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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

COMMONWEALTH LEGAL AID AMENDMENT BILL 1990

EXPLANATORY MEMORANDUM

(Circulated by authority of the Attorney-General,  
the Honourable Michael Duffy MP)



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## COMMONWEALTH LEGAL AID AMENDMENT BILL 1990

### OUTLINE

The Bill fills a gap in the present Act in order to ensure that the preservation of rights provisions, which are currently available to officers of the Australian Legal Aid Office (ALAO) who transfer to a State Legal Aid Commission, will apply to ALAO officers who transfer on 1 July 1990 to the proposed Northern Territory Legal Aid Commission. That Commission is to commence operation on that date following agreement between the Commonwealth and the Northern Territory in May 1990 for the establishment of the Commission to take over the operations of the ALAO in the Northern Territory.

### FINANCIAL IMPACT STATEMENT

The proposed amendments are of a technical nature. As the Act accords with pre-existing policy, the amendments do not involve a financial impact.

## NOTES ON CLAUSES

### **Clause 1 - Short Title**

1. Provides for the Act to be cited as the Commonwealth Legal Aid Amendment Act 1990 and for 'Principal Act' to mean the Commonwealth Legal Aid Act 1977.

### **Clause 2 - Commencement**

2. This clause provides for the substantive provisions of the Bill to commence on 8 May. This is necessary, otherwise section 21, in its amended form, would not apply to an arrangement with the Northern Territory made before the amendments come into operation. Agreement has recently been reached with the Northern Territory and this provision enables execution by the Minister for Justice and Consumer Affairs at any time after 8 May and necessary administrative action to be taken under the Agreement before the Act comes into effect.

### **Clause 3 - Interpretation**

3. This clause amends the definition contained in sub-section 3(1) of the Principal Act to include in the definition of 'State', the Northern Territory and to exclude the Northern Territory from the definition of "Territory".

### **Clause 4 - Interpretation**

4. Clause 4 provides for the amendment of Section 20 of the Principal Act to remove the specific reference to the Northern Territory from paragraph (b) of the definition of "approved legal aid commission" and from paragraph (b) of the definition of "statutory office". The reference to "such a Territory" is also omitted from the definition of "statutory office". These amendments are consequential upon the amendment of the definition of 'State'.

### **Clause 5 - Eligible Persons and Approved Persons**

5. This clause amends Section 22 of the Principal Act by omitting sub-section 22(3). The subsection no longer has any effect because section 84A of the Public Service Act, to which it refers, has been repealed.