

1991

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

SENATE

LAW AND JUSTICE LEGISLATION AMENDMENT BILL 1991

EXPLANATORY MEMORANDUM

(Circulated by authority of the Attorney-General,
the Honourable Michael Duffy, M.P.)

THIS MEMORANDUM TAKES ACCOUNT OF AMENDMENTS MADE BY THE
HOUSE OF REPRESENTATIVES TO THE BILL AS INTRODUCED

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LAW AND JUSTICE LEGISLATION AMENDMENT BILL 1991

GENERAL OUTLINE

This Bill makes amendments of a minor policy nature and also makes some minor technical amendments, to legislation within the Attorney-General's portfolio.

The most significant amendments to be made by the Bill will -

- (i) remove the requirement in the Administrative Appeals Tribunal Act 1975, the Family Law Act 1975 and the Federal Court of Australia Act 1976 that the Attorney-General approve the estimates of the Administrative Appeals Tribunal, the Family Court of Australia and the Federal Court of Australia before monies appropriated by Parliament can be spent. These provisions are not necessary, as the Tribunal and the courts operate under the Department of Finance Ledger System whereby the funds appropriated are controlled and released by the Department of Finance in accordance with validated claims submitted by each agency. Such claims must be in accordance with Finance Regulations and Directions. The issue of funds is also in accordance with the running cost splits separately identified in the Budget papers;

As this rigid control mechanism is currently in place there is no further requirement for the courts and the Tribunal to seek the Attorney-Generals's separate approval to expend appropriated funds;

- (ii) amend the Australian Capital Territory Supreme Court Act 1933 to permit interchangeability of the exercise of powers between the Master and the Registrar during the course of the winding-up of a company;
- (iii) make some minor changes to the Australian Security Intelligence Organization Act 1979 to facilitate administration and to place the Australian Capital Territory on the same basis as a State, and take account of changes to other legislation;
- (iv) amend the Bills of Exchange Act 1909 to remove the provision for adding three extra days, called 'days of grace', to the maturity date of a bill of exchange that is not payable on demand;

- (v) amend the Commonwealth Legal Aid Act 1977, firstly, to abolish the National Legal Aid Representative Council, and secondly, to enable a further member to be appointed to the National Legal Aid Advisory Committee;
- (vi) amend the Privacy Act 1988 and the Privacy Amendment Act 1990 to accommodate credit industry concerns that certain legitimate industry practices could constitute technical breaches of the legislation in the absence of the amendments and to delay the commencement of the substantive provisions of the credit reporting regulation scheme to enable the industry to prepare itself to meet its obligations under the scheme;
- (vii) amend the Statutory Declarations Act 1959 to simplify the processes for witnessing statutory declarations, provide a more accessible service to members of the public and business community by broadening the categories of persons able to witness statutory declarations, and remove the requirement for the Attorney-General, or his delegate, to appoint Commissioners for Declarations;
- (viii) amend the Trade Practices Act 1974 to empower the Trade Practices Commission to make charges and impose fees in certain areas of its activities.
- (ix) amend the Law Officers Act 1964 to ensure that a Solicitor-General who has served at least 7 years in that office will receive a pension unless he or she is removed from office for misbehaviour.

FINANCIAL IMPACT STATEMENT

The proposed amendments will not have a significant financial impact.

The proposed amendments to the Commonwealth Legal Aid Act 1977 are expected to lead to savings of the order of \$15,000 per year.

Depending on how the amendments in Parts 2A and 2B to Privacy legislation operate in practice, there is the possibility that minor additional funds may be sought by the Human Rights and Equal Opportunity Commission.

The amendments to the Trade Practices Act 1974 will authorise the Trade Practices Commission to make charges for the supply of material published by it in the course of carrying out its functions or exercising its powers. It is estimated that this will result in revenue of \$33,000 per year.

