum penalty is \$16,000 in fines, 1 year imprisonment or both.¹⁶

Cannabis (Marijuana)

The main cannabis (marijuana) offences are different from the other 'controlled drug' offences. It is really important to understand that cannabis is not legal in the ACT – it is simply what we call 'decriminalised'. This means that the penalties for offences may not be as harsh, but it is still illegal.

New rules surrounding personal use of cannabis came into effect on 31 January 2020.¹⁷ If you are under the age of 18, it remains a criminal offence to possess, cultivate or supply cannabis.

If you are over 18, you can legally possess up to 50g of cannabis and have two plants growing for personal use. Police can fine and charge you if you possess dried cannabis weighing more than 50g, or fresh cannabis weighing more than 150g.¹⁸ If you are issued an on the spot fine (Simple Cannabis Offence Notice), are not charged, and pay the fine on time, it will not go on your criminal record. If you are charged, you will go to court and may get a criminal record as well as a fine.

Use of Cannabis:

- Smoking or using cannabis in a public place is a criminal offence.¹⁹
- Exposing a young child or young person to cannabis smoke is a criminal offence.²⁰

¹⁵ Ibid s 169(1).

¹⁶ Medicines, Poisons and Therapeutic Act 2008 (ACT) s 37.

¹⁷ Drugs of Dependence (Personal Cannabis Use) Amendment Bill 2018.

¹⁸ Ibid s 171AA(2).

¹⁹ Ibid s 171AB(1).

²⁰ Ibid s 171AB(2).

Cultivation:

- 'Cultivation' means growing, nurturing, guarding or harvesting cannabis plants or paying someone else to do these things
- For cultivating more than 2 plants per person for personal use, or more than 4 plants per household, the penalty may be either a fine of up to \$8000, imprisonment of up to 2 years or both.²¹
- For cultivating a cannabis plant at a place other than where the person lives, the penalty may either be a fine of up to \$8000, imprisonment of up to 2 years or both.²²

Supply and Trafficking:

- 'Trafficking' is where a person sells, possesses, prepares, transports or conceals drugs with the intention of selling them, or with the belief that someone else intends to sell them.²³
- It is an offence to sell or share any cannabis, including plants and seeds²⁴
- Trafficking of less than 300g of cannabis carries a maximum penalty of \$48,000 in fines, 3 years imprisonment or both.²⁵
- Trafficking of 300g or more of cannabis carries a maximum penalty of 10 years imprisonment, of \$160,000 in fines or both.²⁶

Possession:

- If you are under 18 years old and possess 50g or less of cannabis, the penalty may be a fine of \$160.²⁷
- If you possess more than 50g of cannabis, the penalty may be both a fine of up to \$8000 and imprisonment.²⁸

Administration to Others:

- Administration is not the same as supply. It means administering someone with a drug such as by putting the drug into the other person's mouth (unless you are a medical professional acting in medical capacity).
- Maximum penalty for administration to others is 1 year imprisonment, \$16,000 in fines or both.²⁹

²¹ Ibid s 171AAA.

²² Ibid s 171AAB.

²³ Criminal Code 2002 (ACT) s 602.

²⁴ Ibid s 603.

²⁵ Ibid s 603(8).

²⁶ Ibid s 603(5).

²⁷ Drugs of Dependence (Personal Cannabis Use) Amendment Bill 2018 s 171AA(1a); Legislation Act 2001 s 133(2a).

²⁸ Drugs of Dependence (Personal Cannabis Use) Amendment Bill 2018 s 171AA(1b).

²⁹ Medicines, Poisons and Therapeutic Act 2008 (ACT) s 37.

Youth Law Centre ACT	www.legalaidACT.org.au	6173 5410
Legal Aid ACT	www.leglaaidACT.org.au	1300 654 314
Alcohol and Other Drugs Program	www.healht.act.gov.au	6207 9977
Directions ACT	www.directionsact.com	6132 4800
National Drug and Alcohol Research Centre	www.ndarc.med.unsw.edu.au	9385 0333

Dealing with Drug Overdoses

Call an ambulance immediately. Saving someone else's life is the most important thing. Ambulance officers will not call the police for a drug overdose unless they feel physically threatened.

Emergency (Ambulance)	000
Healthdirect Australia	1800 022 222
St John Ambulance	6282 2399
Australian Red Cross	6234 7600

CARS AND DRIVING

Driver's Licence

At 15 years and 9 months, you can apply for a learner driver licence and L-plates.³⁰ Firstly, you will need to complete the Road Ready Program, through your school or at a Road Ready Centre, and pass the Road Rules Knowledge test.

Someone with a full drivers licence has to supervise your driving while you have your learner drivers licence, and you must display your L-plates when you drive.

At the age of 17, you can apply for a provisional drivers licence provided that you are the holder of a learner driver permit for a period of at least six months.³¹ You can get your provisional driver licence by passing a practical driving test, or through the Competency Based Training and Assessment Scheme (the logbook system).

³⁰ Road Transport (Driver Licensing_ Regulation 2000 (ACT) reg 16(3a).

³¹ Ibid reg 22(3a).

A provisional driver licence lasts for 3 years. You must display your P-plates for the whole period, unless you complete the Road Ready Plus Course.

Road Ready (RTA)	www.roadready.act.gov.au	6103 0463 (Mitchell)
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Motorbike Licence

You can apply for an ACT Motorcycle Learner Licence once you are 16 years and 9 months old.³² You must complete a pre-learner training course through Stay Upright. You are also required to complete the Road Ready Program and to pass the Road Rules Knowledge Test.

You must display your L-plates anytime you drive a motorbike. There are some restrictions while you are on your learner licence – for example, not being able to carry a pillion passenger. To get an ACT provisional Motorcycle Licence, you have to be at least 17 and have had your motorcycle 'L' plates for at least 3 months.³³

You need to complete a formal provisional riding assessment through Stay Upright.

You can get your full licence after you have had your provisional licence for at least 3 years.

Stay Upright	www.stayupright.com.au	6297 1144
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Car Accidents and Insurance

If you are involved in an accident, you should always exchange contact details (name, telephone number, insurance details) with the other driver if possible. You should also take photos as evidence. By law, you must report the incident to police within 24 hours of the accident if there are no injuries to anyone, or if the car is driveable. In the ACT, you can make this report online, which usually takes around 15 minutes. If you report online, you do not have to go to the police station to report the accident. If the form is not available online, you can contact Access Canberra on 13 22 81 for help.

If you seriously damage someone else's car and/or injure someone because of your driving, you must let the police and emergency services know as soon as possible.

Car insurance is expensive, but it is really worth thinking about. If you have an accident and are not insured, you may lose your car and you will still have to pay back any money you borrowed to buy the car. You may also have to pay for the damage to the other person's property if you were at fault.

Motor Accident Injuries Insurance ('MAI' Insurance)

³² Ibid reg 16(2a).

³³ Ibid reg 22(2a).

This is a compulsory insurance that is paid when you register your car. It used to be called a 'Green Slip' or 'CTP Insurance', and only covered people injured by an at fault driver prior to 1 February 2020. MAI Insurance provides cover for people injured in a motor vehicle accident, regardless of who was at fault. If you have been injured, you can make an application for personal injury benefits. An application should be made within 13 weeks of the accident. Your MAI Insurer can assist you with information on making an application. There is also a Defined Benefit Information Service provided by CARE inc, who will provide free advice and assistance to people on accessing the defined benefits available to them under the Motor Accident Injuries scheme. The Defined Benefit Information Service by CARE can be contacted on 1300 209 642.

Third Party Property Insurance

This insurance covers the damage to other people's property if you cause an accident. If you have third party insurance, you should let your insurance company know about the accident.

Comprehensive Car Insurance

Covers not only damage to other people's property, but damage to your own vehicle if you cause an accident.

If your car is damaged or you are injured in an accident, and someone else caused it, you might be entitled to compensation. If this applies to you, it is a good idea to get legal advice. The Youth Law Centre ACT is a free legal service that can advise you.

If you receive letters or phone calls from another person's insurance company after a car accident, you should get legal advice or contact your insurance company before responding to them.

Care Inc	https://www.carefcs.org/	1300 209 642
Youth Law Centre ACT	www.legalaidACT.org.au	6173 5410
Legal Aid ACT	www.legalaidACT.org.au	1300 654 314
AFP Crash Report	https://form.act.gov.au/smartforms/landing.htm?formCode=1021	

Stolen Cars or Encumbrances

Before you buy a car, you can check if it is stolen or if there is any money owing on it by conducting a Register of Encumbered Vehicles ('REVS') check. The REVS check is now done by checking the Personal Properties Security Register ('PPSR'), which covers the whole of Australia.

Before you buy a second hand motor vehicle, you should check that there are no existing security interests registered against it by searching the PPSR. If a security interest has been registered against the vehicle, it may not be debt-free and may be repossessed, even after you have bought it.

Make sure you search the PPSR on the day, or the day before, you intend to make your purchase, to ensure it is:

- Free from debt
- Safe from repossession
- Not reported written off
- Not reported stolen

If you find out that you have bought a stolen car, you cannot keep the car. It will be returned to its original owner.

To do a PPSR check, you will need to pay a small fee. You will receive a PPSR vehicle search certificate. This certificate will protect you from losing the car as long as you own the vehicle. If there is a security interest you should not buy the car until you have confirmation that the security interest has been lifted.

To do this check, you will need to have the vehicle identification number ('VIN'). Please ensure that the VIN number is the same on the car as on the paperwork. If they are not the same, something dodgy may be happening. You should consider obtaining a road worthy or vehicle identification inspection. These inspections incur a fee and can be carried out by the

Access Canberra Motor Vehicle Inspection Station at Hume, or by an authorised inspection station.

You are not legally responsible for an accident if your car was in an accident and it was stolen (used without your permission).

Personal Properties Security Register	https://www.ppsr.gov.au/search-the-pps	1300 007 777
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Drink Driving

It is illegal, dangerous, and very selfish to drink and then drive. If you are on your learner or provisional licence, you must have a ZERO blood alcohol reading when driving. If you are asked to do a breath test and you do not have a ZERO blood alcohol reading, you will be charged with a criminal offence.

If you have a full licence, the limit is 0.05 BAC.³⁴

³⁴ Road Transport (Alcohol and Drugs) Act 1977 ACT s 19.

If you are planning to drink alcohol, it is a good idea to work out in advance how you are going to get around. It could be by bus or Uber, or you could get a lift with a friend who is not drinking.

What happens if I am charged with drink driving?

You will have to go to court and you are almost guaranteed to receive a significant fine and have your licence disqualified – even if it is your first offence.

The first time you are convicted of drink driving, you could be fined up to \$2,400 and have your licence suspended for between 1 month and 3 years.³⁵ You can also be imprisoned for up to 9 months, or 6 months for first offenders.³⁶ The penalty depends on your level of intoxication. Other factors, such as the nature of the driving when the offence was committed, will also be taken into account when determining the appropriate penalty.

If you are charged with drink driving for a second time, you can be fined up to \$3,200 and have your licence cancelled for between 12 months and 5 years.³⁷ You can also be imprisoned for up to 12 months.³⁸

You will also need to complete an Alcohol and Drug Awareness Course. You must attend the Alcohol and Drug Awareness Course before you can be issued a probationary licence.

It is also against the law to drive while affected by other drugs. If you are caught driving while you are drug affected, you may be charged with a criminal offence and fined or imprisoned. It is really important to remember that some drugs can stay in your system and be detected for a lot longer than alcohol.

These offences are called 'strict liability' offences. This means that when a driver provides a breath test or blood sample which shows alcohol content above the legal limit, the only thing that needs to be proved is that the person had alcohol in their blood/breath above the legal limit. It does not need to be proved that the person knew that they were above the legal limit.

Burnouts

A burnout happens when you deliberately drive a car to make one or more of its wheels lose traction. Burnouts are illegal. The offence is more serious if you deliberately put a substance on the road, or damage the road surface, before doing a burnout.

You can be fined up to \$3000 and your licence will be automatically cancelled for 12 months or more.³⁹

³⁵ Ibid ss 26, 32.

³⁶ Ibid ss 27, ss 32 – 34.

³⁷ Ibid s 26, 33.

³⁸ Ibid ss 24, 27.

³⁹ Road Transport (Safety & Traffic Management) Act 1999 (ACT) s 5B.

The police and the court can also impound the vehicle, even if it is not yours.

Paying ACT Traffic Fines

ACT traffic fines include traffic infringements issued for speeding, use of unregistered vehicles, negligent driving and other related offences committed in the ACT. Traffic infringements do not include ACT parking fines.

If you receive an infringement notice from another State or Territory, you should contact the road authority or police for that State or Territory.

You need to pay your traffic fines within 28 days from the date that you received your infringement notice. Payments can be made online via the ACT Government's Road Transport Authority (RTA) website or at Access Canberra. If you do not pay within 28 days, the amount you have to pay will increase and your licence may be suspended. You can also apply for more time to pay your fine.

Court imposed fines are payable at the ACT Magistrates Court.

Access Canberra	www.accesscanberra.act.gov.au	13 22 81
ACT Magistrates Court	www.courts.act.gov.au/magistrates	6207 4902
AFP	Police.act.gov.au/road-safety/traffic-fines	

CENTRELINK

Payments

Centrelink has income support payments for young people. Centrelink is part of the Australian Government Services Australia.

Some of the payments available to young people are:

- Youth Allowance
- Newstart Allowance
- ABSTUDY Payment and Allowances
- Austudy Payment (for individuals 25 and over)
- Carer Payment and Allowance
- Disability Support Pension
- Parenting Payments
- Rent Assistance
- Student Startup Loans

Centrelink (Services Australia)	www.humanservices.gov.au
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Am I eligible for a Centrelink payment?

Working out whether you can get a Centrelink income support payment can be hard. Eligibility criteria can change. To find out the latest eligibility requirements, contact Centrelink.

Centrelink (Services Australia)	www.humanservices.gov.au
Youth and Student Services	13 24 90
Newstart (over 22 years old)	13 28 50
ABSTUDY	1800 13 23 17

How do I apply for a Centrelink payment?

Applying for a Centrelink payment can be stressful. If you want more information about payments and how to apply, you can contact the Youth Law Centre ACT, or your local youth centre (details at the back of this handbook).

Youth Law Centre ACT	www.legalaidACT.org.au	6173 5410
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Activity tests to keep your Centrelink payment

To keep getting Centrelink payments, you must demonstrate that you are undertaking an 'approved activity' as part of your 'mutual obligation' requirements.

There are different 'approved activities' for different payment types. You need to know what these are when your payment is approved. The approved activities and mutual obligation requirements for each Centrelink payment type can be found on the Services Australia website.

If you do not meet the Centrelink 'approved activity' tests, your payments may be reduced or suspended.

Contact Canberra Community Law on 6218 7900 if your Centrelink payment has been suspended or stopped and you need help.

What if I don't agree with a Centrelink decision?

If you do not agree with a decision that Centrelink has made about your payment, the first thing you need to do is ask the person who made the decision to explain why the decision was made and correct any errors. This ensures that a quick solution can be offered where possible without a formal review.

If you are not happy with their explanation, the next step is to ask for a formal internal review of their decision. This review is free and is completed by a Centrelink Authorised Review Officer ('ARO'). It can be initiated by calling Centrelink, visiting a service centre or sending Centrelink a Review of Decision form available online. Please note that for ABSTUDY payments, there is a separate review request form which is available on the Service Australia website.

If you are not satisfied with the ARO decision, you can apply to the Administrative Appeals Tribunal ('AAT') to review the decision. The AAT decision is an independent tribunal and is not a part of Centrelink. To apply for an AAT review of a decision, you can follow the instructions on the AAT website at: <https://www.aat.gov.au/>.

You may appeal to an ARO or to the AAT at any time. However, to receive backpay from the date that you were affected by the original decision, you must appeal to the ARO and then, if necessary, appeal to the AAT within 13 weeks of receiving the written ARO decision.

If you do not agree with the AAT decision, you can apply for a second AAT review within 28 days of the date you received the first AAT decision. After this, the reviews process is exhausted and the AAT decision becomes binding on both yourself and Centrelink.⁴⁰

Challenging a Centrelink decision might seem a bit overwhelming. You can get help with the process from Canberra Community Law:

Canberra Community Law	https://www.canberracommunitylaw.org.au/	6218 7977
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Centrelink Debts

If you have a Centrelink debt and do not think that you owe money to Centrelink, or if you do not think it is fair that you have to pay it back, you have a right to challenge the decision. This is known as an 'appeal'.

If you appeal to an ARO, you can ask Centrelink to pause any debt repayments until your review is finished. Make sure that you check and confirm with Centrelink that the debt repayments have been paused, otherwise Centrelink might add penalty interest to the debt.

You can appeal against a Centrelink debt if:

- You do not owe any money to Centrelink (for example, it says you were in a relationship with another person, but this is wrong)
- You think it has calculated the debt incorrectly (for example, it has used the wrong value for an asset) or

⁴⁰ <https://www.servicesaustralia.gov.au/individuals/topics/reviews-and-appeals-centrelink-decision/34671#a1>

- You agree that you have a debt, but you do not think you should have to repay some or all of the amount owing (for example, Centrelink made a mistake which caused the debt).

Usually, all these issues are looked at if you appeal.

It is also a good idea to get legal advice before appealing against a debt, especially if the debt is large; or if Centrelink tells you it may refer your matter to the Commonwealth Director of Public Prosecutions for possible criminal prosecution.

Canberra Community Law	https://www.canberracommunitylaw.org.au/	6218 7977
Youth Law Centre ACT	www.legalaidACT.org.au	6173 5410
Administrative Appeals Tribunal	www.aat.gov.au	1800 228 333

CRIMES & COURT

Weapons

A weapon is any item that can be used to hurt people. A basketball bat or a glass bottle can be a weapon if you use it in a way that frightens people.

It is illegal to carry or have weapons like knuckle dusters, metal knuckles, tasers, a studded glove, a gun, a home-made gun or cross-bow, or substances that could injure people, in a street or public place. You can be fined a maximum of \$1000, sentenced to 6 months imprisonment or both.⁴¹

It is also illegal to use or threaten to use any type of weapon or disabling substance. You can be fined a maximum of \$2000, sentenced to 12 months imprisonment or both.⁴²

Knife Laws

A knife is considered a weapon. It is illegal to have a knife in your possession in a public place (including a school) unless you have a reasonable excuse.⁴³

Some reasons, which may be accepted as a reasonable excuse, are that the knife was necessary for your occupation, religion or for sport or trade purposes. Self-defence, or the defence of another person, is not a reasonable excuse.⁴⁴

⁴¹ Crimes Act 1900 (ACT) s 380.

⁴² Ibid s 381.

⁴³ Ibid s 382(1).

⁴⁴ Ibid 382(3).

The maximum penalty for carrying a knife in a public place is \$1,600 in fines, 6 months' imprisonment or both.⁴⁵ It is illegal for a person to sell a knife to a person under 16. The maximum penalty is \$1,600 fine, 6 months' imprisonment or both.⁴⁶

Shoplifting

Shoplifting is when you take something from a shop without paying for it. In the ACT, shoplifting is legally called 'minor theft' if what it would cost to replace it is \$2,000 or less.⁴⁷ If the cost to replace the item is more than \$2,000, the offence is theft rather than minor theft.⁴⁸ However, this does not prevent a person from being charged with theft if the replacement of the property appropriated is \$2,000 or less.⁴⁹

Examples of shoplifting outside of the typical taking of items include eating food at a restaurant and not paying the bill, or taking a ride in a taxi and then not paying the fare. These are also considered stealing, and are illegal.