The amendments also have an indirect financial impact in that they will enable the making of regulations which will permit the Trade Practices Commission to make charges in relation to prescribed activities and in respect of prescribed discretionary services. Activities or services which could be prescribed pursuant to these provisions include seminars or workshops arranged by the Commission, or the provision of Commission speakers at functions arranged by other bodies.

The amendments would also enable regulations to be made prescribing fees in respect of the making of an authorisation application or the giving of a notification of exclusive dealing conduct under the Trade Practices Act.

NOTES ON CLAUSES

PART I - INTRODUCTORY

Clause 1 - Short title

1. This clause provides for the Act to be cited as the Law and Justice Legislation Amendment Act 1991.

Clause 2 - Commencement

2. This clause provides for the commencement of the Act.

3. Subclause 2(1A) provides that Part 2A (Amendments of the Privacy Act 1988) will commence immediately after the commencement of the Privacy Amendment Act 1990. That Act will commence on 24 September 1991, but its operation will be subject to the transitional provisions in clause 9M, below.

4. Subclause 2(1B) provides that Part 2B (Amendments of the Privacy Amendment Act 1990) will commence on 24 September 1991.

5. Pursuant to subclause 2(2), but subject to subclause 2(3), the amendments to the Statutory Declarations Act 1959 will commence on proclamation. This is necessary in order to enable regulations to be made to give effect to the new provisions. Subclause 2(3) provides that these amendments will commence, if they are not proclaimed to commence within a period of 6 months after the Act receives Royal Assent, on the first day after the end of that period.

6. The amendments to all other Acts will commence on the 28th day after the day on which the Act receives Royal Assent (subclause 2(1)).

Clause 3 - Application and savings

7. This clause will provide for the application, savings and transitional provisions related to the amendments being made by this Bill. The effect of these provisions are described in paragraphs 8 to 10 below.

The Australian Capital Territory Supreme Court Act 1933

8. Subclause 3(1) of the Bill provides that the amendment to section 35A of the Australian Capital Territory Supreme Court Act 1933 will apply from the date of commencement to any order in force under the present section 35A of that Act.

The Bills of Exchange Act 1909

9. Subclause 3(2) of the Bill provides that the amendment of section 19 of the Act made by the Bill will not apply to bills of exchange and promissory notes in existence before the commencement of the amendment.

Amendment of the Statutory Declarations Act 1959

10. Subclause 3(3) of the Bill is a savings provision which will ensure that statutory declarations, made before the commencement of these proposed amendments to the Statutory Declarations Act 1959 continue to have effect. Subclause 3(4) of the Bill will preserve the appointments of persons who, immediately before the commencement of these amendments, held an appointment as a Commissioner for Declarations, so that those persons continue to hold that appointment and may witness statutory declarations during the Attorney-General's pleasure.

PART 2 - AMENDMENTS TO THE AUSTRALIAN SECURITY INTELLIGENCE ORGANIZATION ACT 1979

Clause 4 - Principal Act

11. Clause 4 of the Bill defines the Principal Act in Part 2 to mean the Australian Security Intelligence Organization Act 1979.

Clause 5 - Interpretation

12. Clause 5 will amend provisions of the Australian Security Intelligence Organization Act 1979 to:

- (a) clarify ASIO's functions in relation to politically-motivated violence by including acts that are offences under the Crimes (Hostages) Act 1989 within the definition of the term "politically motivated violence";
- (b) place the Australian Capital Territory in the same position as the States and the Northern Territory in relation to the performance of functions by ASIO; and
- (c) make it clear that a copy of a warrant or of a revocation of a warrant may be certified by a Deputy Director-General.

Clause 6 - Inspection of Postal Articles

Clause 7 - Warrants for performance of functions under paragraph 17(1)(e)

13. Clauses 6 and 7 will make amendments to sections 27 and 27A of the Act to require the Director-General of Security or a Deputy Director-General to certify and send to Australia Post a copy of each warrant authorising the inspection or copying of the contents of articles in the course of the post. Similarly, the Director-General or a Deputy Director-General will be required to certify and send to Australia Post a copy of each revocation of a warrant.