The maximum penalty for minor theft is \$7,500 in fines, 6 months' imprisonment or both.⁵⁰

Spent Convictions

A conviction becomes 'spent' if a person has not been convicted of any offence that is punishable by imprisonment (most criminal offences) for a period of 10 consecutive years after the original conviction.⁵¹ If the person was under 18 at the time of the conviction, the period is 5 years.⁵²

A conviction cannot be spent if:

- You have served more than 6 months imprisonment for an offence; or
- The conviction was for a sexual offence.⁵³

'Spent' here means that the conviction has been 'used up' or no longer holds power. A 'conviction' is a criminal record for when the court has found you guilty of breaking the law.

The aim of this type of law is to prevent people being discriminated against because of their past criminal record.

Once a conviction is spent, you do not need to tell anybody about the previous conviction, even if you are asked about your criminal history.⁵⁴ But this does not include applications to become a police officer, prison officer, justice of the peace, teacher, teacher's aide, casino employee, childcare or aged care provider, or people with a disability, Judge or Magistrate, or when applying for a

⁴⁵ Ibid s 382(1).

⁴⁶ Ibid 383.

⁴⁷ Criminal Code 2002 (ACT) s 321.

⁴⁸ Ibid s 308.

⁴⁹ Ibid s 321(3).

⁵⁰ Ibid s 331(1).

⁵¹ Spent Convictions Act 2000 s 13(1b).

⁵² Ibid s 13(1a).

⁵³ Ibid s 11(2).

⁵⁴ Ibid s 16(a).

Working with Vulnerable Persons card.⁵⁵ You have to mention your spent conviction if making any of these applications.

What Happens in the Children's Court?

If you are under 18 and have been charged with a crime, you will most likely have to go to the Childrens Court.⁵⁶ The Childrens Court is in the same building as the Magistrates Court. If you are charged with a serious offence, a judge in the Supreme Court will normally hear your case.

ACT Childrens Court	Knowles Place, Civic	6207 1746
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When you first go to the Childrens Court you can ask the Magistrate to delay hearing the case for up to 3 weeks to give you time to get legal advice. This is called an adjournment.⁵⁷

There is usually a duty lawyer from Legal Aid ACT at the court. It is free to get help from the duty lawyer. This person can represent you in Court if you have not already organised your own lawyer.

If you are in custody or the Magistrate is considering putting you into custody, you can ask for bail.⁵⁸ If it is granted, the Magistrate may choose to place conditions on your bail. Conditions can include many things designed to make sure you show up to court, keep you safe or to keep you from doing the wrong thing until your next court date.⁵⁹ The duty lawyer can explain the bail processes and how to request bail.

The Children's Court is a 'closed court'. This means that members of the public cannot watch.⁶⁰ One or both of your parents must attend if they know about the court proceedings. If they do not attend court without a reasonable excuse, the Court may issue a warrant to ensure their attendance.⁶¹

Once you have had a chance to get legal advice, the Magistrate will ask whether you wish to plead guilty – that is, admit that you have committed the crime; or not guilty – that is, not admit that you committed the crime.

If you plead guilty, your case may be dealt with straight away and the Magistrate will give you a penalty, or it may be adjourned and a pre-sentence report requested.⁶² A pre-sentence report includes relevant facts about you and your situation. It can include your social history and background, medical history, education and information on your family circumstances.⁶³

⁵⁵ Ibid s 19(1).

⁵⁶ Magistrates Court Act 1930 s 288(1).

⁵⁷ Ibid s 83.

⁵⁸ Bail Act 1992 (ACT) s 26.

⁵⁹ Ibid s 25 – 26.

⁶⁰ Court Procedures Act 2004 (ACT) s 72.

⁶¹ Ibid s 71(3).

⁶² Crimes (Sentencing) Act 2005 s 41(3b), 133E.

⁶³ Ibid 40A.

If you plead not guilty, you will be given a date to come back into court so the Magistrate can hear all the evidence against you. The Magistrate has to be satisfied that you are guilty beyond reasonable doubt.⁶⁴

A warrant is an official document stating a charge against you, which means that you can be arrested and brought before the Court.⁶⁵ The warrant will usually be read or shown to you at the time of the arrest, but this is not always the case. Sometimes the warrant may be shown to you later. If you are arrested, you may be kept in a detention centre until you next have to go to court.

Possible Penalties

The Childrens Court can give many different penalties.

These are some examples:

- You may have to pay compensation for damage you caused or you can be fined.⁶⁶
- You may have to do community service.⁶⁷
- You can be given a Good Behaviour Order. See the section on 'Good Behaviour Orders' below.⁶⁸
- You can be sentenced to imprisonment (sent to a detention centre).⁶⁹
- In some cases, the Court can give you a penalty without giving you a criminal conviction.⁷⁰ This can be helpful if you wish to be employed in certain types of work in the future. You should talk to your lawyer about this.

Good Behaviour Orders

The Childrens Court may give you a Good Behaviour Order, which is akin to a second chance. It means that in the future, you must be on your best behaviour. This may or may not include a conviction. Good Behaviour Orders may come with conditions such as performing community service.⁷¹

If you are already in trouble with the law and you are on a Good Behaviour Order, you must not commit any crimes. If you do, you will be charged for breaching your Order. This is called a 'Breach of Good Behaviour Order'. Most offences can mean that you have breached your order.⁷²

⁶⁴ Evidence Act 2011 (ACT) s 141(1).

⁶⁵ Crimes Act 1900 (ACT) s 219.

⁶⁶ Crimes (Sentencing) Act 2005 s 14(2).

⁶⁷ Ibid s 133L.

⁶⁸ Ibid s 13(3b), 133L.

⁶⁹ Ibid s 133G.

⁷⁰ Ibid s 17(2a).

⁷¹ Ibid s 13(3b), 133L.

⁷² Crimes (Sentence Administration) Act 2005 s 86(1a), 107.

The Childrens Court may sentence you to imprisonment but suspend that sentence and give you a Good Behaviour Order.⁷³ If you breach the Good Behaviour Order, you can be sent to a detention centre to serve the sentence of imprisonment.

What happens if I don't go to Court when I'm meant to?

If you cannot be at the hearing at the correct time you should let the court know as soon as possible. If you are sick, you should send a medical certificate to the court. Make sure that the medical certificate has full details of your illness. If you do not attend court when you are told to, a warrant may be issued for your arrest.⁷⁴

Getting a Lawyer

You should have a lawyer represent you in court whenever possible. If you want a lawyer to represent you in court, you may apply for Legal Aid.

Legal Aid ACT has a duty lawyer in court most of the time. The duty lawyer can apply for bail for you when you first appear in court. This will not cost you anything.

If there is no duty lawyer available when you need one, court staff will be able to help you arrange one.

Legal Aid ACT	www.legalaidact.org.au	1300 654 314
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Alternatives to Court

Some types of offences can have different options for dealing with them. These include:

- Police caution
- Restorative Justice conference
- Diversionary programs for drug and alcohol related offences

Police Caution

A caution is a warning. They can be formal or informal, and are usually given where there is one minor offence. If you have previous charges/cautions, you will probably not be given a caution.⁷⁵

⁷³ Ibid s 108(2).

⁷⁴ Magistrates Court Act 1930 (ACT) s 42(2).

⁷⁵ Simon Bronitt and Benadette McSherry, Principles of Criminal Law (Lawbook, 3rd ed. 2010) 47.

For example, the Police may give you a caution if you are caught using false identification to buy alcohol.⁷⁶

The aim of a caution is to make you understand the full consequences of your crime but without making you go to court. The police do not have to give you a caution if they decide that it is not appropriate. Police record a caution in their police records but it does not become part of your criminal record.⁷⁷

Restorative Justice Conference

If you commit a crime or are the victim of a crime, you may be asked to participate in a restorative justice conference.⁷⁸

The conference is a meeting between yourself (as the young offender) and the person or people who were affected by the crime.

It is a chance for both parties to talk about what happened and why, allow you to accept responsibility for your actions and for both sides to come to an agreement about what can be done to fix any damage caused by the crime.⁷⁹

If you are not comfortable with communicating face to face, the communication can take place through letters or a 'middle person' if the other party agrees.

Restorative justice is currently only available for certain criminal offences.⁸⁰

Who can be involved in restorative justice?

- Any person over the age of 10 who is a victim of crime;⁸¹
- The person who has committed the crime (the young offender);⁸²
- A convenor who will run the meeting;
- Other parties who are involved in the offence such as teachers, members of the community;
- Support persons, such as friends and family members can also be present;
- Lawyers cannot be involved.

Why be involved?

If you were responsible for the crime:

- You are not obliged to attend the meeting if you do not want to;⁸³

⁷⁶ Liquor Act 2010 s 149(f), s 150.

⁷⁷ Ibid s 150(3a).

⁷⁸ Crimes (Restorative Justice) Act 2004 (ACT) s 8.

⁷⁹ Ibid s 20.

⁸⁰ Ibid s 14 – 15.

⁸¹ Ibid s 17(1b).

⁸² Ibid s 19.

⁸³ Ibid s 9.

- If you choose to attend, it's a good chance to accept the consequences of your actions, explain why you did what you did to the people who were affected by your actions and see how your actions have hurt someone;
- Restorative justice can happen along with a court hearing, or in some cases, instead of one;
- Sometimes participation by the offender in restorative justice may reduce the penalties that the court imposes.⁸⁴

If you are a victim of crime:

- In some situations this type of meeting is a good chance to tell the person who was responsible for the crime how you felt and what problems you have had because of the crime;
- In the meeting you can also talk about what can be done to account for the injury that you have suffered; and
- It can be a good way for you to feel better about what happened or at least let the other person know that their actions affected you.

Restorative Justice Unit	www.justice.act.gov.au	6207 3992
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Diversionsary Programs for Drug or Alcohol Related Offences

ACT Community Health's Diversion Services run diversionary strategy programs for young people. The program aims to keep offenders in minor drug related offences out of court and help them into the health system. If you meet the criteria, you will be assessed and sent to an approved agency.

ACT Community Care, Alcohol & Drug Program	www.health.act.gov.au	6207 9977
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ACT Police Youth Alcohol Diversion Program is a program that tries to keep people out of the court system. The program is for people who have committed an offence that relates to alcohol – for example, if the person drank alcohol against the law; or an offence that involved consumption of alcohol – for example, committing a crime while drunk. You must confess that you did commit the offence and agree to the program. It also cannot be for a violent crime.⁸⁵

If you are eligible for the program, you may be sent to the Assessment and Coordination Team who will complete an assessment for treatment and/or education. You may also be sent to a treatment agency who will tell the police whether you actually attended.⁸⁶

⁸⁴ Ibid s 20; Crimes (Sentencing) Act 2005 (ACT) s 33(1y).

⁸⁵ ACT Policing, ACT Police Youth Alcohol Diversion Program, < <https://police.act.gov.au/about-us/programs-and-partners/youth-alcohol-and-drug-diversion-programs>>.

⁸⁶ Ibid.

It is the agency staff who decide whether you have participated enough in these programs. If they decide that you have not, then this will be reported back to the police, who will decide if you have to go to court.

ACT Police Youth Alcohol Diversion Program	https://police.act.gov.au/about-us/programs-and-partners/youth-alcohol-and-drug-diversion-programs
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Court Alcohol & Drug Assessment Service ('CADAS') is a short term program for people charged with a drug-related offence. If the person participates in this program, the court will think about this when it is time to sentence the person.

Court Alcohol & Drug Assessment Service ('CADAS') (ACT Health)	6207 9977
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Warrumbul and Galambany Circle Sentencing Courts

Circle sentencing courts are specialised courts within the ACT Magistrates or Children's court where Aboriginal and Torres Strait Islander people can have their sentencing matters heard by a Magistrate, alongside a panel of respected Aboriginal and Torres Strait Islander Elders.⁸⁷ In the ACT there are two circle sentencing courts – Galambany for adults and Warrumbul for young people.

The Warrumbul Children's Circle Sentencing Court (Warrumbul Court) is an alternative model of sentencing for Aboriginal and Torres Strait Islander young people attending in the ACT Children's Court.⁸⁸ It is a type of restorative practice that aims to provide culturally relevant and effective sentencing options for young Aboriginal and Torres Strait Islander people (10 – 17 years) by incorporating Elders and cultural aspects into the Children's Court.

You can attend Warrumbul Court if:

- You identify as an Aboriginal or Torres Strait Islander person;
- You have pleaded guilty to the alleged offence;
- The offence is one which the relevant court can hear (and is not sexual); and
- You want and agree to go through the process.

⁸⁷ ACT Courts, Galambany Court, <<https://courts.act.gov.au/magistrates/about-the-courts/areas-in-the-act-magistrates-court/galambany-court>>.

⁸⁸ ACT Courts, Warrumbul Circle Sentencing Court, <<https://www.courts.act.gov.au/magistrates/about-the-courts/areas-in-the-act-magistrates-court/warrumbul-circle-sentencing-court>>.

DISCRIMINATION

The ACT Human Rights Act

The ACT and Victoria are the only states or territories in Australia that have human rights legislation. Human rights cover civil, political, economic, social and cultural rights, and are necessary for individuals to enjoy a dignified life. For this reason, knowing your rights is important.

The aim of the Human Rights Act is to ensure that people respect human rights and that these rights are protected in the ACT.

Recognised rights under the ACT Human Rights Act include:

- Right to equality before the law
- Right to life
- Right to protection from torture and cruel, inhuman or degrading treatment
- Right to protection of family and children
- Right to freedom of expression
- Right to education
- Right to freedom of movement
- Right to peaceful assembly and freedom of association
- Right to freedom of thought, conscience, religion and belief
- Right to privacy and reputation
- Right to take part in public life
- Right to liberty and security of the person
- Right to humane treatment in detention
- Right to a fair trial
- Rights of children in the criminal process
- Rights in criminal proceedings
- Right to compensation for wrongful conviction
- Right to protection against trial or punishment more than once for the same crime
- Right to protection against retrospective laws
- Right to freedom from forced work
- Rights of ethnic, religious or linguistic minorities, including the right to protect and develop Aboriginal and Torres Strait Islander cultural heritage

The ACT Human Rights Act says that all the laws in the ACT should be consistent with human rights as much as possible.⁸⁹ This means that they must be created and interpreted in a way

⁸⁹ Human Rights Act (ACT) 2004 s 40B.

that is compatible with human rights.⁹⁰ Public authorities, such as government officials, ACT police, public school teachers and Transport Canberra bus drivers must act in a way which is consistent with human rights.⁹¹

When public authorities make decisions, they must appropriately consider human rights. If you feel that a public authority such as the ACT Police has not respected your human rights, the first step is to make a complaint to that authority following their internal complaints process. If your problem remains unfixed, you have the option of going to the ACT Supreme Court within 1 year of when your human rights were not respected ('breached'). However, even if the ACT Supreme Court decides there was a breach of the ACT Human Rights Act, they cannot award money as damages.⁹²

You can also argue that your human rights have been breached in other areas of law. For example, if you are appealing a housing decision, or arguing for a fair trial at court, you may choose to raise a human rights argument.

It is important to know that you cannot complain to the ACT Human Rights Commission if you think that your individual human rights have been breached.

ACT Human Rights Commission	www.hrc.act.gov.au	6025 2222
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Discrimination

Discrimination happens when someone treats you unfairly because of your:

- Accommodation status;
- Age;
- Gender;
- Gender identity or intersex status;
- Genetic information;
- Marital or relationship status;
- Race;
- Immigration status;
- Disability;
- Religion;
- Sexuality;
- Political opinion;
- Pregnancy or potential pregnancy;
- Choice to breastfeed;
- Role as a parent or carer;

⁹⁰ Ibid s 30.

⁹¹ Ibid s 40B.

⁹² Ibid s 40C(4).

- Profession, trade or employment status;
- Industrial activity;
- Spent or extinguished conviction;
- Irrelevant criminal record ;
- Subjection to family violence; and/or
- Association with someone who has one of the above attributes.

The ACT Discrimination Act protects peoples' human rights and is aimed at ensuring that individuals are not unfairly discriminated against for any reason.

The ACT Discrimination Act also makes it illegal to discriminate against someone because of their HIV/AIDS status or because they have made or are thinking about making a discrimination complaint.

Public Life

Discrimination laws cover different areas of life including how you are treated by government departments, landlords and employers. It is illegal for these organisations and individuals to discriminate against you for any of the attributes listed above such as your race, gender or age.⁹³

Exceptions

However, the Discrimination Act provides exceptions for certain circumstances. For example, it is not illegal for an all-girls high school to refuse a boy from enrolment at the school. Even though he is being treated differently because of gender, the ACT Discrimination Act has an exception for the educational institutions for members of one sex.⁹⁴

The exceptions can apply in the workplace, at school or in the community.

Direct and Indirect Discrimination

Discrimination can be direct or indirect.

Direct discrimination happens when someone is treated unfairly because of an attribute listed above.⁹⁵ An example is if your employer fires you because of your race.

Indirect discrimination happens when decisions are likely to have the effect of disadvantaging someone because they have one of the listed attributes.⁹⁶ For example, if a university instructs all students to sign up for classes online with no option to enrol in any other way, and the enrolment website cannot be used by blind students, this may be indirect discrimination based on a disability.

⁹³ Discrimination Act 1991 (ACT) s 7.

⁹⁴ Ibid s 36.

⁹⁵ Ibid s 8(2).

⁹⁶ Ibid s 8(3).

Making a Discrimination Complaint

If you believe that you have been discriminated against because of one of the attributes listed above, you can make a complaint in writing to either the Australian Human Rights Commission or the ACT Human Rights Commission.

ACT Human Rights Commission	www.hrc.act.gov.au	6205 222
Disability Discrimination Legal Service	www.canberracommunitylaw.org.au	6218 7918
Youth Law Centre ACT	www.legalaidACT.org.au	6173 5410
Australian Human Rights Commission	www.humanrights.gov.au	1300 656 419

EMPLOYMENT

Minimum Age

The minimum age of employment for most types of work in the ACT is 15 years old.⁹⁷ It is legal to work before the age of 15, but this depends on the type of work. For Instance, if you are under 15 years of age, you can be employed in 'light work' as long as it is fewer than 10 hours per week and does not interfere with school.⁹⁸

Furthermore, if you are under 15 years of age and are employed in a family business performing light work, in certain circumstances you may also be exempt from the minimum age requirements in the ACT.⁹⁹

What is 'light work'?

There is no exact definition of what 'light work' is. Instead, it is used to generally refer to jobs that are suitable for the physical ability, developmental capacity and emotional needs of a young person.¹⁰⁰ For it to be 'light work', there must be adequate supervision by an adult with the consent of the parent or guardian.¹⁰¹

Examples of 'light work' include:

- Being a referee or umpire;
- Working as a cashier;

⁹⁷ Children and Young People Act 2009 (ACT) s 795.

⁹⁸ Ibid s 796(1).

⁹⁹ Ibid s 797.

¹⁰⁰ Regulation 4 of the Children and Young People Regulation Act 2009 (ACT).

¹⁰¹ Ibid.

- Gardening;
- Babysitting;
- Modelling; and
- Going on errands.¹⁰²

If you are not sure about whether the type of employment is okay, contact the Child and Youth Protection Services:

Child and Youth Protection Services	Email: youngworkers@act.gov.au	Phone: 6205 0480
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Work Experience

The general minimum age to be involved in a work experience program is 14 years of age. It is possible to take part in work experience before 14 years of age, but the program must be approved by the Chief Executive, who is responsible for administering the Children and Young People Act 2009.¹⁰³

You cannot be paid for work experience. However, it is important to remember that you are still protected by the law while at your work experience placement. This means that you cannot be bullied, harassed or asked to complete tasks that are unsafe.¹⁰⁴ You should also get a break during the workday.¹⁰⁵

Casual, Part-time and Full-time work

Working as a Casual

Casual work is short-term and not ongoing. For casual employees, there is generally no guarantee of future work.

Casual employees are generally not entitled to the same benefits given to permanent employees, such as paid annual leave or personal leave.¹⁰⁶ Casual employees usually get paid more per hour to make up for this. This is called 'casual loading'. Casual employees may also get paid more for working outside of normal working hours, such as on weekends or public holidays. This is called a 'penalty rate'.

Working Part-time

Part time employees work less hours than full-time employees and generally have a set minimum number of guaranteed hours to work each week.

¹⁰² Ibid.

¹⁰³ Children and Young People (Work Experience) Standards 2009 (No 1) AACT [4].

¹⁰⁴ Ibid s 14.

¹⁰⁵ Ibid s 19.

¹⁰⁶ Fair Work Act 2009 (Cth) s 86, s 95.

Part-time employees have the same rights as full-time employees, but receive entitlement such as annual leave and personal leave on a pro-rata basis – that is: in accordance with the hours they regularly work.¹⁰⁷

Working Full-time

Full-time employees usually have ongoing employment and ordinarily work 38 hours per week.¹⁰⁸ They are also entitled to certain benefits including paid personal leave and annual leave.¹⁰⁹

Full-time employees cannot be required to work more than 38 hours per week unless the additional hours worked are reasonable.¹¹⁰ What is 'reasonable' depends on many factors, including the employee's personal circumstances, the needs of the workplace, whether the employee is entitled to receive overtime payments, the amount of notice given and the type of job.¹¹¹

Getting Paid

You must be paid for the work that you do, and must be told how much you will be paid.

The amount you will be paid depends on:

- Your age;
- The type of work you do; and
- Whether you are a casual, part time or full time employee.

The national minimum wage for adults in Australia as of 29 April 2020 is \$19.49 per hour.¹¹² Here, an adult refers to someone over the age of 21.

Types of Pay

What is gross pay?

Gross pay is the amount you have earned before income tax and other deductions are subtracted from your pay.

What is net pay?

The amount of money you actually get after your income tax and any other deductions have been taken out from your weekly earnings.

Adult Rate of Pay

The majority of awards and agreements set out an age at which all employees must be paid the full adult rate of pay. Typically this is 21 years of age, but can be younger under some

¹⁰⁷ Ibid s 87(2), s 96(2).

¹⁰⁸ Ibid s 62(1a).

¹⁰⁹ Ibid s 87, s 96.

¹¹⁰ Ibid s 62(1).

¹¹¹ Ibid s 62(3).

¹¹² www.fairwork.gov.au/pay/minimum-wages.

awards. Most awards make provisions for adult and junior wages. Minimum rates for juniors tend to be lower than those for adults.

Junior Rate of Pay

Junior rates of pay are based on the age of an employee and are usually set as a percentage of the adult rate. A junior employee is an employee under the age of 21.¹¹³

Pay Slips

Payment must be in full and made at least once a month.¹¹⁴ All employees must be given a payslip within one working day of being paid.¹¹⁵

The payslip must include:

- The pay period;
- The date the payment was made;
- The gross amount of payment;
- The gross payment amount;
- The net payment amount;
- Any superannuation contributions made;
- The rate of pay;
- Any entitlements; and
- Any deductions.¹¹⁶

If the employee is paid at an hourly rate, the payslip must also include the number of hours worked.¹¹⁷

It is a good idea to check each payslip to make sure the amount of pay and the hours worked are correct. If you think something is wrong, contact the payroll officer at your workplace or talk to your boss in first instance. It could just be a simple mistake.

Youth Law Centre ACT	www.legalaidACT.org.au	6173 5410
Legal Aid ACT	www.legalaidACT.org.au	1300 654 314
Fair Work Commission	www.fwc.gov.au	1300 799 675
Unions ACT	www.unionsact.org.au	6225 8116

Tax

Most employers take tax from your pay every pay cycle (called pay-as-you-go or 'PAYG' payments). However, you will still need to fill in a tax return (normally by October 31st) for every financial year you are paid. This is so the Australian Tax Office ('ATO') can check you have paid enough tax and give you a refund if you have paid too much.

¹¹³ www.fairwork.gov.au/pay/minimum-wages/junior-pay-rates.

¹¹⁴ Fair Work Act 2009 (Cth) s323(1).

¹¹⁵ Ibid s 536(1).

¹¹⁶ Ibid s 536(2b); reg 3.46.

¹¹⁷ Ibid.

Tax returns can be completed in a number of ways including by mail, over the phone or online.

To submit a tax return, you will need a Tax File Number (TFN). Normally, your employer will have a TFN application form that you can fill out. You can also get a form from the ATO shopfront, or apply for a TFN online through the ATO website.

Superannuation

Superannuation is money that you set aside over your lifetime to help with your retirement. If you are over 18 and earn at least \$450 a month,¹¹⁸ your employer must pay superannuation contributions into your superannuation account at least every 3 months.¹¹⁹ These contributions must be equal to at least 9.5% of your pay.¹²⁰

If you are under 18, you may also be entitled to super contributions if you are working over 30 hours per week.¹²¹ You should check to see whether you are receiving the right amount of superannuation. If not, you should contact the payroll officer at your workplace, and if you have more questions, the ATO.

Australian Tax Office	www.ato.gov.au	13 28 61 (tax) 13 10 20 (super)
Youth Law Centre ACT	www.legalaidACT.org.au	6173 5410
Legal Aid ACT	www.legalaidACT.org.au	1300 654 314

Workplace Discrimination

‘Discrimination’ (see chapter on Discrimination & Human Rights) can also happen in the workplace.

Examples of direct discrimination in the workplace include being treated unfairly or unequally because of your sexuality, relationship status, family responsibilities, race, disability, involvement in a union, or convictions for certain minor criminal offences.¹²²

Indirect discrimination in the workplace includes conditions or requirements that apply to everyone but have a negative effect which is likely to disadvantage some people.¹²³ An example of indirect discrimination could be a uniform requirement for a casual job that may prevent people from some cultures working there, when the uniform requirement is not related to the performance of the job.

In most cases it is illegal for an employer to discriminate against employees and job applicants when:

¹¹⁸ Superannuation Guarantee (Administration) Act 1992 (Cth) s 27(2).

¹¹⁹ Ibid s 16.

¹²⁰ Ibid s 19.

¹²¹ Ibid s 28, s 19.

¹²² Discrimination Act (ACT) s 7(1), Work Health and Safety Act 2011 (ACT) s 104.

¹²³ Discrimination Act 1991 (ACT) s 8(3).

- Hiring employees and during the interviews process;¹²⁴
- Negotiating terms and conditions of employment;¹²⁵ and
-
- Offering promotions, transfer or training and in dismissals.¹²⁶

Australia-wide

The Fair Work Ombudsman can investigate serious complaints, and can try to help you resolve your complaint through mediation. But the Fair work Ombudsman has no power to make your employer pay you compensation or give you back your job. The Australian Human Rights Commission deals with age discrimination, racial discrimination, sexual discrimination and disability discrimination complaints across Australia through a conciliation process.

ACT

The ACT Human Rights Commission can give information and help people wishing to make a complaint about discrimination or unfair treatment.

Fair Work Ombudsman	www.fairwork.gov.au	13 13 94
ACT Human Rights Commission	www.hrc.act.gov.au	6205 2222
Youth Law Centre ACT	www.legalaidACT.org.au	6173 5410
Australian Human Rights Commission	www.humanrights.gov.au	1300 656 419

Safety at Work

All workers have a right to a safe workplace. This includes casual employees, apprentices and contract workers. An employer has a duty of care to make sure that their employees are safe while at work, as far as is reasonable practicable. What is 'reasonably practicable' depends on the facts of each situation.¹²⁷

However, an employer will be breaching the duty owed to employees if the employer does not:

- Provide and maintain a workplace environment without risk to employees' health and safety;¹²⁸
- Provide adequate facilities for the welfare of employees at work;¹²⁹

¹²⁴ Discrimination Act 1991 (ACT) s 10(1); Work Health and Safety Act 2011 (ACT) s 105(b).

¹²⁵ Discrimination Act 1991 (ACT) s 10(2)(a); Work Health and Safety Act 2011 (ACT) s 105(1a)(iii) – (iv).

¹²⁶ Discrimination Act 1991 (ACT) s 10(2)(b) – (c); Work Health and Safety Act 2011 (ACT) s 105(1)(a)(i) – (ii).

¹²⁷ Work Health and Safety Act 2011 (ACT) s 19.

¹²⁸ Ibid s 19(3)(a).

¹²⁹ Ibid s 19(3)(3), reg 41.

- Provide a safe way in and out of the workplace;¹³⁰
- Provide employees with the information, instruction, training and supervision necessary to perform their work in a safe manner and without risks to health;¹³¹
- Maintain appropriate information and records relating to employees' health and safety;¹³²
- Provide appropriate first aid services and equipment for the employees;¹³³
- Ensure the safety at work of employees using, handling, storing or transporting plant, structures or substances;¹³⁴
- Take action to monitor employees' health and safety at work and the conditions of the workplace;¹³⁵ and
- Develop and maintain health and safety policies with employees and health and safety representatives.¹³⁶

When a serious or dangerous incident occurs, employees must also let Work-Safe ACT know right away so that the incident can be investigated.¹³⁷

Your Work, Health and Safety duties

You also have safety duties as an employee. An employee must take reasonable care for their own safety. An employee must take reasonable care not to do anything, or fail to do something, that creates a risk (or increases an existing risk) to anyone else.¹³⁸ This means that it is also your responsibility as an employee to make sure the workplace is safe.

Employees must also comply with any reasonable instructions, policies or safety procedures their employer has set in place to ensure health and safety,¹³⁹ including using or wearing equipment as directed.¹⁴⁰

Work Safe ACT is responsible for work health and safety in the ACT. You can contact them for free, confidential advice or to make a confidential complaint about safety at work.

Work Safe ACT	www.worksafety.act.gov.au	13 22 81
Youth Law Centre ACT	www.legalaidACT.org.au	6173 5410
Legal Aid ACT	www.legalaidACT.org.au	1300 654 314
Unions ACT	www.unionsact.org.au	6225 8116

¹³⁰ Ibid reg 40(a).

¹³¹ Ibid s19(3)(f), reg 39.

¹³² Ibid s 38(7); reg 76(2).

¹³³ Ibid reg. 42

¹³⁴ Ibid s 19(d).

¹³⁵ Ibid s 19(g).

¹³⁶ Ibid s 47-49.

¹³⁷ Ibid s 38.

¹³⁸ Ibid s 28(a) – (b).

¹³⁹ Ibid s 28(c) – (d).

¹⁴⁰ Ibid reg 46.

Australian Council of Trade
Unions

www.actu.org.au

1300 362 223

Workplace Injuries

If you are injured at work, or while travelling to or from work, you should get legal advice about how to apply for compensation.

In the ACT, a worker (including a regular casual or contract worker)¹⁴¹ can get compensation for personal injury that arises out of or in the course of their employment.¹⁴² A worker is also entitled to compensation if their employment substantially contributed to a disease or pre-existing condition,¹⁴³ or where they were injured during a journey to or from work, or work-related training.¹⁴⁴

Losing Your Job

Unlawful Termination

It is illegal for an employer to fire you for certain reasons including:

- Because of race, colour, sex, sexual preference, age, physical or mental disability, marital status, family or carer responsibilities, pregnancy, religion, political opinion, nationality or social origin;¹⁴⁵
- Because you filed a complaint against the employer;¹⁴⁶
- Temporary absence from work because of illness or injury;¹⁴⁷
- Membership or non-membership of a trade union or participation in union activities;¹⁴⁸
- Seeking office to represent or having represented employees;¹⁴⁹
- Absence from work during maternity leave or other paternal leave;¹⁵⁰ and
- Raising concerns about work health and safety.¹⁵¹

This does not apply if there is serious misconduct by the employee or if the employment is only for a specified period of time.¹⁵²

Employers must give proper written notice to employees when ending their employment.¹⁵³

¹⁴¹ Workers Compensation Act 1951 (ACT) s 10 – 11.

¹⁴² Ibid s 31(1).

¹⁴³ Ibid s 31(2) – (3).

¹⁴⁴ Ibid s 36.

¹⁴⁵ Fair Work Act 2009 (Cth) s 351(1), 772(1)(f).

¹⁴⁶ Ibid s 772(1)(a).

¹⁴⁷ Ibid s 771(1)(h).

¹⁴⁸ Ibid s 772(1)(b) – (c).

¹⁴⁹ Ibid s 772(1)(d).

¹⁵⁰ Ibid s 772(1)(g).

¹⁵¹ Work Health and Safety Act 2011 (ACT) ss 104, 105(1)(a)(i) – (ii), 106(h).

¹⁵² Ibid s 123(1)(a) – (b).

¹⁵³ Ibid s 117.

- If employed for less than a year, the employer must give 1 weeks' notice

- If employed for more than a year but less than 3 years the employer must give 2 weeks' notice
- If employed for more than 3 years but less than 5 years the employer must give 3 weeks' notice
- If employed for more than 5 years the employer must give 4 weeks' notice.¹⁵⁴

If you think you have been unlawfully terminated, you should get legal advice as soon as possible. Complaints must be lodged with the Fair Work Commission within 21 days of your employment being terminated.¹⁵⁵

Fair Work Commission	www.fwc.gov.au	1300 799 675
Fair Work Ombudsman	www.fairwork.gov.au	13 13 94

Unfair Dismissal

A dismissal is 'unfair' when it is harsh, unjust or unreasonable.¹⁵⁶ 'Dismissal' means you have been fired. In deciding whether your dismissal is unfair, the Fair Work Commission will consider all of the circumstances leading to your dismissal.

This includes if:

- There was a good reason for your dismissal related to your capacity to work or conduct. For example, the impact of your conduct on the safety and welfare of other employees.¹⁵⁷ Good reasons may also include a refusal to follow reasonable instructions on the work premises;¹⁵⁸
- You were warned about any poor work performance before you were dismissed;¹⁵⁹
- You were allowed to have a support person there to help you during discussions of your dismissal;¹⁶⁰
- Your employer is a small business and has no dedicated HR specialist.¹⁶¹

A dismissal is not unfair when you are made redundant for genuine 'operational reasons'.¹⁶² This includes reasons of an economic, technological or structural nature (for example, if the employer no longer has any work for you and no longer requires anyone to perform the job you have been performing). Redundancy and dismissal are not the same.

¹⁵⁴ Ibid s 117(3).

¹⁵⁵ Ibid s 774(1)(a).

¹⁵⁶ Ibid s 385(b).

¹⁵⁷ Ibid s 387(a).

¹⁵⁸ Fair Work Regulations 2009 (Cth) reg 1.07.

¹⁵⁹ Ibid s 387(e).

¹⁶⁰ Ibid s 387(d).

¹⁶¹ Ibid s 385(c), s 387(f) – (g).

¹⁶² Ibid s 385(d), s 389(a).

Unfair dismissal laws do not apply to businesses that employ less than 15 people (a 'small business'). However, these businesses must follow the Small Business Fair Dismissal Code and give a warning to an employee about why they are at risk of being dismissed ('fired') before they dismiss them.¹⁶³

The laws against 'unfair dismissal' do not apply until you have worked for at least 6 months, or 1 year for a small business.¹⁶⁴

Casual employees cannot generally make an application for unfair dismissal. However, casual employees will not be treated as casual if they have been employed on a regular and systematic basis and had a reasonable expectation of continuing employment.¹⁶⁵ This means that even if you are told by your employer that you are a casual employee, you may not be a casual employee by law. It is still worthwhile getting legal advice if you think you have been unfairly dismissed even as a casual employee.

If you think you have been unfairly dismissed, you must act quickly – unless exceptional circumstances apply, you only have 21 days from the date you were dismissed to make an application to the Fair Work Commission.¹⁶⁶

Fair Work Commission	www.fwc.gov.au	1300 799 675
Fair Work Ombudsman	www.fairwork.gov.au	1300 724 200
Unions ACT	www.unionsact.org.au	6247 7844
Australian Council of Trade Unions	www.actu.org.au	1300 362 223
Youth Law Centre ACT	www.legalaidact.org.au	6173 5410
Legal Aid ACT	www.legalaidact.org.au	1300 654 314

Times of unprecedented change

During times of unprecedented change, such as the COVID-19 pandemic, it may be useful to see legal advice on your employment situation and any changes to this. Schemes like JobSeeker and your employment rights generally can be very complicated so it's best to get legal advice before making any important decisions. You can contact the Youth Law Centre on 0261735410 to book an appointment for this purpose.

¹⁶³ Fair Work Act 2009 (Cth) s 385(c); Small Business Fair Dismissal Code 2011.

¹⁶⁴ Ibid s 382 – 383.

¹⁶⁵ Ibid s 384(2).

¹⁶⁶ Ibid s 394(2)(a).

FAMILY

Your Parents

Your parents have a legal responsibility to care for you and financially support you until you are 18. This includes looking after the mental, physical and emotional health.¹⁶⁷ Your parents also have to make sure that you are educated and stay in school until you are at least 17 years old or finish Year 12.¹⁶⁸ Your parents can choose where they send you to school.¹⁶⁹

Your parents can discipline you but it needs to be reasonable. They are not allowed to use unreasonable physical discipline such as slapping you across the face, or using something like a belt to hit you. Your parents are not allowed to abuse you in any way.¹⁷⁰ If you are worried about how your parents are treating you, you can get free help.

If you need help figuring out whether the way your parents treat you is 'reasonable' or 'unreasonable' contact:

Youth Law Centre ACT	www.legalaidACT.org.au	6173 5410
Legal Aid ACT	www.legalaidACT.org.au	1300 654 314

If you are having problems at home, you can talk to a youth worker about how to get help and fix these problems (see checklist of contacts at the back of this handbook). If there is violence in your home, have a look at the section in this handbook on 'Personal Safety'.

Becoming a Parent

If you have a child, you have the same responsibilities as any parent even if you are not currently 18.

These include:

- Registering your child's birth by completing an ACT Government Birth Registration statement within 6 months after the day of the birth;¹⁷¹
- Caring for your child until they turn 18 years old;¹⁷² and
- If the child does not live with you, you may be required to pay child support payments to help care for them until they are 18 years old.

¹⁶⁷ Children and Young People Act 2008 (ACT) s 15 – 16; Convention on the Rights of the Child Art. 18.

¹⁶⁸ Education Act 2004 (ACT) s 9 – 10.

¹⁶⁹ Ibid s 10(2)(a).

¹⁷⁰ Crimes Act 1900 (ACT) s 39.

¹⁷¹ Births, Deaths and Marriages Registration Act 1997 (ACT) s 10(1).

¹⁷² Children and Young People Act 2008 (ACT) s 15 – 16.

If you and the other parent are not together, you will need to think about what time the child should spend with each of you and how that should occur while keeping the baby safe.

If you do not meet your responsibilities as a parent or you do not care for your child properly, Child and Youth Protection Services (CYPS) may become involved and your child may be taken away from you and placed with someone else who can care for them properly.