PART 2A - AMENDMENTS OF THE PRIVACY ACT 1988

Clause 9A - Principal Act

14. Clause 9A defines the Principal Act in Part 2A to mean the Privacy Act 1988. As subclause 1(1A) provides that Part 2A will commence immediately after the commencement of the Privacy Amendment Act 1990, all references to the Principal Act in Part 2A are therefore to be taken as meaning the Privacy Act 1988 as amended by the Privacy Amendment Act 1990.

Clause 9B - Interpretation

15. Proposed new section 9B will amend the definition of "credit reporting business" in section 6 of the Principal Act by clarifying that the purpose of providing information about individuals' credit eligibility, history or capacity must be the dominant purpose of the business, as distinct from merely a purpose of the business. This is to clarify that the Principal Act is not intended to cause credit providers carrying on their normal business to become, inadvertently, credit reporting businesses by technical operation of the definition of credit reporting business.

Clause 9C - Credit Providers

16. Proposed new section 9C will amend section 11B of the Principal Act by providing that an agent of a credit provider can be taken to be another credit provider, provided that the agent is performing a task that is a necessary step either in processing an application for a loan or in the management of a loan. This amendment is necessary to prevent credit providers and their agents, acting properly and lawfully in accordance with accepted commercial practice, from committing technical breaches of the Principal Act (for example, paragraph 18N(1)(b)) by so acting. This is done by inserting a new subsection 11B(5) which will further provide that when the agent so acts, it will be subject to the same obligations under the Principal Act as any other credit provider.

17. New subsection 11B(6) will ensure that the agent of the credit provider can disclose credit information (including a credit report) to the credit provider (the principal in the principal-agent relationship). This will ensure that customers of credit providers who use agents for convenience can continue to make use of this facility.

18. New subsection 11B(7) is designed to prevent debt collectors from gaining access to credit information by means other than through credit providers who have engaged them for that purpose as specifically provided elsewhere by paragraph 18N(1)(c) of the Principal Act.

Clause 9D - Access to credit information files and credit reports

19. Proposed new section 9D will insert a new subsection, 18H(3), in the Principal Act, which will permit an individual to exercise his or her right of access under subsections 18H(1) and 18H(2) to a credit information file or a credit report through a person authorised by the individual in writing. This access by an authorised person is expressly limited to situations where the individual has applied for a loan or has sought advice in relation to a loan. This right cannot be exercised on the individual's behalf by a credit provider, mortgage insurer or a trade insurer because these categories of persons are the subject of specific provisions elsewhere in the legislation.

Clause 9E - Limits on disclosure of personal information by credit reporting agencies

20. Proposed new paragraphs 9E(a) and 9E(b) will amend section 18K of the Principal Act to ensure that the accepted credit industry practice of considering applications for commercial credit made by use of the telephone can continue. The Principal Act provides at paragraph 18K(1)(b) that an individual's consent to a credit provider's seeking access to a credit report for the purpose of assessing an application for commercial credit has to be written consent. New subsection 18K(1A) will qualify this by providing that written consent is not required where the commercial credit application is made orally. The relaxation of the written consent requirement is qualified so that it applies only while the application has not yet been made in writing.

Commercial information in credit reports

21. Proposed new paragraph 9E(c) will make a technical amendment to subsection 18K(6) of the Principal Act to correct an oversight. Subsection 18K(6) prohibits inclusion, in a credit report, of commercial credit information. As a credit report is drawn from a credit information file and a credit information file may contain some commercial credit information (for example, paragraph 18E(1)(b)(i)(A): the amount of commercial credit sought; paragraph 18E(1)(b)(iii): a trade insurer having sought a report; and paragraph 18E(1)(b)(vii): a dishonoured cheque), the prohibition on commercial information in subsection 18K(6) is subject to an exception in respect of the permitted contents provision in section 18E.

Clause 9F - Limits on use by credit providers of present information contained in credit reports etc.

Credit providers: internal management

22. Proposed new paragraph 9F(a) will amend the provisions concerning permitted use of information in section 18L of the Principal Act to allow credit reports or information to be used for internal management purposes by the credit provider.

This is subject to the express qualification in new paragraph 18L(1)(ba) that the internal management purposes must be directly related to the provision of loans or management of credit such as occurs in the practice of credit scoring.

Telephone applications for credit

23. Proposed new paragraphs 9F(b) and 9F(c) will amend section 18L of the Principal Act to ensure that the accepted credit industry practice of considering telephone applications for credit can continue. The Principal Act requires an individual's consent to use by a credit provider of commercial credit information in assessing a credit application be written consent. New subsection 18L(4A) qualifies this by providing that the written consent is not required where the credit application is made orally.

Clause 9G - Information to be given if an individual's application for credit is refused

Provisions in cases of joint applications for credit

24. Proposed new section 9G will repeal existing section 18M of the Principal Act and substitute a new section 18M. Existing section 18M requires a credit provider that has refused an individual's credit application wholly or partly on information derived from a credit report to inform the individual in writing of the fact of the refusal, that the refusal was based wholly or partly on information derived from a credit report from a credit reporting agency and the name and address of the credit reporting agency. New section 18M will retain these existing requirements but also make additional provision in cases of joint applications for credit by more than one person. New subsection 18M(2) will expressly allow the credit provider to advise one of the joint applicants that the refusal was based wholly or partly on an adverse credit report in relation to another of the joint applicants.

Clause 9H - Limits on disclosure by credit providers of personal information contained in reports relating to credit worthiness etc.

25. Proposed new section 9H will make a series of amendments to section 18N of the Principal Act which generally regulates disclosure of personal information by credit providers.

Consent to disclosure by credit providers

26. Proposed new paragraphs 9H(a) and 9H(d) will make amendments which will ensure that, where an individual consents orally to a credit provider's disclosing personal information to another credit provider, that disclosure can occur. New paragraph 18N(1A)(a) will enable the standard credit industry practice of accepting and processing telephone applications for credit and commercial credit to continue. As with the other amendments relating to telephone applications (proposed new paragraphs 9E(a), 9E(b), 9F(b) and 9F(c)), the permitting of oral consent will apply only until a written application for credit or commercial credit has been made.

Guarantors

27. Proposed new paragraph 9H(b) will insert a new paragraph 18N(1)(ba) in the Principal Act to permit a credit provider to disclose personal information to a guarantor of a loan such information as is necessary to enable the credit provider to enforce the guarantee.

Mortgage insurers

28. Proposed new paragraph 9H(b) will also insert a new paragraph 18N(1)(bb) in the Principal Act to permit a credit provider to disclose to a mortgage insurer such personal information as is necessary to enable the mortgage insurer to assess whether to provide insurance or to assess the risk of an individual defaulting on mortgage credit or for any purpose arising under a mortgage insurance contract.

Dispute settling

29. Proposed new paragraph 9H(b) will also insert a new paragraph 18N(1)(bc) in the Principal Act to enable recognised dispute settling bodies, such as the banking industry ombudsman, to be given personal information for the purpose of settling disputes between the credit provider and the individual concerned.

State and Territory assistance schemes

30. Proposed new paragraph 9H(b) will also insert a new paragraph 18N(1)(bd) in the Principal Act to enable disclosure of personal information to be made by credit providers to State or Territory authorities where those authorities give assistance in the provision of mortgage credit. This will be limited to the purpose of enabling the State or Territory to determine the extent of assistance it will give in the provision of mortgage credit. This amendment is necessary to permit the continuing assistance by State or Territory authorities in the provision of low-cost mortgages.

Credit cards and EFTPOS transactions

31. Proposed new paragraph 9H(b) will also insert a new paragraph 18N(1)(be) in the Principal Act to enable disclosure of personal information to be made by a credit provider to a person or body carrying on a business of supplying goods or services for the purpose of enabling that person or body to decide whether to accept payment by means of credit card or electronic transfer of funds (EFTPOS). This amendment is to remove doubt as to the legality of the provision by credit providers, such as credit card issuers, of information necessary to enable the credit card system and EFTPOS payment system to continue.