For support and advice on being a parent you can contact:

ACT ParentLink	www.parentlink.act.gov.au	13 34 27
EveryMan	www.everyman.org.au	6230 6999
ACT Child and Family Centres	www.communityservices.act.gov.au	

Birth Certificates and Registration

It is very important that all children are registered and receive a birth certificate when they are born. It will be important later on for setting up health records, and education records, and for claiming payments from Centrelink.

If the father's name is not on the birth certificate, the mother of the child will have to prove that he is the father if she wants to receive child support payments. This process is called 'Proof of Parentage'.

Proof of Parentage usually involves the father either agreeing to sign a form saying he is the father or having a blood group or DNA test to establish whether he is the father.¹⁷³ If he is unwilling to take a test to confirm paternity, a court can order him to do so.

Access Canberra	www.accesscanberra.act.gov.au	13 22 81
Youth Law Centre ACT	www.legalaidACT.org.au	6173 5410
Legal Aid ACT	www.legalaidACT.org.au	1300 654 314

Getting Married

At 18, you can get married.¹⁷⁴ Marriage in Australia means 'the union of 2 people to the exclusion of all others, voluntarily entered into for life'.¹⁷⁵

¹⁷³ Child Support (Assessment) Act 1989 s 29(2).

¹⁷⁴ Marriage Act 1961 (Cth) s 11.

¹⁷⁵ Ibid s 5.

However, if you are aged between 16 and 18, you can apply to the court for permission to get married.¹⁷⁶ You must have good reasons and prove that there are 'exceptional circumstances'.¹⁷⁷ Being pregnant is not normally enough, by itself, to be 'exceptional'.¹⁷⁸

Adoption

Information about adoptions must be kept secret,¹⁷⁹ with the exception of people who have a right of access to the information (the adopted person, their adoptive and birth parents and a child or descendant of the adopted person).¹⁸⁰ If you are adopted and are not yet 18 years old, you can normally only find out who your birth parents are if both your adoptive parents and your birth parents agree.¹⁸¹ In the ACT, you can start looking for your birth parents without your adoptive parents' permission once you turn 18.

Once you have turned 18, you can apply to Access Canberra to give you a copy of your adoption record. Before doing this, you will need to get a formal authorisation to apply from the Assessment and Support Team.¹⁸²

Once you are 17 years and 6 months of age, you can say in writing that you do not want your birth parents to have any contact with you (the 'objection'). This takes effect when you turn 18 years of age. This objection is made to the Chief Executive of the Registrar-General's Office of Births, Deaths and Marriages, and remains in place unless you revoke it in writing. This is how you can prevent your parents from making contact with you.¹⁸³ Your birth parents also have the same right to prevent you from making contact with them.

Care and Protection System

Child and Youth Protection Services is responsible for making sure that children who live in the ACT are cared for and protected from abuse and neglect.

Abuse may be physical, sexual, emotional or psychological.¹⁸⁴ Neglect can include if your parents do not provide you with food, somewhere safe to live or clothing.¹⁸⁵

If a child has been, is being or is at risk of abuse or neglect, then Child and Youth Protection Services have to take action to protect the child.¹⁸⁶ This is called a Child Concern Assessment.

¹⁷⁶ Ibid s 12(1).

¹⁷⁷ Ibid s 12 (2b).

¹⁷⁸ Re K (1963) 5 FLR 38, 39 (Selby J); Re Z (1970) 15 FLR 420, 423 (Joske J).

¹⁷⁹ Adoption Act 1993 (ACT) s 60.

¹⁸⁰ Ibid s 66.

¹⁸¹ Ibid s 68(1).

¹⁸² Ibid s 62.

¹⁸³ Ibid s 70.

¹⁸⁴ Children and Young People Act 2008 (ACT) s 342.

¹⁸⁵ Ibid s 343.

¹⁸⁶ Ibid s 350.

If the child is still at risk of abuse and neglect, Child and Youth Protection Services may go to the Children's Court to ask for an order to protect the child or young person. These situations are called 'care and protection proceedings'.

Child and Youth Protection Services	www.act.gov.au	1300 556 729
Youth Law Centre ACT	www.legalaidACT.org.au	6173 5410
Legal Aid ACT	www.legalaidACT.org.au	1300 543 314
CREATE Foundation	www.create.org.au	1800 655 105
Barnardos Australia	www.barnardos.org.au	6228 9500

Family Separation/Divorce

If your parents are talking about separating or getting divorced, or are not living together anymore, life may be hard for the whole family for a while. Before your parents get divorced, they need to be separated.¹⁸⁷

Your parents will have to make a lot of difficult decisions. They need to decide where they will live, where you will live and sometimes even who will continue to live in the family home. If your parents own the home, they might need to decide whether it will have to be sold. It is important to remember that it is not your fault if your parents are separating.

Some families can work things out between themselves. A lot of resources can help, including:

Family Relationships Advice Line and Website

By calling the advice line you can get information and advice from a social worker or other support person about family separation. They can put you through to a legal adviser, who will tell you what your legal rights are.

If your parents have not yet separated, they can call this number and get information about counselling and mediation services that can help them try to resolve their difficulties and prevent from separating.

Family Relationships Advice Line	1800 050 321
Family Relationships Online	www.familyrelationships.gov.au

Family Relationship Centre

¹⁸⁷ Family Law ACT 1975 (Cth) s 48(2).

Family Relationships Centres provide families with information and advice about family separation issues, and refer them to services that can help. You can attend the Centre with one or both of your parents, or you can go there on your own.

Family Relationship Centre	www.familyrelationships.gov.au	6122 2444
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Family and Relationship Counselling

Counselling can be really helpful when your family is separating – it can benefit both your parents and you.

Relationships Australia	www.racr.relationships.org.au	1300 364 277
Catholic Care	www.catholiccare.cg.org.au	6295 4300

Mediation

If your parents are thinking about separating, they can get mediation. Mediation is similar to counselling, but the mediator takes a more active role in trying to help your parents come to an agreement.

A family dispute resolution mediator will talk to you and/or your parents, and help you come to an agreement about future agreements, or just discuss your feelings about the situation and help you to deal with them.

Sometimes, they can help your parents mend their relationship, but if that is not possible, they will encourage your parents to focus on how best to care for the children after they separate. This may prevent the need for your parents to go to court.

Going to the Family Court

If your parents still cannot agree about important things such as where you are going to live, the next step is for your parents to go to Court and ask a judge to make a decision about parenting and/or property issues.

The whole court process can take a long time to finish – up to one or two years in really complicated cases. However, the judge can make ‘temporary’ or ‘interim’ orders from time to time before the process is finished, and your parents can agree on orders they want made at any time.

What sort of orders can the Court make?

The Court makes orders which are in the child's best interests. These could include where you are to live, who you are to live with and how much time you spend and communicate with a parent you are not living with.¹⁸⁸

It can also say who will make decisions about your medical treatment, where you go to school, what name you will use and what religion you will follow.¹⁸⁹

Can I spend equal time with both parents?

The Court must make a decision that has your best interests as the most important consideration.¹⁹⁰ You have a right to have a meaningful relationship with both your parents, except in cases where there is a risk of abuse or neglect.¹⁹¹ The court order may say that you have to spend equal time with both parents.¹⁹²

Sometimes, practical difficulties prevent this, such as if your parents live a long way from each other, or one of them has work or other commitments preventing them sharing parenting time equally. The court must think about whether equal time is in your best interests, but does not have to order it if it is impractical.

How old must I be before I can live with whoever I want?

The court must think about your views but it must also think about other factors and balance them to make a decision. The court will listen to your views but it may not make the decision you want. The older and more mature you are, the more likely it is that the court will agree to let you make the choice.

What does the Court take into account in deciding who I will live with?

The court is thinking about what is in your best interests, not the best interests of your parents. The Court will also look at:

- What orders will best ensure you have meaningful relationships with both of your parents;
- Whether it will be too expensive or difficult for the parent you are not living with to spend time with you, if a particular order is made;
- Whether the parent with whom you will live will protect you from harm, including family violence against you or witnessing violence;
- Your relationship with each parent and other relatives in your extended family, such as grandparents, and whether that will be maintained if a particular order is made;
- Whether each parent can provide for your physical, intellectual and emotional needs;
- Your right to enjoy your Aboriginal or Torres Strait Islander heritage, if that is your background; and

¹⁸⁸ Ibid s 64B(2).

¹⁸⁹ Ibid s 64B(2), 60CC.

¹⁹⁰ Ibid s 60CA.

¹⁹¹ Ibid.

¹⁹² Ibid s 61DA.

- What your views are.¹⁹³

You do not have to say what you want to happen.¹⁹⁴

Telling the Court what you want

If you want to tell the court what you want, in almost all cases, you, your parents, or both you and your parents will be sent to see a Family Consultant who will talk to you. The Family Consultant will then write a report to the Court with recommendations about your time with your parents. You need to tell the Family Consultant if you do not want your parents to know what you have said.

Sometimes the court appoints a lawyer who is called an Independent Children's lawyer to help the court work out what is best for you. That person will make sure the Court knows your views if you want them known. They are not your lawyer in the same way your parents have lawyers and they do not just do what you say. They are there to help the Court with your interests in mind.¹⁹⁵

Family Court of Australia	www.familycourt.gov.au	1300 352 000
Federal Circuit Court	www.federalcircuitcourt.gov.au	1300 352 000
Best for Kids	www.bestforkids.org.au	1300 800 529
Family Law National Enquiry Centre	www.familycourt.gov.au	1300 352 000

Some information on the Best for Kids website only applies to NSW

How can I find out what is happening?

Usually your parents are not allowed to talk about the court case with you and they should not show you any court documents. Remember, this is them disagreeing about you but it is not your problem. Your parents should really be telling you about the arrangements that are in place. If you have an Independent Children's Lawyer you can call them and ask them any questions. You may be able to get free information from Legal Aid or the Youth Law Centre ACT.

Youth Law Centre ACT	www.legalaidACT.org.au	6173 5410
Legal Aid ACT	www.legalaidACT.org.au	1300 654 314

Who can I talk to right away?

If you want to talk about what's happening there are another people you can contact to help you:

¹⁹³ Ibid s 60CC.

¹⁹⁴ Ibid s 60CE.

¹⁹⁵ Ibid s 60CD.

Kids Helpline	Kidshelpline.com.au	1800 55 1800
Lifeline	www.lifeline.org.au	13 11 14

HEALTH

Visiting a Doctor

Some public health centres provide free or low cost services to young people.

For a free or low cost appointment with a doctor, contact:

Sexual Health and Family Planning	www.shfpact.org.au	6247 3077
Canberra Sexual Health Centre	Health.act.gov.au/our-services/sexual-health	6244 2184
Winnunga Nimmityjah Aboriginal Health Services	www.winnunga.org.au	6284 6222
The Junction Youth Health Service	https://www.anglicare.com.au/services/youth-family/health/	6232 2423

Medicare

Medicare is a national system that helps pay for certain health services. To be eligible you must have a Medicare card or be registered on your parents' card. You are able to request your own Medicare number and card once you are 15.¹⁹⁶

You do not need a Medicare card to see a doctor at Sexual Health and Family Planning or Canberra Sexual Health Centre.

Having a Medicare card does not automatically exempt you from paying your doctor upfront. Even with a Medicare card, you may have to pay for your appointment. However, after your appointment, you can then take the payment receipt to Medicare for a partial refund on the amount you paid. The partial refund usually covers the cost of the booking fee, administration fee, record-keeping fees and fees from the practitioner's service company.

¹⁹⁶ <https://www.servicesaustralia.gov.au/individuals/medicare>.

If you cannot afford to pay anything upfront, look for a doctor who 'bulk bills'. This means they will take your Medicare details and be reimbursed directly from Medicare, rather than requiring you to go to Medicare for a refund afterwards.¹⁹⁷

Medicare	www.humanservices.gov.au	132 011
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Can I see a doctor without telling my parents?

Generally, you can visit a doctor of Sexual Health and Family Planning on your own when you are 14, if you have the maturity to make informed decisions for yourself.¹⁹⁸

If you are over 14 years of age and visit a doctor on your own, your doctor cannot tell your parents if you make it very clear that you do not want your parents to know about your visit.¹⁹⁹ It is important that you tell the doctor if you do not want your parents to know.

In an emergency, a doctor can tell an immediate family member about relevant medical information if it is reasonable and necessary for your health.

Consent to Medical Treatment

Doctors and nurses cannot give you any treatment without your informed consent to the treatment. This means that you agree to the treatment and that you have been given information about the risks involved, as well as alternative treatments. You have the right to ask questions about the risks and what will happen during the procedure or treatment.

The law on consenting to medical treatment states that you can only consent to medical treatment if you are an adult (18 years or older), or if you are mature enough to clearly understand the treatment to be given to you and any risks involved. Otherwise, a guardian or parent must consent on your behalf.²⁰⁰

Youth Law Centre ACT	www.legalaidACT.org.au	6173 5410
Legal Aid ACT	www.legalaidACT.org.au	1300 654 314

Access to Medical Records

¹⁹⁷ Ibid.

¹⁹⁸ Secretary, Department of Health and Community Services v JWB and SMB ('Marions Case') 1992 175 CLR 218, 238; Goldsborough v O'Neill (1996) 131 FLR 104.

¹⁹⁹ Health Records (Privacy and Access Act) 1997 (ACT) s 17(3).

²⁰⁰ Secretary, Department of Health and Community Services v JWB and SMB ('Marions Case') 1992 175 CLR 218, 238.

If you need to access your medical records, first contact your doctor. If the doctor does not give you the records, contact the ACT Human Rights Commission for advice.

ACT Human Rights Commission	www.hrc.act.gov.au	6205 2222
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Blood Donors and Organ Donation

People over 16 can generally consent to donate blood.²⁰¹ If you are under 16 and want to donate blood, you will need permission from your parent or your guardian and your doctor must be able to say that the blood donation will not be a detriment to your health.²⁰²

If you are over 18, you can register to be an organ donor. Call the Australian Organ Donor Register, go into your Medicare office or register online.

Red Cross Blood Service	www.donateblood.com.au	139 596
Australia Organ Donor Register	www.humanservices.gov.au	1800 777 203

Mental Health System

If you are struggling with your mental health, there are places you can go for support or counselling.

Everyman	www.everyman.org.au	6230 6999
Salvation Army Counselling Service	www.salvos.org.au	6248 5504
Relationships Australia	www.relationships.com.au	6122 7100
Mental Health Foundation ACT	www.mhf.org.au	6282 6658
Lifeline	www.lifeline.org.au	13 11 14
Kids Help Line	www.kidshelpline.com.au	1800 55 1800
The Junction Youth Health Service	https://www.anglicare.com.au/services/youth-family/health/	6232 2423

If you are worried that someone might hurt themselves or other people, call the Police or the Mental Health Crisis Assessment and Treatment Team.

²⁰¹ Transportation and Anatomy Act 1978 (ACT) s 20.

²⁰² Ibid s 21.

If you know you need help living with a mental health issue, but are having trouble accessing support or treatment, contact Mental Health ACT or the ACT Health Services Commissioner.

Police (emergency)	000
Mental Health Crisis Assessment and Treatment Team (CATT)	1800 629 354
Child and Adolescent Mental Health (CAMHS) (ACT Health)	6205 1469 (Northside) 6205 1050 (Southside)
Mental Health ACT, Complaints and Consumer Feedback	6205 5142
ACT Health Services Commissioner	6205 2222

Mental Health Tribunal and Treatment Orders

Sometimes people do not want help, but mental health officials or medical staff believe they need treatment for their own health or safety, or for the safety of others.

In some situations, the ACT Mental Health Tribunal can order someone with a mental illness to undergo treatment through a Psychiatric Treatment Order, or Community Care Order.²⁰³

In other situations, some people may ask the ACT Mental Health Tribunal for treatment for mental illness as they feel they cannot make reasonable decisions affecting their own health and safety.²⁰⁴ This means that someone else will make the decisions for them.

You can find out more information about the Tribunal (how it works, who will be there, what will happen) from Legal Aid ACT.

You can request free legal representation if you are attending a Tribunal hearing held at the Psychiatric Services Unit. It is sometimes possible to ask for mental health treatment orders to be appealed or reviewed. Contact Legal Aid ACT for more information.

Youth Law Centre ACT	www.legalaidACT.org.au	6173 5410
Legal Aid ACT	www.legalaidACT.org.au	1300 654 314

Complaints about Health Services

If you have a complaint about a service provided by a doctor, nurse, chemist or any other health service, you can contact the ACT Health Services Commissioner. You may register a complaint if you are over 18 years of age, or through a parent or guardian, or if you have permission from the Commissioner. The ACT Disability and Community Services Commissioner also take complaints about disability and aged service providers.

ACT Health Services Commissioner	6205 2222
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²⁰³ Mental Health (Treatment & Care) ACT 1994 (ACT) s 11.

²⁰⁴ Ibid s 13.

HOUSING

Leaving Home

There is no law in the ACT stating you must be a certain age before you can leave home. However, your parents still have a legal parental responsibility for you until you turn 18.²⁰⁵ This means they have legal responsibilities concerning your daily and long-term care.²⁰⁶ An example of long-term care responsibility is being able to decide where you live or go to school.

If you are 16 or over, it is unlikely you will be forced to go back home. If you do leave home before you are 18, your parents or the Director General of the ACT Community Services Directorate can ask the Children's Court for a 'care and protection' order.²⁰⁷ This is an order which protects you from the risk of being harmed, neglected, exploited or abused if nobody with parental responsibility is willing and able to do so. A care and protection order can provide orders on who you are allowed contact with, forbid you from using drugs or allow you to be tested for drugs, change who has parental responsibility for you or decide where, or with which people, you must live.²⁰⁸

Child and Youth Protection Services is unlikely to take out a court order if you are over 16 and:

- You have somewhere safe to live;
- You have enough money to live on; and
- You are not involved with drugs, prostitution or criminal activity

Refuges and Supported Accommodation

If you have left home and do not have anywhere to stay, you might consider moving to a youth refuge while you decide where to live.

The ACT has several different youth refuges, most of which have confidential addresses. You may have to attend an interview to be able to stay at a youth refuge. You should ask them about whether you will have to pay money to stay there and what the relevant costs are.

Each refuge has its own rules that must be followed by people staying there. If you do not follow these rules, it is likely that you will be asked to leave.

²⁰⁵ Children & Young People Act 2008 (ACT) s 16.

²⁰⁶ Ibid s 15, s 19.

²⁰⁷ Ibid s 345(1).

²⁰⁸ Ibid s 422.

If you need somewhere to stay in an emergency, you should contact One Link on 1800 176 468. They will refer you to the appropriate accommodation service.

If you are in emergency housing and are having problems, please seek legal advice about what action you can take.

If you are 16 years or older and an Australian citizen or a permanent resident, you may be able to rent a place to live from ACT Housing.²⁰⁹ Each applicant must be a resident in the ACT for a period of 6 months immediately before the assessment for housing happens (assessment date).²¹⁰

Housing ACT will charge you either a maximum of 25% of your income in rent, or the market rent, depending on which is lower.²¹¹

To qualify for Housing ACT, you need to earn less than:

- Single Applicant - \$754 gross per week
- Family of 2 person and joint tenancies - \$942 gross per week
- Family of 3 or more persons - \$942 plus \$126 each for the third, fourth, fifth person etc

Your rental rebate needs to be less than 25% of your gross weekly income, your personal assets (not counting furniture, clothing and one vehicle) must not be more than \$40, 000 and you must not own any residential property.²¹²

These figures change frequently, so it is a good idea to check with ACT Housing.