Payout figures on charged or encumbered property of credit applicants

32. Proposed new paragraph 9H(b) will also insert a new paragraph 18N(1)(bf) in the Principal Act which will enable credit providers to disclose personal information to persons or bodies considering taking an assignment of, or discharge

of, a debt owed to the credit provider by the individual concerned. This will enable, for example, a motor car dealer to be advised of the amount of money owing on an encumbered vehicle by an individual to the credit provider for the purpose of calculating and advising the individual of a "bottom line" price in respect of a purchase the individual wishes to make from the motor car dealer by trading in that encumbered vehicle.

Mortgage securitisation (secondary mortgage market practice)

33. Proposed new paragraph 9H(b) will also insert a new paragraph 18N(1)(bg) in the Principal Act which will enable the standard industry practice of mortgage securitisation to continue. This will be subject to the provision that disclosures of personal information necessary in the securitisation or secondary mortgage process will be subject to specific agreement by the individual concerned.

Individuals' and/or authorised representatives' access to credit providers' information

34. Proposed new paragraph 9H(c) will insert a new paragraph 18N(1)(ga) in the Principal Act to allow disclosure of personal information by a credit provider to the individual or a person authorised in writing by the individual to seek access in connection with a loan application or advice in relation to a loan. This will enable individuals to authorise credit providers to disclose information about them to persons they choose to authorise, including solicitors, accountants and finance brokers.

Consent to credit providers' disclosure

35. Proposed new paragraph 9H(d) will also insert new paragraph 18N(1A)(b) in the Principal Act, which reflects credit industry practice in relation to the giving of consent by an individual to a credit provider disclosing personal information about that individual to another credit provider. Where the individual's consent to disclosure as between credit providers is required, it may be given to either the disclosing credit provider or the recipient credit provider. This amendment will permit an individual, when applying to a credit provider for credit, to give consent to disclosure of information to the credit provider presently being approached (and who will be the recipient of the disclosure) as distinct from giving consent to the previous credit provider(s) who will be the discloser(s) of the information.

Right of individuals to access to information about themselves

36. Proposed new paragraph 9H(d) will also insert a new subsection 18N(1C) in the Principal Act to ensure that credit providers can disclose personal information about an individual to the individual who is the subject of that information.

Clause 9J - Limits on use or disclosure by mortgage insurers or trade insurers or personal information contained in credit reports

37. Proposed new section 9J will make consequential amendments to the Principal Act to ensure that mortgage insurers may use information for the wider purposes allowed in proposed new paragraph 18N(1)(bb).

Clause 9K - Limits on use by certain persons of personal information obtained by credit providers

38. Proposed new section 9K will make consequential amendments to section 18Q of the Principal Act to ensure that a person or body that has obtained information in the course of the mortgage securitisation system provided for by proposed new paragraph 18N(1)(bg) does not use information for any purpose other than that of enabling the performance of a necessary task in the mortgage securitisation arrangement unless that other purpose is required or authorised by or under law.

Clause 9L - Application of this Part

39. Proposed new section 9L will amend subsection 18V(2) of the Principal Act so that the requirement to advise an individual that information might be disclosed to a credit reporting agency (paragraph 18E(8)(c)) does not apply where that information is acquired by the credit provider before 25 February 1992. Similarly, subsection 18V(3) is amended so that the relevant date for the commencement of maximum permissible periods under subsection 18F(2) will be 25 February 1992.

PART 2B - AMENDMENTS OF THE PRIVACY AMENDMENT ACT 1990

Clause 9M - Application of amendments

40. Proposed new section 9M will add a new section 25 to the Privacy Amendment Act 1990 which provides that an act or practice engaged in before 25 February 1992 is not taken to constitute a breach of the Code of Conduct or a breach of a provision of Part IIIA unless that act or practice constitutes a breach of sections 18H (access by individuals to credit information files and credit reports) or 18J (alteration of credit information files and credit reports). When read in conjunction with subsection 2(2) of the Privacy Amendment Act 1990, this means that from 24 September 1991 to 24 February 1992 (both dates inclusive) only sections 18H and 18J will have effect, and on and from 25 February 1992 the entire Privacy Amendment Act 1990 will operate.