ACT Housing	www.communityservices.act.gov.au/hcs/services	13 34 27
NSW Department of Housing	www.facs.nsw.gov.au/housing	1800 422 322

What if it's an Emergency?

If you have an urgent or special housing need, you can apply to Housing ACT for 'early allocation housing'.²¹³ Circumstances such as homelessness, mental or physical health issues, disability, women and children escaping domestic violence, Indigenous persons facing complex issues, and children at risk may indicate a special housing need.²¹⁴ Housing ACT will look at your situation and decide if you are eligible for early allocation housing.

If you can't get somewhere to stay through Housing ACT and need to try to get into a refuge, call your local Youth Centre (contact details are at the back of this handbook). They can help you get in contact with refuges and give you information on finding somewhere else to stay, or see the section on Refuges and Supported Accommodation.

What if my application is refused?

²⁰⁹ https://www.communityservices.act.gov.au/hcs/services/social_housing/eligibility_for_public_housing.

²¹⁰ www.communityservices.act.gov.au/hcs/services/social_housing.

²¹¹ Ibid.

²¹² https://www.communityservices.act.gov.au/hcs/services/social_housing/eligibility_for_public_housing.

²¹³ https://www.communityservices.act.gov.au/hcs/services/social_housing/eligibility_for_early_allocation_of_housing.

²¹⁴ Ibid.

You can have the decision reviewed. It will be reviewed first by a senior Housing officer, and then a panel.²¹⁵ The Housing Review Committee may also then consider the decision. The Housing Review Committee is independent from Housing ACT.²¹⁶ If you are still unhappy with the decision, you may be able to apply to the ACT Civil and Administrative Tribunal (ACAT).

Canberra Community Law	www.canberracommunitylaw.org.au	6128 7977
Housing ACT Client Liaison	13 34 27	

Renting from a Landlord

You can find a private rental property through the internet, local newspapers or by contacting Real Estate Agents.

The cheapest way to rent through the private rental market is through a group rental arrangement, also known as a 'share house'. This is where a group of people agree to share the costs and responsibilities of renting a house, flat or unit. This means there are more people helping to pay the rent.

Usually in the ACT, landlords and real estate agents ask for at least one 'Rent Reference'. The reference is usually written by someone you have rented from before; however, an adult who knows you well, like a teacher or school counsellor, could also write it. The real estate agent may call your referee to check whether you are reliable.

Once you have decided on a place to live, and the landlord has accepted your application, you will be asked to sign a Residential Tenancy Agreement. This is the new name for what used to be called a lease.

For free up to date information about what to do before signing a lease, contact Legal Aid ACT's Tenancy Advice Service.

Legal Aid ACT Tenancy Advice Service	www.legalaidact.org.au/tasact	1300 402 512
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What is a bond?

A bond is an amount of money you might need to pay before you can move into your new home. A bond acts as a safeguard for the landlord at the end of the tenancy in case the place is damaged, or if you break your lease and don't pay all the rent.²¹⁷

The bond cannot be more than the equivalent of four weeks rent.²¹⁸ You may also be asked to pay rent of up to one calendar month in advance.²¹⁹

²¹⁵ https://www.communityservices.act.gov.au/hcs/services/social_housing/appeals.

²¹⁶ https://www.communityservices.act.gov.au/hcs/publications/fact_sheets/review-of-decision.

²¹⁷ Residential Tenancies Act 1997 (ACT) Dictionary.

²¹⁸ Ibid s 20.

²¹⁹ Ibid Schedule 1, clause 28.

If you keep your home in good condition and pay the rent on time, the bond will be returned to you when you move out.²²⁰ Therefore, it is really important that you keep a good record of what the place looked like when you moved in. This can be done by taking pictures and sending it to the landlord or real estate agent.

In the ACT, all bonds must be paid to the Office of Regulatory Services (Rental Bonds), which is operated by the ACT Government. This must be done in accordance with the rental agreement. The Office of Regulatory Services will hold your bond until you move out of the property and have your final inspection. The final inspection is to check that the house/flat is in the same condition as when you moved in and that any damage that has occurred is only 'fair wear and tear' as a result of normal usage.²²¹

If you have problems getting your bond back, you can get legal advice about what to do.

Legal Aid ACT Tenancy Advice Service	www.legalaidact.org.au/tasact	1300 402 512
Youth Law Centre ACT	www.legalaidACT.org.au	6173 5410
Legal Aid ACT	www.legalaidACT.org.au	1300 654 314

Help Paying the Bond

If you want to rent a place privately but cannot afford to pay a bond, ACT Housing may be able to give you an interest free loan of up to 90% of the bond. This is called 'bond assistance'.

To get bond assistance, you need to be on a low to moderate income, and you cannot have cash or assets worth over \$10,000. This amount does not include ordinary household and personal items or a car. You must also demonstrate that you can meet the obligations and payments required to continue to live in the private rental property as a tenant.

ACT Housing	www.communityservices.act.gov.au/hcs	133 427
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Residential Tenancy Agreements

A residential tenancy agreement can be written or spoken. But it is best if you make sure that any agreement you make with a landlord or real estate agent is put in writing. This will reduce the chances of misunderstandings or disputes about the agreement. If you are not sure about anything in a residential tenancy agreement that you are being asked to sign, then you should seek legal advice.

Legal Aid ACT Tenancy Advice Service	www.legalaidact.org.au/tasact	1300 402 512
Youth Law Centre ACT	www.legalaidACT.org.au	6173 5410
Legal Aid ACT	www.legalaidACT.org.au	1300 654 314

²²⁰ Ibid s 33 – 34.

²²¹ Ibid s 31(a).

Once you have signed a residential tenancy agreement, you have legal responsibilities for the property you are renting. You should ensure you understand what you are signing and that you can meet your responsibilities before you sign any residential tenancy agreement.

Signing a Residential Tenancy Agreement

People under the age of 18 can sign residential tenancy agreements.²²² However, many real estate agents will ask young people under 18 to have an adult sign the lease on their behalf. While this is not a legal requirement, they are allowed to make this request. If a person signs a residential tenancy agreement on your behalf, they are agreeing to take legal responsibility for the property.

If you are not sure about any part of your residential tenancy agreement that you are being asked to sign, you should seek legal advice.

If there are other people wanting to rent the same house or apartment, the real estate agreement and landlord have a right to pick who they think will be the most reliable person to live there. Young people are more likely to be at a disadvantage in this situation.

If you feel that you have been discriminated against because of your age, you can contact:

ACT Human Rights Commission	www.hrc.act.gov.au	6205 2222
Australian Human Rights Commission	www.humanrights.gov.au	1300 656 419

Ending a Residential Tenancy Agreement

If you want to exit your residential tenancy agreement before it finishes, you are essentially 'breaking your lease' or 'ending your tenancy'. If you do this, you may have to keep paying rent for the remainder of your agreement.²²³ In most cases you will have to pay a 'break lease' fee or pay the rent until a new tenant moves in, even if you do not live there anymore. The landlord has a duty to attempt to find someone to move in within a reasonable time.²²⁴

If you need to end your tenancy agreement, try to give as much notice as possible. Put your notice in writing and keep a copy of it. Try talking to the real estate agent or landlord as they might agree to let you end the lease early.

²²² Ibid s 6A.

²²³ Ibid s 36.

²²⁴ Ibid s 38.

Reasons to end the tenancy agreement early could include the landlord breaching the terms of the tenancy agreement or if you are experiencing significant financial hardship.²²⁵

Occupancy Agreements

If you make an agreement to live somewhere, but the agreement is not a residential tenancy agreement, it is probably an occupancy agreement. An example is you are lodging in a refuge. An occupancy agreement may be written or spoken, or partly written and partly spoken.²²⁶

Under an occupancy agreement you are still entitled to certain things:

- You should be told about any rules before you move in;²²⁷
- The accommodation should be reasonably safe and clean;²²⁸
- You can ask to have the agreement in writing if you are there for more than 6 weeks;²²⁹
- You should be given 8 weeks' notice before any increase in rent;²³⁰
- You cannot be asked to leave without reasonable notice.²³¹

See Legal Aid ACT's Tenancy Advice Service website for more information on occupancy agreements.

Legal Aid ACT Tenancy Advice Service	www.legalaidact.org.au/tasact	1300 402 512
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Eviction

An eviction is when you are made to leave your accommodation.

If Housing ACT wants to evict someone, they must go through a formal notification process. You can appeal their decision. This means that you can challenge the decision to try and get a different result. It is important to contact Housing ACT as soon as possible to try and resolve the problem.

The only way you can be evicted by your landlord is through an order of the ACT Civil and Administrative Tribunal (ACAT). Landlords cannot evict you themselves – they can serve a notice to vacate, but must have an order from ACAT to evict.²³²

²²⁵ Ibid s 43 – 44.

²²⁶ Ibid s 71C(2).

²²⁷ Ibid s 71E(1)(b).

²²⁸ Ibid s 71E(1)(a).

²²⁹ Ibid s 71E(1)(c).

²³⁰ Ibid s 71E(1)(f).

²³¹ Ibid s 71E(1)(h).

²³² Ibid s 36(1)(c) – (d).

If your landlord wants to evict you, they have to give you proper written notice. Once the landlord has applied for a warrant of eviction, you will receive at least 2 days' notice.²³³ If you do not agree with the notice, you should seek legal advice.

If you are a tenant in an Impacted Household, you cannot be evicted for the duration of the moratorium period for your failure to pay rent. An Impacted Household is a household that:

- Has at least one rent-paying member who has had a reduction or stoppage in income related to the COVID-19 pandemic, and as a result the household's gross weekly income has reduced by at least 25%; and/or
- Has at least one member who became eligible for a JobSeeker or JobKeeper payment from the Commonwealth on or after 20 March 2020.

The moratorium period started on 22 April 2020 and runs for 3 months, but the ACT Government can extend it for up to 3 months beyond that date.

Remember to keep copies of all papers relating to any tenancy. If you have asked your landlord or agent to fix any problems, you should also keep copies of this. This way you have a record of your problem and your attempt to have it solved. This is a good precautionary measure as it may prevent your landlord from saying they were unaware of an issue.

Times of Unprecedented Change

During times of unprecedented change, for example in COVID-19, it is a good idea to stay updated on government measures that may affect your rights as a tenant. If you are confused or concerned about any temporary changes to your rights, please call Legal Aid's Tenancy Advice Service.

Legal Aid ACT Tenancy Advice Service	www.legalaidact.org.au/tasact	1300 402 512
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MONEY AND DEBT

Bank Accounts

You can open a bank account at any age. Usually, if you are under the age of 14, you will need a parent or guardian to help you to set up a bank account. If you are over 14 years of age, some banks will let you set up a bank account yourself. This depends on the bank. You

²³³ Ibid s 40.

will need different forms of ID to be able to complete the forms – such as a drivers' licence, student ID, proof of age card or passport.

When picking a bank, it is important to look at what different banks can do for you. You can shop around. You should ask about what fees you will have to pay, what interest they pay, and whether you have to maintain a minimum amount of money in your account before they charge you fees or you pay interest.

Debit Cards and EFTPOS

A debit card allows you to withdraw your money from an ATM or through EFTPOS when you make a purchase at a store. Ask if the bank has fees for withdrawals, if there is a limit on the number of transactions you can make each month, and if they will charge you for using another bank's ATM.

Through EFTPOS, you can use your debit card to pay for things at a store, and sometimes you can withdraw money from your account at the same time. Pay attention when the payment is made, in case it does not go through properly. If they tap or insert your card twice, or say they had to cancel a previous transaction, make sure to ask why. Keep any receipts and check your bank statement to make sure the payment was not processed twice.

Direct Debit

Some bills or payments can be made through direct debit. You might give permission for a one-off payment, or for regular payments. You can cancel these at any time by writing to the bank or financial institution.

Avoiding Problems

- If you use phone banking, keep the receipt number. If you use internet banking, print out the transaction record;
- Check your bank statements to make sure you are being charged correctly;
- If something does not seem right, ask for an explanation, and;
- If you have been charged for something you didn't buy, make a complaint.

If you have a disagreement with the bank, try to sort it out directly by visiting a branch, phoning them or writing a letter. If you can't fix it, contact the Australian Financial Complaints Authority ('AFCA') or a free legal service to get advice about what to do next.

Youth Law Centre ACT	www.legalaidACT.org.au	6173 5410
Legal Aid ACT	www.legalaidACT.org.au	1300 654 314
Consumer Law Centre ACT	www.carefcs.org	6257 1788
AFCA	www.afca.org.au	1799 931 678

Keeping Track of Your Money

It's a good idea to work out where your money is going so you know you are not spending more than you are earning. By creating a budget, you can ensure that you do not spend all your money without realising it, and then have nothing left when you have to pay the rent or buy a new phone card. A budget will also help you start saving for things you want to buy.

There are many online resources to help you create a budget. You can also get free help from a financial counselling service. Care Financial Counselling has a free booklet titled 'Budgeting for Life', which is available on their website:

Care Financial Counselling Service	www.carefcs.org	6257 1788
Salvation Army MoneyCare Counselling Service	www.salvos.org.au	6247 3635

Buying Things

Whether you are buying something small, like a T-shirt, or something big, like a TV, it is a good idea to shop around. Compare prices, and make sure you are getting exactly what you want.

It is fine to inspect things before buying to ensure the quality. Take your time and don't feel pressured into buying anything. It might be a good idea to walk away and think about it for a while, and then go back if you are sure it is what you want and something you can afford.

When you make large purchases, ask for a receipt and keep it in a place you will remember. Having the receipt makes it easier to ask for a refund or exchange. However, you do not need to have the receipt to request an exchange or refund. What you need is 'proof of

purchase'. A receipt is one way you can do this. For example, a credit card statement is also proof of purchase.²³⁴ If you are worried you will lose the receipt or other proof of purchase, you can always take a photo of it or ask for it to be emailed to you.

Refunds and Exchange

You are not legally entitled to an exchange or refund just because you change your mind.²³⁵ Some stores will allow you to exchange or refund if you have changed your mind, but it is up to the particular store policy, not the law.

²³⁴ www.accc.gov.au/consumers/consumer-rights-guarantees/consumer-guarantees#exceptions-to-guarantees.

²³⁵ Competition and Consumer Act 2010 (Cth) s 259.

You are only legally entitled to a refund if the goods are faulty, or if the store misled you when you bought the goods.

If you think you should get a refund, but the store refuses to give it to you, contact the ACT office of Fair Trading, or the Australian Competition and Consumer Commission.

Youth Law Centre ACT	www.legalaidACT.org.au	6173 5410
Legal Aid ACT	www.legalaidACT.org.au	1300 654 314
Consumer Law Centre ACT	www.carefcs.org	6257 1788
Australian Competition and Consumer Commission	www.accc.gov.au	1300 302 502
ACT Office of Fair Trading	https://www.accesscanberra.act.gov.au/app/answers/detail/a_id/2270/~/_/fair-trading-for-consumers	6027 3000

Mobile Phones

Prepaid Phones

One way to avoid spending more money than you can afford is to buy a pre-paid mobile phone service. When you run out of credit on your phone card, you can buy a new one, and this way you are able to keep track of your spending.

Emergency calls to 000 can be made even if you have no credit on your phone

Mobile Phone Plans

To sign a mobile phone contract you have to be 18 years old.²³⁶ Sometimes young people ask their parents to sign the contract for them. Once you sign the contract, you are responsible for paying the phone bills.

If you do sign a contract (with your parents' help, or on your own when you turn 18), it is important to think about:

- How much will the contract cost? Can you afford the minimum monthly repayments, as well as any other fees involved?
- How long is the contract period?

²³⁶ Nash v Inman [1908] 2 KB 1.

- What are the fees or charges for cancelling the contract early, or for changing the plan?
- What will you use the phone for? Texting or talking, or both?
- What are the costs of making calls, SMS, video messaging and accessing the Internet?
- What services do they have to help you manage your spending on the phone?

Check the contract for hidden costs. If you do not understand the contract, do not sign it. It is fine to take it home to read through it before signing. Take it to the Youth Law Centre ACT and ask them to explain what it means.

It is really important that you are aware of the terms of the contract, and that you are sure you can afford to get a phone. If you do not make the payments that you agreed to when choosing the plan, you are breaking the contract. This can have serious consequences. You can receive a poor credit rating (which will make it difficult for you to get a loan or a credit card in future), or you may be sued in court.

Make sure to keep a copy of your receipt and the signed contract.

Other Issues with Mobiles

Whatever type of phone you are looking for, shop around and get advice. Compare prices, contracts and the services offered.

Don't lend your phone to anyone, you have to pay for all the calls made on your phone even if someone else made the call.

If the phone is stolen, contact the phone company straight away – you may have to pay for all calls made before you report it missing.

Check how much you will have to pay for downloading apps, games, music or entering competitions. Sometimes there are much higher rates for text messages or calls to 19 and 190 numbers.

If you have a disagreement with the phone company about your bill, extra fees or charges or service quality, and you cannot sort it out, contact the Telecommunications Industry Ombudsman for advice.

The Telecommunications Industry Ombudsman	https://www.tio.com.au/	1800 062 058
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Borrowing Money

Loans

If you need money to pay for something important, you may apply for a bank loan after you turn 18.²³⁷ If you are thinking about applying for a bank loan, shop around. Compare the

²³⁷ Ibid.

interest rates, the fees and charges and the term of the loan (how long you will have to pay it back). To apply for a loan you will need proof of income, bank statements and personal identification.

Ask the bank to show you how much interest you will have to pay, and what happens if you pay it off early. Think about whether it is worth paying this much to borrow the money, or whether there are other options (like saving, or borrowing from friends and family).

The Australian Securities & Investments Commission has great resources available on their website that explain personal loans in more detail.

Credit Cards

Credit cards can be useful but also risky. Just because the bank says it will give you a credit card, it does not necessarily mean you can afford it. If you do apply for a credit card, make sure you use it carefully.

The bank may not ask you to pay back the full balance on your card each month – you will likely only have to pay a minimum amount (for example, for a debt of \$200, this could be just \$10 per month).

You might be able to afford this minimum amount, but unless you can pay back the whole balance each month (for example, the full \$200), you will be charged interest. You should be careful because credit cards can have a high interest charge.

Therefore, if you use a credit card to buy something, it might take you longer to pay off the debt than you think and you may end up paying a lot more than you expected to pay for the item.

Key Information

You must be given all the information about your credit arrangements (for example about bank loans and credit cards).²³⁸

Credit providers (such as a bank, credit unions, mortgage brokers and other lenders) must tell you in writing all key information about your loan contract.²³⁹

This includes:

- The amount of credit;
- The annual percentage rates;
- How the interest charges will be calculated and how often interest is charged;
- The total amount of interest charges;
- Repayments you need to pay if the loan term is less than 7 years;

²³⁸ National Consumer Credit Protection Act 2009 (Cth) Sch 1 s 16(1)(b).

²³⁹ Ibid s 113, 121(2), 126(1) – (2), 127, 136, 149, 158, 160.

- The amount of the repayments and how this amount is calculated;
- The default interest rate and how it applies; and
- Other important information about your contract.

Hardship

If you cannot make payments because of your unemployment, illness or other unforeseen situations, you can apply for your contract to be changed because you are experiencing 'hardship'.²⁴⁰

The credit provider might change your credit contract so that you only have to repay a smaller amount at a time or they might stop repayments for a short period of time.

Credit providers have 21 days to respond to your request for hardship.²⁴¹ If they say 'no', you can then complain to an External Dispute Resolution ('EDR') Scheme.

Each credit provider will have their own preferred EDR scheme and must give you the contact details of their EDR scheme.

Credit providers must not offer credit to consumers who would not be able to meet their repayments.²⁴²

Credit providers must make an assessment about whether the loan is unsuitable before offering it.²⁴³

In making the assessment, the credit provider must make reasonable inquiries about your reasons for borrowing money and about your financial situation.

The credit provider must take reasonable steps to confirm your financial situation. For example, to confirm your employment and income.²⁴⁴

A court can also change your contract if it is considered 'unjust'. This is a difficult legal concept and, if you feel that your contract is unjust, it is best to see a lawyer.

The law applies to you no matter where you live in Australia.²⁴⁵

It is important to deal with any credit problems as soon as they start. You might want to first contact your credit provider to explain any problems you are having.

If you have questions or want to make a complaint about a credit provider, contact a free legal service, or the Australian Financial Complaints Authority.

²⁴⁰ Ibid Sch 1 s 72(1).

²⁴¹ Ibid Sch 1 s 72(2).

²⁴² National Consumer Credit Protection Act 2009 (Cth).

²⁴³ Ibid s 118(1).

²⁴⁴ Ibid s 118(4).

²⁴⁵ National Consumer Credit Protection Act 2009 (Cth).

Youth Law Centre ACT	www.legalaidACT.org.au	6173 5410
Legal Aid ACT	www.legalaidACT.org.au	1300 654 314
Consumer Law Centre	www.carefcs.org.au	6257 1788
AFCA	www.afca.org.au	1800 931 678

Dealing with Debt

If you have a debt for a credit card, loan, insurance, phones or utilities (such as electricity, gas or water) it is a really good idea to get legal advice as soon as possible. If you get a demand letter or a default notice, get help immediately.

It may be possible to talk about your situation and agree on a repayment arrangement before legal proceedings are started against you by the company or provider. If you ignore the letters or messages from the bank or provider, and the lender gets a court judgement against you, it may be too late to get help.

Talk to a free financial counsellor about ways to manage your debt.

Care Financial Counselling Service	www.carefcs.org	6257 1788
Salvation Army Moneycare Counselling Service	https://www.salvationarmy.org.au/need-help/financial-assistance/financial-counselling/	1800 007 007 (National Debt Helpline)

PERSONAL SAFETY & FAMILY VIOLENCE

Violence

Violence is not just physical. Violence can include verbal abuse, threats, stalking, unwanted touching, pushing, kicking, harassing behaviour, damaging property and any sexual contact you do not want or consent to.

If you witness or experience violence, you do not have to keep it silent. There are many trusted resources you can reach out to for assistance or protection. You can talk to a friend,

call the police, go to services for victims of crime or apply for a court order to protect yourself.

Family Violence and Personal Violence

Family Violence

Family Violence includes:

- Physical violence or abuse;
- Sexual violence or abuse;
- Emotional or psychological abuse;
- Economic abuse;
- Threatening behaviour; and
- Coercion or any other behaviour that controls or dominates the family members and causes the family members to feel fear for their safety, or another person's safety.²⁴⁶

Family violence also includes when a child hears, witnesses or is exposed to that behaviour. For example, a child hearing threats or seeing injuries on another family member.²⁴⁷

A family member can be:²⁴⁸

- A current or former boyfriend, girlfriend, husband, wife, parent or other type of domestic partner;
- An intimate partner including someone you are sleeping with or used to sleep with, depending on how often you have been or were sleeping with the person;²⁴⁹
-
- A relative including step-parents, parents-in-law, step-siblings, half-siblings and siblings-in-law;²⁵⁰ and
- A child of a former or current partner.

A family member can also be someone you have a child with that does not fit the definition of a domestic partner or an intimate partner.²⁵¹ For example, if you have a child from a one-night stand and the other parent of that child is harassing or stalking you, they can also be considered a family member. This is important as the definition of 'family violence' is broader than 'personal violence'. It includes more types of behaviours,²⁵² such as economic abuse, psychological and emotional violence, or abuse and coercion.

Personal Violence

²⁴⁶ Personal Violence Act 2016 (ACT) s 8(1).

²⁴⁷ Family Violence Act 2016 (ACT) s 8(1)(a).

²⁴⁸ Ibid s 9.

²⁴⁹ Ibid s 10(2).

²⁵⁰ Ibid 11(1)(a).

²⁵¹ Ibid s 9(e).

²⁵² Ibid s 8(1)(a).

Personal violence is similar to ‘family violence’ but is violence caused by people who are not related to you. Examples of people who can inflict personal violence include: people you know from your school, your neighbours, coworkers, people you meet on the internet or strangers.

Personal violence includes:²⁵³

- Physical violence or abuse;
- Sexual violence or abuse;
- Threatening behaviour;
- Stalking;
- Harassing, intimidating or offensive behaviour; and
- Damaging property.

If the violence occurs at your workplace, it is also possible for your employer or manager to apply to the court for a Workplace Order to stop the person who is violent towards you from approaching you at work.²⁵⁴

Options

Call the Police

The Police can get involved in situations of violence to ensure the safety of the victim. They can also charge people who commit crimes by harming others.

Emergency	000
Police Assistance	131 444

Talk to Someone

It is important to talk to someone you trust – someone who will listen to what you have to say and who you feel safe with. Some people you could talk to might include friends, relatives, a friend’s parents, youth workers, a confidential over-the-phone service, teachers, doctors or counsellors.

These people can give you support, help you find ways of stopping the violence, or help you to find a safe place to stay.

Domestic Violence Crisis Service 24/7 Crisis Line	6280 0900
Kids Help Line	1800 551 800
Lifeline	131 114
Canberra Rape Crisis Service	6247 2525

Applying for a Court Order

²⁵³ Personal Violence Act 2016 (ACT) s 8(1).

²⁵⁴ Ibid s 13, 32.

You can apply for a Family Violence Order or a Personal Protection Order from the ACT Magistrates Court.

You can get a court order from the ACT Magistrates Court that can require a person to stop any or all of the following:

- Causing or threatening to cause personal injury;
- Causing or threatening to damage your property;
- Behaving in a harassing or offensive manner towards you;
- Contacting or coming within a certain distance from you, your home, school and other places you may regularly attend etc.²⁵⁵

If you are a school student and the other party goes to your school, the Court will give the school a copy of the Orders.

Legal Aid ACT has a Domestic Violence and Personal Protection Orders Unit:

Domestic Violence and Personal Protection Orders Unit	www.legalaidact.org.au	6207 1874 1300 654 314
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You can also see the Legal Aid duty lawyer who is at the ACT Magistrates Court. It is best to call for an appointment but we will help you without an appointment if it is urgent.

Typical court orders can do more than forbid the violent behaviour. They can also stop the other person from coming up to you, going to your home or place of work or other places

where you usually go such as your school, university or gym. The court may also order that they stop contacting you.

With any of these conditions, the court may allow for exceptions. For example, if you attend the same school there might be an exception so that both you and the other person can still go to class.

If you apply to the court for a Family Violence Order or a Personal Protection Order, and the person under orders does not follow them, they can be charged by the Police with a criminal offence for a breach of the Order. They can be arrested, and if found guilty, sentenced for this breach.²⁵⁶

Interim Orders

An Interim Order will be made by the Court if the Court believes you are in urgent need of protection.²⁵⁷ If you need an Interim Order on the same day, you should arrive at the court as early as possible. This is to ensure that you will be heard by a Magistrate later that

²⁵⁵ Family Violence Act 2016 (ACT) s 38; Personal Violence Act 2016 (ACT) s 38.

²⁵⁶ Family Violence Act 2016 (ACT) s 43; Personal Violence Act 2016 (ACT) s 35(2).

²⁵⁷ Family Violence Act 2016 (ACT) s 21; Personal Violence Act 2016 (ACT) s 19.

morning, or in the early afternoon. Applications received after 11:30am are not usually accepted for hearing that day. Late applications are accepted only if your matter is extremely urgent. Otherwise, you will be asked to return on the following day. If you are the person to lodge the application, you are called the 'Applicant'.

Once you have lodged your application, the court staff will tell you what time a Magistrate will hear your application. You must wait outside the court for your name to be called. The Magistrate will then ask you questions about why you have made an application and why you need an order.

If a Magistrate makes an Interim Order, you will be given a 'return date' when you must come back to court for a Return Conference. The Return Conference must be at least 21 days later, and usually takes place ('listed') about a month after the date of your Application.

If an order is made, the person you applied for an order against will be served with your application, and with the Order. The person you filed the application against is called the 'Respondent'. From the moment the Respondent is served, the Order is enforceable. This means that, if the Order says that the Respondent must not come up to you or contact you, he or she may be charged with a criminal offence and arrested by the Police if they do these things after getting the Order.

You can check if the order has been served by calling the Police Assistance Line on 131 444. You will need to tell them your Family Violence Order number or Personal Protection Order number. This number can be found on documents given to you by the Court.

Non-Urgent Orders

If you do not need an Interim Order – for example, if you do not fear they will harm you in the very near future – you can file your application at the Registry without asking for an Interim Order. The Registry staff will accept your application and give you a return date for a Return Conference. The Return Conference must be as soon as is practicable. The Respondent will be served with your application and told about the Return Conference.

Return Conference

You must go to the Return Conference if you do not want your application to be dismissed. If you do not attend, your application may be dismissed. The Respondent is also asked to attend but will be in a separate room. The Court Registrar will speak to you and to the Respondent to see if your application for an Order can be resolved by agreement. The Registrar is like a judge. The Respondent will be given the chance to agree to your order 'without admissions' and also negotiate and talk about any terms of the order.

The Respondent may offer Undertakings, which is a promise to the court not to engage in family or personal violence towards you. The difference between an Order and Undertakings is that the police will not be able to charge the Respondent if he or she breaches the Undertakings. Instead, you will need to return to Court and apply for an Order again. You do not have to agree to accept Undertakings from the Respondent – but you can if you believe the Respondent will respect them.²⁵⁸

If you and the other person cannot reach an agreement at the Return Conference, you will be given a hearing date. This is when you have to gather evidence to prove to the Court that the Respondent has been violent towards you in the past, or that you have reasonable grounds to fear violence in the future. It is best to get legal advice before the Return Conference, and certainly as soon as possible after the Return Conference if your matter is going to a court hearing.

Length of Orders

A Family Violence Order can last for up to 2 years, and Personal Protection Order can last for up to 1 year.²⁵⁹

It is important to remember that, if you want your order to continue for longer than this, you need to apply to the court at least 21 days before it expires, asking to extend it. It may be difficult to extend your order later than 21 days before its expiry.²⁶⁰

Changing, Revoking, Reviewing, Extending and Interstate Registration of Orders

Family Violence Orders and Personal Protection Orders can be changed ('amended') or reviewed at any time.²⁶¹ It is important that if your circumstances change and what is in the order is not practical anymore that you apply to the court to change your order.

For example, if you want to get back with your partner after time apart – it is very important to apply to the Court to change your order if it says that your partner must not live with you. If you do not do this, you may be charged with a criminal offence of aiding and abetting your partner's breach of the order.

If you have a Family Violence Order made after the 25th November 2017, it is recognised across Australia. This means that it will still protect you even if you move interstate.²⁶² If the order was issued prior to 25 November 2017, you should apply to your local court to declare

²⁵⁸ Family Violence Act 2016 (ACT) s 64; Personal Violence Act 2016 (ACT) s 58.

²⁵⁹ Family Violence Act 2016 (ACT) s 35; Personal Violence Act 2016 (ACT) s 27.

²⁶⁰ Family Violence Act 2016 (ACT) s 86; Personal Violence Act 2016 (ACT) s 80.

²⁶¹ Family Violence Act 2016 (ACT) s 82; Personal Violence Act 2016 (ACT) s 77.

²⁶² Family Violence act 2016 (ACT) s 119.

that the order is nationally recognised. This can be declared at any time and does not need to be the court in the state or territory where the order was originally made.

If you have a Personal Protection Order and will be moving interstate, or the person you have the Order against is moving interstate, then you may need to register the Personal Protection Order.²⁶³ If you do not do this, the Order will only protect you in the ACT. You will need to contact the court in that State or Territory and ask for the form to have it registered.

Consequences of Breaching an Order

Family Violence Orders and Personal Protection Orders may have provisions telling the Respondent to keep away from you, your home or place of work, or other places frequented by you.²⁶⁴ They may also stop contact between the parties, including by phone, via SMS or in writing. If they do not listen to and follow the Order, they will be in breach of it. A breach of an Order is a criminal offence with a maximum penalty of \$75,000 in fines, 5 years' imprisonment or both.²⁶⁵

It is also important to understand that if the protected person (the victim) contacts the Respondent, against the Order, they can also be charged with a criminal offence for helping the breach of the Order.²⁶⁶

Other Options Available

If you are experiencing family violence or personal violence but do not want to apply for an Order, Legal Aid ACT can write to the person being violent and warn them that if they do not stop their violent behaviour, you may take legal action.

Legal Aid ACT can also put you in touch with other support services in the ACT so you may get the support you need such as counselling and arranging a safety plan.

Services for Victims of Crime

If you have been affected by violence, you can ask for free support, counselling and advice from a range of victim's services in the ACT.

Youth Law Centre ACT	www.legalaidACT.org.au	6173 5410
Legal Aid ACT	www.legalaidACT.org.au	1300 654 314
Victims Support ACT	https://www.victimsupport.act.gov.au/	1800 822 272

²⁶³ Personal Violence Act 2016 (ACT) s 90.

²⁶⁴ Family Violence Act 2016 (ACT) s 38; Personal Violence Act 2016 (ACT) s 38.

²⁶⁵ Family Violence Act 2016 (ACT) s 43.

²⁶⁶ Criminal Code 2002 (ACT) s 45(1).ss

Sexual Assault

Sexual assault is a form of violence. It includes any sort of sexual activity that happens without your permission. It can include someone forcing you to engage in sexual acts with them using violence, or threatening violence if you do not engage in sexual acts with them.²⁶⁷

It does not matter what age you are, it is illegal for anyone including family members, friends, a teacher, a boyfriend or a girlfriend to sexually assault you.

For more information and support if you are worried about a sexual experience, call:

Canberra Rape Crisis Centre	6247 2525
Police	000

Listed in the back of this handbook are more places you can contact to talk about sexual abuse.

Sexual Harrassment

Sexual harassment includes any unwanted or unwelcome sexual advance, or a request to engage in sexual behaviour in your workplace or school that leaves you feeling uncomfortable, offended, humiliated or scared.²⁶⁸

It could refer to touching, sexual jokes, naked pictures on display in your workplace or being pressured to do sexual acts by a teacher or your boss.

It is against the law and you have the right to take action by contacting the police or going to court. You can also lodge a confidential written complaint with the national Human Rights and Equal Opportunity Commission, or the ACT Human Rights Commission.

Australian Human Rights Commission	www.humanrights.gov.au	1300 656 419
ACT Human Rights Commission	www.hrc.act.gov.au	6205 2222

Bullying and Harrassment

²⁶⁷ Crimes Act 1900 (ACT) s 51—53.

²⁶⁸ Discrimination Act 1991 (ACT) s 58 –60.

Bullying happens when one person (or group of people) uses an advantage to harm or upset another person (or group).

Bullying can take many forms, including:

- Physical – hitting, punching, pushing, kicking or unwanted touching or kissing;
- Verbal – name calling, swearing at someone, teasing, harassing phone calls or spreading rumours;
- Written – hurtful graffiti, passing notes or sending email or text messages containing threats, rumours or insults;
- Threats;
- Making threatening or obscene gestures;
- Stealing, moving or hiding other people's belongings; and
- Deliberately excluding someone from a group or activity.²⁶⁹

What can I do if I see someone being bullied?

If you see someone else being bullied, it may seem easy at first to keep out of it, but it is important to not ignore the problem. There are things you can do:

- Let a teacher or work supervisor know what's happening straight away;
- Refuse to join in even if others encourage you; and
- Encourage your school or employer to develop its own 'anti-bullying program', perhaps involving some kind of peer support group.

What can I do if I see someone being bullied?

Tell a friend – you do not have to deal with it all by yourself.

It can be helpful to talk to an adult. Find an adult or older person you can trust and feel comfortable with. It does not have to be one of your parents – it can be someone else in your family, a teacher, friend or your local youth worker.

Here are some other things to try to do if you can:

- Call for Police (on '000') if you are in danger. If you are not in danger, you can still contact your nearest police station. You can find the contact number for your police station online;
- If you are in immediate danger of being assaulted, go to a safe place such as a shop or business, a safety house, a police station or medical centre;
- Call Kids Help Line or Lifeline for support and information;
- Visit your local youth worker;
- If you have been injured see your doctor. This is important even if you have been given basic first aid at school;

²⁶⁹ <https://kidshelpline.com.au/teens/issues/bullying>.

- Write down exactly what happened – time, date, where, who, what. Include the exact words they said if you remember them.
- Photographs of your injury may be helpful; and
- If you want to find out about Protection Orders, and financial assistance for victims of crime, contact the Youth Law Centre or Legal Aid ACT.

Police	000
Kids Help Line	1800 551 800
Lifeline	13 11 14
Youth Law Centre ACT	6173 5410
Legal Aid ACT	1300 654 314

What can my school or workplace do?

Your school and employer have a legal responsibility to ensure that you work and play in a safe environment. They can do this by:

- Talking about bullying;
- Making sure that there is a plan for dealing with bullying and helping the victim that everyone know about;
- Making sure that there is plenty of supervision in the school yard during break times and that other staff do something every time they suspect bullying is happening
- Encouraging 'peer support' groups at work or a 'buddy system' school in which younger students can get to know older students;
- Making sure that anyone who is physically injured is given first aid and then sent to a doctor; and
- Telling the police if you have been threatened or injured badly or if you feel intimidated.

Bullying can be a crime!

Bullying that involves threats,²⁷⁰ harassment or any kind of violence is a crime.²⁷¹ This is true no matter where the bullying happens including at work or at school. If you physically assault someone, continually harass or threaten them, then you are committing a crime and can be arrested and charged by the police.

²⁷⁰ Crimes Act 1900 (ACT) ss 30 – 31.

²⁷¹ Ibid s 20 – 21, 24 – 26.

POLICE

Answering Police Questions

Police officers can ask for your name and address if they believe on reasonable grounds that you have committed an offence or can help with information about an offence. You must give them this information. It is also against the law to give a false name or address. If you do this you can be given a maximum fine of \$500.²⁷²

The police must tell you why they are asking for your name and address.²⁷³ You do not need to answer any other questions, but you may be able to give a simple answer that could clear things up clearly.

If you are unsure about whether you should answer questions, it is better to say nothing. When you are talking to the police, nothing is 'off the record'. Things you say can be used as evidence in court even if you are not under arrest.

Move-on Powers

The Police have the power to tell anyone to leave a public place if they have 'reasonable grounds' for believing that a person has been involved, or is likely to be involved, in behaviour causing others to fear for their safety in that public place.²⁷⁴ 'Reasonable grounds' means that it is reasonable for the police to think or believe something. This rule does not apply if you are picketing a place of employment or protesting an issue.²⁷⁵

The police can direct you to leave the area by a particular route and not to return for up to 6 hours.²⁷⁶

Once the police have directed you to move on, you could be fined up to \$320 or charged if you do not leave without having a good reason.²⁷⁷

Security guards in shopping centres also have the power to direct you to leave shopping centres and ban you for a specified period of time. Shopping centres are not public places – you can only stay there with their permission. If you refuse to leave, you may be charged with trespassing.²⁷⁸

Powers to Stop and Search

²⁷² Crimes Act 1900 (ACT) s 211 (1) – (2).

²⁷³ Ibid s 211 (1)(e).

²⁷⁴ Ibid s 175 (1).

²⁷⁵ Ibid s 175 (2).

²⁷⁶ Ibid s 175 (3).

²⁷⁷ Ibid s 179.

²⁷⁸ Enclosed Lands Protection Act 1943 (ACT) s 4.

If a police officer suspects on 'reasonable grounds' that:

- You have something with you that relates to a serious offence;
- You have something that is stolen or for some other reason you should not have;
and
- It is urgent;

...then the police officer can stop and detain you for the purpose of a frisk or ordinary search and seize the item from you.²⁷⁹ A police officer can also only conduct a frisk search if they are the same sex as you.²⁸⁰

You should never physically interfere with a police officer performing a search, even if you feel like they do not have reasonable grounds. You could be arrested and charged with obstructing police or be physically harmed yourself. If you feel a police officer has illegally searched you, get legal advice. It is up to the Magistrate who hears your matter to decide if the police had 'reasonable grounds' or not.

Being Arrested

Police officers can arrest you if they have 'reasonable grounds' to think you have committed or are committing an offence.²⁸¹

If a police officer asks you to attend a police station, you should ask if you are under arrest. If you are not under arrest, or not being taken into protective custody, you are not required to go.

If you are being arrested it is important to ask why. The police officer must tell you what offence you are being arrested for.²⁸²

If you are arrested and detained for an offence, you may be kept at the police station for a period of 4 hours, unless a police officer makes an application to extend that investigation period for no more than 8 hours.²⁸³

If you are arrested and detained, you must be brought before a Magistrate as soon as is practical after the investigation period.²⁸⁴ If you are arrested and detained after 3pm, you will appear in the Magistrates Court the following morning for bail (except Sunday).

Who can I call for legal advice when I'm under arrest?

If you have been arrested you should ask a police officer to let you call one of these following numbers:

²⁷⁹ Crimes Act 1900 (ACT) s 207 (2)(c).

²⁸⁰ Ibid s 207 (4).

²⁸¹ Ibid s 212.

²⁸² Ibid s 222(1).

²⁸³ Crimes Act 1914 (1) Cth s 23C (4)(b); 23DA(7); Crimes Act 1900 s 186(1).

²⁸⁴ Crimes Act 1914 (Cth) s 23C(3); Crimes Act 1900 s 186(1).

Aboriginal Legal Service NSW/ACT	6120 8802
Legal Aid ACT	1300 654 314

You have the right to ask for a business card of the police officers who arrested and interviewed you in order to follow through with further information or questions.²⁸⁵

Police Interviews

In a police interview, you will be asked questions about your actions and the offence the police believe you have committed. Anything you say at the interview can be used as evidence in court. You must give your name and address at the start of the interview, but you do not need to answer any other questions.

You cannot be interviewed if you are drunk or ill.

If you are under 18, the police must try to contact a parent, guardian, relative, lawyer or other responsible adult to sit in with you during the interview.²⁸⁶ If you would prefer, you can ask for someone else like a youth worker, as long as they are over 18. The police will usually try to contact the person you choose.

If you do not know an adult who can sit with you during the interview, the police must contact an 'Interview Friend'. An 'Interview Friend' is an adult (independent from the police) who has volunteered to be available to sit with young people being interviewed.²⁸⁷

Young people cannot be interviewed alone.²⁸⁸

You have the right to seek legal advice at any time and investigating police must ask you whether you want to have a legal representative there with you before asking any questions.²⁸⁹

The police will record the interview. You should always ask for a copy, and investigating police will normally let you know that if a transcript becomes available, you should receive a copy within 7 days. The police may ask you to sign a 'record of interview' before they give you a copy. If they do ask you to sign, make sure you wait until a lawyer can check the record for you. You should not sign anything that is wrong or that you don't agree with.

Use of force

If you are arrested, try to remain calm. If you resist arrest, the police are allowed to use 'reasonable force' to restrain you.

Police should not use any physical force at all if you don't resist arrest.²⁹⁰ If you have been hurt during the arrest, you have the right to see a doctor as soon as possible. It is hard to

²⁸⁵ Crimes Act 1914 (Cth) s 211(3); Crimes Act 1900 s 186(1).

²⁸⁶ Crimes Act 1900 (ACT) s 252G(2)(a).

²⁸⁷ Ibid s 23K.

²⁸⁸ Ibid s 252G(2).

²⁸⁹ Ibid.

²⁹⁰ Ibid s 221.

determine what 'reasonable force' means. It does not mean that the police can be cruel to you. They should not use any more force than is necessary to make you go with them. It is up to the Magistrate who hears your matter to decide if the police were being 'reasonable' or not.

Resisting Arrest

You should not resist arrest even if you think the police are wrong. You may be charged with resisting arrest,²⁹¹ hindering a police officer and even assaulting a police officer. There are serious penalties for assaulting a police officer – these include a fine of \$32,000, 2 years imprisonment or both.²⁹² If you think you have been wrongly arrested, you should get advice from a lawyer as soon as possible.

Police are not allowed to hold you if you have not been arrested or charged. You should always ask them if you have been arrested or charged before you leave the police station.

Being Charged & Bail

What will happen if the Police charge me?

If you have been arrested, the police have 4 hours to decide whether to charge you with an offence or let you go.²⁹³ If you are under 18 or if you are Aboriginal and Torres Strait Islander, then police have 2 hours to decide this.²⁹⁴

If you are a child and are charged, the police must quickly take all reasonable steps to tell your parent, or someone with daily or long-term care for you.²⁹⁵ Once you are charged, one of four things can happen:

- You may be released without bail;
- You may be asked to sign a Voluntary Agreement to Appear at Court ('VATAC'), or be given a summons to appear in court at a later time;
- You may be released on bail either by the police or Court; or
- You may be refused police bail and be put before the Magistrates Court for a bail application as soon as practicable.

If the court agrees to release you on bail, you will need to turn up to court when you are told. When you are released on bail, you may have certain conditions placed on you such as having to live at a certain place or reporting to the police station every few days.²⁹⁶

²⁹¹ Ibid s 221.

²⁹² Ibid s 361(1).

²⁹³ Crimes Act 1914 (Cth) s 23C(4)(b), 23DA(7); Crimes act 1900 s 186(1).

²⁹⁴ Ibid.

²⁹⁵ Crimes Act 1900 (ACT) s 252K.

²⁹⁶ Bail Act 1992 (ACT) s 25(1).

If you are given bail, you may be asked to provide a 'surety'. This means that a parent, guardian or friend over 18 promises to pay a specified amount of money if you do not attend court when you are required to.²⁹⁷

What if bail is refused?

If the police refuse you bail, you must be taken before a court as soon as possible. This will normally happen before 10am the next working day. If you have to stay in police custody overnight, you will be taken to the City Police Station Watch House (or detention centre if you are charged on a Saturday). You must be given facilities to bathe, clean your clothes and shave.²⁹⁸

If the court refuses to release you on bail, you will be kept at a detention centre until your case is ready to be heard in court again. This could be as long as 2 to three weeks.

Bail can be refused if:

- You have not turned up to the court in the past when you were on bail;
- You do not have a fixed address;
- You do not give your correct name and address;
- You have committed a serious offence or have previous convictions;
- The police think that by giving you bail, you will make it difficult for them to investigate the crime; or
- If there is a real risk you may re-offend or interfere with a witness.²⁹⁹

Protective Custody – Detention of Intoxicated People

You may be taken into 'protective custody' if a police officer thinks that you are drunk and a danger to yourself or to others.³⁰⁰ If an officer decides that there is no other reasonable option for your care and protection, such as getting a friend or family member to come and take you home, you can be taken to the police station and kept in a cell for up to 8 hours.³⁰¹

Police Searches During Arrest

If you are under arrest, the police may search you if they reasonably believe you have items relevant to the offence you committed.³⁰² If practical, someone who is the same sex as you should do this search.³⁰³

If you are under arrest, the police can also search your bag and your personal possessions.³⁰⁴

²⁹⁷ Ibid s 25(1)(b).

²⁹⁸ Ibid s 18.

²⁹⁹ Ibid s 22(b).

³⁰⁰ Intoxicated People (Care and Protection) Act 1994 s 4.

³⁰¹ Ibid.

³⁰² Crimes Act 1900 (ACT) s 224.

³⁰³ Ibid s 240.

³⁰⁴ Ibid s 229.

The police can take ('seize') anything they think might have something to do with a crime. They must make a list of everything you are carrying.³⁰⁵

Strip Searches

If you are under the age of 18, a parent or guardian should be told about the strip search.³⁰⁶ A police officer who is the same sex as you must do the search, but it may be in the presence of a medical practitioner as well if necessary.³⁰⁷

The search must be done in a private area and there must be a parent, guardian or adult who can represent your interests with you during the search.³⁰⁸

Fingerprints, Swabs and Blood Tests

If you are under 18, the police need the permission of a Magistrate before they can take your fingerprints or your photograph.³⁰⁹ They also need a Magistrate's permission if they want to take blood or any other sample from your body. Only a medically qualified person, such as a doctor or dentist, can take body samples.³¹⁰ An adult (parent, friend or Interview Friend) must be there during the collection of physical evidence.³¹¹

Identification Parades (police line-ups)

You do not have to participate in a police line-up unless you agree to say you want to attend. You cannot participate in a line up if you are under 10 years old.³¹²

If you are between the ages of 10 to 18, a person who 'represents your interests' such as your parent or guardian must agree to the holding of a line-up in writing.³¹³

A Magistrate can order you to go into a line-up if:

- You have said 'yes' but your parents or guardian have not; or
- Your parents or representative have said 'yes', but you did not.³¹⁴

Complaints about Police

If you feel that the police have treated you poorly, you should ask to speak to the most senior officer available at the station. You should say that you believe you have been treated poorly by a police officer and that you intend to make an official complaint. You can make a complaint at the police station. Make sure that you talk about your complaint with a

³⁰⁵ Ibid.

³⁰⁶ Children and Young People Act 2008 (ACT) s 251; Crimes Act 1900 (ACT) s 228(1)(f).

³⁰⁷ Children and Young People Act 2008 (ACT) s 253(3); Crimes Act 1900 (ACT) s 227.

³⁰⁸ Crimes Act 1900 (ACT) s 227 – 228.

³⁰⁹ Crimes (Forensic Procedures) ACT 2000 (ACT) s 23, 32.

³¹⁰ Ibid s 53.

³¹¹ Ibid s 57.

³¹² Crimes Act 1900 (ACT) s 234(1).

³¹³ Ibid.

³¹⁴ Ibid.

senior police officer. You can also make a complaint for someone else who has been treated poorly by the police.

Call the Ombudsman's Office as soon as you can after you have been released from police custody. This is the place to lodge an official complaint against the police.

If you need more information about making a complaint against the police, you can call Legal Aid ACT or the Youth Law Centre ACT.

Ombudsman	www.ombudsman.gov.au	1300 362 072
Youth Law Centre ACT	www.legalaidACT.org.au	6173 5410
Legal Aid ACT	www.legalaidACT.org.au	1300 654 314

SCHOOL

Going to School

If you are over 6 years old and under 15 years old, you have to go to school.³¹⁵ You have to go to all your classes on each day that your school is open.³¹⁶ You also have to go to and participate in school activities that are compulsory.³¹⁷

The only time you can miss school is if you have a good reason.³¹⁸ An example of a good reason for missing school is when you are too sick to go.

If your friend or guardian lets you miss school or school activities without a good reason, they are breaking the law and could be fined.³¹⁹

³¹⁵ Education Act 2004 (ACT) s 9 – 10.

³¹⁶ Ibid s 10A (2)(a).

³¹⁷ Ibid s 10A(2)(b).

³¹⁸ Ibid s 10A(3).

³¹⁹ Ibid s 17A.

Leaving School

You cannot legally leave school until you are at least 17 or have finished Year 12, unless you are over 15 and have enrolled in other education/training or full time employment.³²⁰

If you want to leave school before 17, you need to get permission from the ACT Department of Education and Training (Department). Specifically, you will need to get an 'Approval Statement' from the Department saying that you can complete work related training or employment after completing Year 10.³²¹

To get permission to leave school you need to have a good reason. You will normally need to do one of these things:

- Get a doctors certificate stating that you have a long term illness;
- Ask the Department's permission to let your parents educate you at home
- Prove that there is no adequate school accommodation or
- Convince the Department that there is a good reason why you should be excused from going to schools (such as different training or employment opportunity).³²²

Working while you are still at school

It is against the law for you to get a full-time job until you are over 15.³²³ Work experience is not included in this.³²⁴

If you are under 15, you can get a job, but you can only do certain kinds of work. If you are under 15, you can either:

- Do 'light work' in a business run by your parents,³²⁵ or
- Do 'light work' for someone else for up to 10 hours each week.³²⁶

If you are under 15 and your parents do not run their own business, here are some examples of 'light work' that you can do for someone else:

- Babysitting or odd jobs;
- Caddying at a golf course;
- Office work;

³²⁰ Ibid s 9.

³²¹ Ibid s 13D(1).

³²² Ibid s 14A(2).

³²³ Children and Young People Act 2008 (ACT) s 782.

³²⁴ Ibid s 783.

³²⁵ Ibid s 797.

³²⁶ Ibid s 796.

- Delivering newspapers or pamphlets;
- Performing as a musician, actor or sports person;
- Going on errands;
- Modelling;
- Gardening; or
- Working in a circus.³²⁷

If you want to do work that is not considered 'light work', or if you want to work for more than 10 hours per week, your employer will need to tell and get permission from the Chief Executive of the Department of Education & Training.³²⁸

The number of hours you work must not interfere with or affect your education.

It is illegal for you to work when you are meant to be at school.³²⁹ It is also illegal for you to work if it is against your best interests. For example, when the work is likely to be harmful to your health, safety or development.³³⁰

Youth Law Centre ACT	www.legalaidACT.org.au	6173 5410
Legal Aid ACT	www.legalaidACT.org.au	1300 654 314
ACT Department of Education and training	www.det.act.gov.au	6207 5111

For more information about your rights at work, see the chapter in this handbook on 'Employment'. If you think that you are not being paid correctly, you are unsure of what your wage should be or you think your employer might be using your age to pressure you to agree to unfair conditions, you can call:

Fair Work Australia	www.fairwork.gov.au	13 13 94
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If you think that you are being discriminated against or harassed at work, see the chapter in this handbook on 'Discrimination and Human Rights', or you can call:

ACT Human Rights Commission	www.hrc.act.gov.au	6205 2222
Australian Human Rights Commission	www.humanrights.gov.au	1300 656 419

For more information about workplace issues, see the chapter in this handbook on 'Employment'.

³²⁷ Children and Young People Regulation 2008 (ACT) reg 4.

³²⁸ Ibid s 799.

³²⁹ Education Act 2004 (ACT) s 13.

³³⁰ Children and Young People Act 2008 (ACT) s 782.

Suspension, transfer and exclusion from school

A suspension is when a student has to leave the school grounds for a short period of time (up to 20 school days) but can return after that period.

A transfer is when a student is moved from one Government school to another, and cannot return to the original school.

An exclusion is when a student is not allowed to attend Government schools in the ACT, either for an extended period of time or permanently.³³¹ This is better known as 'expulsion'.

Government Schools

You may be suspended or transferred if:

- You seriously interfere with the teaching/learning process;³³²
- You are aggressive or physically or verbally abusive towards another student or a teacher, or anyone else who is involved with the school;³³³
- You are involved with drugs; or
- You seriously misbehave.³³⁴

You will normally only be excluded from Government schools as a last resort. You might be excluded where:

- You have a continuing history of seriously disrupting the teaching/learning process or aggressive or violent behaviour at one or more schools;
- You have been given the opportunity to attend counselling or alternative education programs;³³⁵ and
- It is likely that you will continue to disrupt the teaching/learning process at any Government school or educational program which you attend.³³⁶

Before you are suspended, transferred or excluded, the Principal of your school must take certain steps. Normally, your Principal will need to:

- Talk to you about the reasons for your suspension, transfer or exclusion and consider your opinion;³³⁷

³³¹ Education Act 204 (ACT) s 3.

³³² Ibid s 36(1)(a)(i), 36(1)(a)(iv).

³³³ Ibid s 36(1)(a)(ii).

³³⁴ Ibid s 36(1)(a)(iii).

³³⁵ Ibid s 36(4)(b).

³³⁶ Ibid s 36(1).

³³⁷ Ibid s 36(4)(c).

- Write to your carer or parents explaining why the school wants to suspend, transfer or exclude you, and seek their opinion;³³⁸
- If you are being suspended, make sure that you have the opportunity to continue your learning while you are suspended;³³⁹
- If you are being excluded, make sure that you have had the opportunity to attend counselling and/or alternative education programs.³⁴⁰

Appealing a decision to suspend, transfer or exclude you from a Government school

If you do not agree with a decision to suspend, expel or transfer you from a Government school, you can appeal. By appealing the decision, you are challenging it. You can also try to negotiate other schooling arrangements. You will need a good reason for your appeal.³⁴¹

If you have been accused of something you did not do, or you have been misunderstood, or if you believe that the process to suspend, transfer or exclude you was unfair in any way, you have a good reason to appeal a decision.

You will be told in writing how to appeal a decision to suspend, transfer or exclude you. To appeal the school's decision, you or your parents should write a letter explaining why you disagree.³⁴² You must give this letter to the person who made the decision.³⁴³

Department of Education & Training	www.det.act.gov.au	6207 5111
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Remember:

- You cannot be 'sent home' informally. The correct procedures must be followed; and
- You should not be suspended for minor misbehaviour, such as incorrect school uniform or failure to submit homework.³⁴⁴

Non-Government schools

If you are not at a Government school, different rules will probably apply to suspension, transfer or exclusion.³⁴⁵

If you would like to understand why your school has excluded, suspended or transferred you, you could ask your Principal or Student Welfare Officer for a copy of those rules.

Youth Law Centre ACT	www.legalaidACT.org.au	6173 5410
Legal Aid ACT	www.legalaidACT.org.au	1300 654 314

³³⁸ Ibid s 36(4)(a).

³³⁹ Ibid s 36(5)(d).

³⁴⁰ Ibid s 36(4)(b).

³⁴¹ Ibid s 141 – 142.

³⁴² Ibid s 142(2).

³⁴³ Ibid s 36(1).

³⁴⁴ Ibid s 36(1).

³⁴⁵ Ibid s 75.

SEX AND RELATIONSHIPS

Sex and Consent

In the ACT it is legal for a person to have sex if:

- Both people are over the age of 16 years;³⁴⁶
- Both people freely consent to the experience;³⁴⁷ and
- They are not family members.³⁴⁸

But, if you are over 16 and the other person is in a position of care or authority over you, it is illegal for them to have sex with you.³⁴⁹ For example, your bosses, your sports coaches and teachers cannot legally have sex with you.³⁵⁰

Sexual intercourse means any penetration of the vagina or anus of a person by any part of the body of another person or by an object controlled by another person, unless done for proper medical purposes. It also includes oral sex.³⁵¹

There are serious penalties for people who break these laws;

- The maximum penalty for having sexual intercourse with someone above 16 years of age without their consent is 14 years imprisonment;³⁵²
- The maximum penalty for having sex with someone under 16 years of age is 17 years imprisonment.³⁵³

It is not okay to be pressured into doing something that you are not comfortable with, or for you to pressure someone else. IF you are feeling pressured by someone to do something you are not comfortable with there is information and support available.

The Junction Youth Health Service	www.anglicare.com.au/services/youth-family/health/	6232 2423
Sexual Health and Family Planning	www.shfpact.org.au	6247 3077
Canberra Sexual Health Centre	www.health.act.gov.au/our-services/	6244 2184

³⁴⁶ Crimes Act 1900 (ACT) s 55(2).

³⁴⁷ Ibid s 67(1).

³⁴⁸ Ibid s 62.

³⁴⁹ Ibid s 55A(1).

³⁵⁰ Ibid s 55A(2).

³⁵¹ Ibid s 50.

³⁵² Ibid s 55(2).

³⁵³ Ibid s 55(1).

Canberra Rape Crisis Centre	www.crcc.org.au	6247 2525
Kids Helpline	www.kidshelpline.com.au	1800 55 1800

The age of consent for all other States and Territories is 16 years of age, except for South Australia and Tasmania where the age of consent is 17 years of age.³⁵⁴

Sexually Transmitted Infections (STIs)

Sexually transmitted infections (STIs) include chlamydia, gonorrhoea, Hepatitis A, herpes, HIV/AIDS, syphilis and Hepatitis C.³⁵⁵

Your Doctor

If you have an STI you are responsible for taking the medication prescribed by your doctor and should be careful not to spread the infection.

If you have a STI, a doctor can disclose your medical condition to anyone they feel like is at risk (like your partner).³⁵⁶ This means the doctor can tell other people who are at risk.

Contraception

When can I see a doctor about contraception?

To go on the pill you need to get a prescription from a doctor. There are also types of contraceptives for both men and women that require a medical prescription. For women, these include the IUD rod, Depo Provera and Implanon; and for men there is the option of a vasectomy. Your doctor can tell you about the best contraceptive for you. If you are under 18, the doctor must be satisfied that you understand their advice and that it is in your 'best interests' to receive that prescription without parental consent, otherwise they may want to tell your parents.

When can I buy condoms?

You can buy condoms at any age, from a supermarket or chemist. Places like Youth Centres, The Junction and Directions ACT give away free condoms.

The Junction Youth Health Service	www.anglicare.com.au/services/youth-family/health/	6232 2423
Sexual Health and Family Planning	www.whfpact.org.au	6247 3077

³⁵⁴ Criminal Code Act Compilation Act 1913 (WA) s 312(1); Crimes Act 1958 (Vic) s 45; Criminal Code Act 1924 (Tas) s 124(1); Crimes Act 1900 (ACT) s 55; Crimes Act 1900 (NSW) s66C; Criminal Code Act 1983 (NT) s 127; Criminal Code Act 1988 (Qld) s 215; Criminal Law Consolidation Act 1935 (SA) s 49.

³⁵⁵ www.healthdirect.gov.au/sexually-transmitted-infections-sti.

³⁵⁶ Public Health Act 1997 (ACT) s 108.

Canberra Sexual Health Centre	www.health.act.gov.au/our-services/	5244 2184
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Pregnancy, Abortion and Adoption

There are health and support services that can help you if you are pregnant.

Abortions are not illegal in the ACT,³⁵⁷ but they may only be carried out by a registered medical practitioner in an approved medical facility,³⁵⁸ with the patient's informed consent. Abortion procedures in the ACT are rarely carried out after 12 weeks of pregnancy.

The ACT Adoptions and Permanent Care Unit is responsible for adoption arrangements for children whose birth parents make a plan of adoption.

If you are pregnant, there are places you can go for information and support, and to talk about your options.

For information about reproductive and health services available to women in the ACT contact:

Women's Centre for Health Matters	www.wchm.org.au	6290 2166
Women's Information	www.communityservices.act.gov.au/women/Womens-Information-Empower,-Respect,-Connect	6205 1075
Pregnancy, Birth and Baby Helpline	Pregnancybirthbaby.org.au/pregnancy-birth-baby-helpline	1800 882 436

SOCIAL NETWORKING

Internet Usage

It is important to understand that even if you think what you are doing on the internet is private and 'secure', your information and the content you share can be stored in places and used in ways that you will never know. What you post online or send through social networking apps never really disappears. Even images you send via Snapchat are stored on a server by Snapchat.³⁵⁹

By sending and uploading pictures, or scrolling through social media apps and sites, companies are constantly collecting information about you, information they collect and

³⁵⁷ Health Act 1993 (ACT) s 81.

³⁵⁸ Ibid s 82.

³⁵⁹ <https://support.snapchat.com/en-US/a/guidelines>.

store include your age, gender, location, how you use the app or site, what kinds of things you look at or follow and how long you look at particular things on your newsfeed. By using social media, you have agreed to terms and conditions that rightfully allow this data to be taken from you and allow them to store this information. Even if you delete your accounts, these companies can still continue to store and share your stored information.

The information that these companies collect and store about you are used to build your 'social profile'. This profile is often sold to advertisers, who can use this information to target their advertising to you based on what you like or where you go. Advertisers can also sell your information to other companies, and you can easily lose track and control of who has access to your personal information and where it is.

Being smart online is very important. For more information about how to look after your private information online, go to:

Bullying No Way!	www.bullyingnoway.com.au
Stay Smart Online	www.staysmartonline.gov.au
Think U Know	www.thinkuknow.org.au

Cyber Bullying

Cyber bullying is the use of technology or online services to bully a person or group with the intention to hurt them socially, psychologically or even physically.³⁶⁰ This can include using text messages, email, blogs, chat rooms in video games, Facebook, Instagram, Snapchat or other social networking to send upsetting messages or comments.

Some examples of cyber bullying include:

- Sending cruel, threatening or unwanted messages;
- Putting up embarrassing photos of someone on the internet;
- Creating fake profiles for somebody else;
- Teasing and making fun of others online; and
- Trolling.

What is trolling?

Trolling can be considered a specific type of cyber bullying. An 'internet troll' is someone who deliberately causes distress or harm by posting abusive or hurtful comments to try and get a response online, especially on social media or in public forums.³⁶¹ This is usually done anonymously and is visible to a large audience.

³⁶⁰ www.esafety.gov.au/esafety-information/esafety-issues/cyberbullying.

³⁶¹ <https://bulliesout.com/need-support/young-people/trolling/>.

Is cyber bullying illegal?

In the ACT, cyber bullying can be illegal if it involves stalking, threats, harassment, or is defamatory. Using a computer or phone to harass, menace or offend someone can be illegal and has a maximum penalty of 3 years.³⁶² This includes using Facebook, Instagram, Snapchat or Twitter.

Types of Harassment

Stalking

Stalking is a crime in the ACT. It can include the repeated use of electronic messages to cause apprehension ('anxiety') or fear of harm, in the person being stalked. The penalty can be up to 5 years imprisonment.³⁶³

Threats

It is illegal to make threats against people online or through electronic messages. A threat to seriously hurt or kill (even if it made jokingly) might be an offence if you are reckless about how the other person would respond (ie. If they would be fearful or believed the threat would be carried out).³⁶⁴ The penalty can be up to 10 years imprisonment.

Defamation

Online defamation includes posting knowingly false comments, slander about someone, or comments which subject someone to hatred or ridicule on social media or other online

platforms.³⁶⁵ Defamation may result in criminal offences,³⁶⁶ and the other person may start a defamation lawsuit against you.³⁶⁷

How can I protect myself from being cyber bullied?

Do not give out passwords, names, addresses, phone numbers or pictures to people you do not know or trust.

Do not add people on Facebook, Instagram, Snapchat, Twitter etc who you do not know or trust.

Make your social media accounts private, preventing people you do not know from seeing your information and activities.

³⁶² Criminal Code Act 1995 (Cth) s 474.17.

³⁶³ Crimes act 1900 (ACT) s 35(1), 35(2)(f).

³⁶⁴ Ibid s 30—31.

³⁶⁵ See, e.g. Mick v Farley [2013] NSWDC 295.

³⁶⁶ Crimes Act 1900 (ACT) s 439.

³⁶⁷ Dow Jones & Co Inc v Gutnick [2002] HCA 56, 44.

Block and report people and trolls who you suspect are cyber bullying.

What can I do if I am being cyber bullied?

Tell someone about it, such as a parent, family friend, older sibling or trusted adult.

Do not reply to messages from a bully. Block the sender's messages and keep the messages (with the time and date it was sent) as evidence.

Tell the school if you are being bullied by another student. Let a teacher or counsellor know.

Report incidents of online harassment or physical threats to the local police and your internet/phone service provider.

What if my school has not been able to stop the bullying?

Make a complaint to the Director for Families and Students at the ACT Education Directorate. They are the key contact for parents, students and the community to raise concern when they are not happy with a school's response to an issue.

ACT Education Directorate	Familiesandstudents@act.gov.au	6207 3723
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If you are unhappy with the Education Directorate's response, you can make a further complaint to the ACT Ombudsman.

ACT Ombudsman	www.ombudsman.act.gov.au/	1300 362 072
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Get Help

Bullying No Way!	www.bullyingnoway.com.au	
Stay Smart Online	www.staysmartonline.gov.au	
NetSmartz Internet Safety	www.netsmartz.org	
Think U Know	www.thinkuknow.org.au	
Kids Helpline	https://kidshelpline.com.au/	1800 55 1800

Sexting

What is sexting?

Sexting is the creating, sending or posting of provocative or sexual photos, messages or videos.³⁶⁸ 'Sexts' are generally sent using a mobile phone, but can include posting it online. Sexting can even include using Photoshop to make someone look naked. Sending a nude image is sexting.

³⁶⁸ www.esafety.gov.au/esafety-information/esafety-issues/sexting.

Is sexting a crime?

Sexting can be a crime if the sext is:

- Legally considered to be child pornography;³⁶⁹
- A sexually suggestive communication to someone under the age of 16;³⁷⁰ or
- Involves sharing intimate images without consent.³⁷¹

Child Pornography

The definition of child pornography is different in each State or Territory. In the ACT, a sext which has an image could be considered child pornography if it depicts or represents:

- The sexual parts of a child (under 12 years old);³⁷²
- A child engage in an activity of a sexual nature; or
- Someone else engaged in an activity of a sexual nature in the presence of a child.³⁷³

It is an offence to create child pornography. If you produce material of someone under the age of 12 (in the ACT) which fits the description of child pornography above, then you may be charged with child pornography offences, even if the person in the image consented (agreed) to the image being created. This is true even if the image is of you.³⁷⁴

If you have these types of sexts in your possession, or if you send them to other people, you may also be charged with a criminal offence.³⁷⁵

It does not matter what gender the person who committed the crime is. Anyone can be held criminally responsible for child pornography offences if over a certain age.

Other Sexually Suggestive Communications

Sexts may also have serious criminal consequences even if they do not include sexual imagery of people under the age of 16. The criminal offence is called 'grooming and depraving young people'.³⁷⁶

It is also a criminal offence to send sexts to people under the age of 16:

- Suggesting they take part in an act of sexual nature; or

³⁶⁹ Crimes Act 1900 (ACT) s 64, 64A, 65.

³⁷⁰ Ibid s 72D.

³⁷¹ Ibid s 72C.

³⁷² Ibid s 64(1)(b).

³⁷³ Ibid s 64.

³⁷⁴ Ibid s 65.

³⁷⁵ Ibid s 64A.

³⁷⁶ Ibid s 66.

- Inviting them to be present when another person participates in an act of a sexual nature.³⁷⁷

It is also a criminal offence to send or make available (such as by posting it online for other people to see) pornographic material with someone under the age of 16.³⁷⁸

What are the consequences?

Offences relating to sexting are very serious, and the maximum penalties are also serious. The maximum penalties range from 7 years to 12 years imprisonment for ACT offences, and 15 years imprisonment for Commonwealth offences. If you are charged with a more minor offence (as determined by the police), you may be fined.

If you are charged with any of the offences above, you can also be put on the Sex Offenders Register. This means that you will not be able to work with children, and you will have to report on personal details such as employment, travel plans and the children you might have contact with.³⁷⁹

If you were under 18 years of age when the offences occurred, the requirements to report your personal details will last 4 years for a single offence, or 7.5 years if convicted of multiple offences.³⁸⁰ If you were aged 18 years or more at the time of the offences, the obligation to report your details can last the rest of your life.³⁸¹

Intimate Images

In 2017, the ACT Government created a new law to make it illegal to send, supply or make available for other people to see intimate images if the person in the image has not

consented to it being shared.³⁸² 'Make available' includes showing other people or posting it online.

Intimate images' means:

- Image of a person's private parts;
- Image of person undressing, using the toilet, shower or bathroom, engaging in sexual or similar activity; and

³⁷⁷ Ibid.

³⁷⁸ Ibid.

³⁷⁹ Crimes (Child Sex Offenders) Act 2005 (ACT) s 8—9, 37—61).

³⁸⁰ Ibid s 89.

³⁸¹ Crimes Act 1900 (ACT) s 72A, 72B.

³⁸² Ibid s 84—87.

- An image altered to show a person's private parts or undressing, using the toilet, shower or bathroom, engaging in a sexual or similar activity.³⁸³

It is illegal to distribute intimate images non-consensually no matter what the age of the person in the intimate image is.³⁸⁴ The maximum penalty is 3 years imprisonment, \$48,000 in fines or both.³⁸⁵

It is also illegal to threaten to take or distribute intimate images.³⁸⁶

If the person in the image is under 16 years of age, they cannot consent (agree) to have these types of nude images taken, shared or shown to anyone else. If the person in the image is under 16, the legal consequences are greater. The maximum penalty is 5 years imprisonment, \$80,000 in fines, or both.³⁸⁷ However, the defendant may have a defence available where the person in the image is under 16 and no more than 2 years younger than the defendant.³⁸⁸

This area of law is really difficult to understand. If you are worried or want to know more, get legal advice by calling the Youth Law Centre at 6173 5410.

When are you criminally responsible?

If you are aged between 1- and 14 years, and have done any of the activities mentioned above, including cyberbullying and sexting, you can only be held criminally responsible if you knew your actions were wrong. By 'criminal responsibility', we are talking about the ability of a person to commit a criminal act.³⁸⁹

If you are aged over 14 years, you can be held criminally responsible for an offence regardless of what you knew about the seriousness of your actions.

Youth Law Centre ACT	www.legalaidACT.org.au	6173 5410
Kids Helpline	www.kidshelpline.com.au	1800 55 1800

A FEW OTHER THINGS

Voting in Elections

³⁸³ Ibid s 72A.

³⁸⁴ Ibid s 72C.

³⁸⁵ Ibid.

³⁸⁶ Ibid s 72E.

³⁸⁷ Ibid s 72D.

³⁸⁸ Ibid s 72D(2).

³⁸⁹ Criminal Code 2002 (Cth) s 26.

If you are an Australian citizen, you must register to vote when you turn 18.³⁹⁰ You are able to place your name on the register from the time you turn 17.³⁹¹ To do this you need to fill out an 'enrolment form' from any post office or the ACT Electoral Commission.³⁹²

Every time you move house you will need to update your enrolment details.³⁹³ You can do this by filling out another enrolment form from any post office or ACT electoral commission. You can be fined more than \$160 if you do not update your details.³⁹⁴

It is important to keep your enrolment details up to date because as soon as an election is called, you may only have 3 days to enrol/update your enrolment, and could miss out on being able to vote.³⁹⁵

It is compulsory to vote in all elections.³⁹⁶ If you do not vote in a Federal election you will be fined up to \$160. If you do not vote in an ACT election, you will be fined up to \$80.³⁹⁷

Tattoos and Body Piercings

You can legally get a tattoo once you have turned 18.³⁹⁸ However, it is a good idea to ensure that you want a tattoo prior to getting one.

If you want a tattoo and you are under 18, a parent or guardian must give you permission in writing. This letter must say that your parent or guardian agrees to you getting a tattoo and that they know where it is going to be located on your body.³⁹⁹

Legally, you do not need parental permission to have a body piercing, but professional body piercers usually require it.

There are risks involved with both tattooing and body piercing and you need to think about these very carefully. For example, there is the risk of contracting infections like Hepatitis B, Hepatitis C and HIV/AIDS, as well as possible scarring or allergic reactions.

Ask the staff how they sterilise their equipment, whether they reuse sterilised needles, check that their studio is clean and ask the staff and the tattooist or body piercer questions. You might want to talk to your friends about where they had their tattoos or piercings done, or talk to your GP to help you make an informed decision about your tattoo or piercing.

Changing Your Name

³⁹⁰ Commonwealth Electoral Act 1918 (Cth) s 93(1)(a).

³⁹¹ Ibid s 100(1).

³⁹² Ibid.

³⁹³ Ibid s 101 (5)(a)—(b).

³⁹⁴ Ibid s 101(6).

³⁹⁵ Ibid s 155.

³⁹⁶ Ibid s 245(1).

³⁹⁷ Commonwealth Electoral Act 1918 (cth) s 245(15); Electoral Act 1992 (ACT) s 73(3).

³⁹⁸ Children and Young People Act 2008 (ACT) s 877.

³⁹⁹ Ibid.

There are two ways you can change your name:

- By usage; or
- By applying to Access Canberra.

Can I use a different name?

You can informally change your name just by calling yourself something different. This is known as 'usage'.⁴⁰⁰ It means that you can use another name as long as it is not for a fraudulent or improper purpose. For example, using someone else's chequebook or using a false name on an order form and not paying for what you ordered, are criminal offences.⁴⁰¹

'Usage' does not officially change the name on your birth certificate. It can still be difficult for you to get a passport or open a bank account in the name you use, if you have not changed your name officially.

Can I officially change my name?

You can change your name officially if you are over 18 by registering the change with Access Canberra. You will need to fill out a form to do this if you were born here or have lived here for more than 3 months.⁴⁰² If you were born in another State or Territory, you will need to show that you currently live in the ACT.

If you are under 18, you can only legally change your name if you have the permission of both your parents.⁴⁰³

Call Access Canberra or visit the website for information about birth certificates and changing your name.

Access Canberra	www.accesscanberra.act.gov.au	6207 0460
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Making a will

A will lets you decide what will happen to your belongings when you die. You can make a will if you are 18 or the Supreme Court says that you can.⁴⁰⁴

If you want to make a will it has to be in writing. A will has to be in a specific format and signed in front of two witnesses.⁴⁰⁵

⁴⁰⁰ Births, Deaths and Marriages Registration Act 1997 (ACT) s 22.

⁴⁰¹ Criminal Code 2002 (ACT) Part 3.3—3.4.

⁴⁰² Births, Deaths and Marriages Registration Act 1997 (ACT) s 18, 21(2).

⁴⁰³ Ibid s 19—20.

⁴⁰⁴ Wills Act 1968 (ACT) s 8—8A.

⁴⁰⁵ Ibid s 9.

Please note that Legal Aid ACT and the Youth Law Centre ACT do not help with writing wills. They can give you more information about wills and point you to other services that may be able to help you with drafting a will.

Public Trustee and Guardian	www.ptg.act.gov.au/	6207 9800
Youth Law Centre ACT	www.legalaidACT.org.au	6173 5410
Legal Aid ACT	www.legalaidACT.org.au	1300 654 314