PART 3 - AMENDMENTS OF THE TRADE PRACTICES ACT 1974

41. Clause 10 of the Bill defines the Principal Act in Part 3 to mean the Trade Practices Act 1974.

42. Clause 11 of the Bill will insert a new section 171A into this Act which will enable the Trade Practices Commission to make charges.

43. The first category of charges that the amendments will authorise are those relating to the supply of material published by the Commission in the course of carrying out its functions or exercising its powers (proposed paragraph 171A(1)(a)). In addition, the amendments will enable the Commission to make charges for permitting a person to attend or take part in a prescribed activity arranged by or on behalf of the Commission for the purpose of carrying out any of its functions (proposed paragraph 171A(1)(b)). Activities which could be prescribed pursuant to this provision include, for example, workshops organised by the Commission.

44. The Commission will also be authorised to make charges where it provides a discretionary service for a person (proposed subsection 171A(2)). The concept of a 'discretionary service' is defined in the proposed subsection 171A(3) as the doing of a prescribed act by the Commission that the Commission has power to do but is not required to do under any law and is done at a person's request. Acts which may be prescribed under this provision would include, for example, the provision of a speaker at seminars organised by bodies other than the Commission.

45. Section 172 of the Trade Practices Act provides that the Governor-General may make regulations prescribing various matters. Clause 12 of the Bill will insert proposed paragraph 172(1)(d) into the Act to enable the making of regulations prescribing the fees payable to the Commission on making a prescribed application or giving a prescribed notice to the Commission under the Trade Practices Act or the Trade Practices Regulations. The Act makes provision for persons to apply, on public benefit grounds, for authorisation of certain conduct which would otherwise contravene the Act. The Act also allows for the notification of certain exclusive dealing conduct which provides, from the time of lodgment, immunity from the exclusive dealing provisions of the Act until such protection is revoked by the Commission.

46. Clause 13 of the Bill will provide that any charge or fee paid to the Trade Practices Commission before the commencement of this clause of the Bill is to be taken to have been payable under the Trade Practices Act.

SCHEDULE

AMENDMENTS OF OTHER ACTS

47. The Schedule provides that the following Acts are amended as set out below.

ACTS INTERPRETATION ACT 1901

48. An amendment will insert subsection 25B(1A) into the Act to provide that, where a law of a State or Territory alters the name of a body or of an office, a reference in a Commonwealth Act or an instrument made under a Commonwealth Act to the body or office by its former name shall be construed as a reference to the body or office by its new name.

49. Another amendment will insert section 33B into the Act to allow members of statutory bodies to participate at board meetings by telephone, closed-circuit television and other electronic means of communication.

ADMINISTRATIVE APPEALS TRIBUNAL ACT 1975

50. Section 24U of this Act, which requires that the estimates of the Administrative Appeals Tribunal be submitted to, and approved by, the Attorney-General before monies appropriated by the Parliament can be spent, will be repealed.

AUSTRALIAN CAPITAL TERRITORY SUPREME COURT ACT 1933

51. Subsections 35A(1) and 35A(2) of this Act will be repealed, and new subsections substituted. The provisions to be repealed authorise the Supreme Court of the Australian Capital Territory to direct the Master or the Registrar of the Court to exercise the Court's powers in subsequent proceedings relating to the winding-up of a company. The section appears to restrict the Court's power to list subsequent proceedings so that a particular winding-up proceeding can be listed only before either the Master or the Registrar, but not both.

52. Proposed subsection 35A(1) will provide that the Court, when making an order for the winding-up of a company, may direct that new subsection 35A(2) applies to the winding-up.

53. Proposed paragraph 35A(2)(a) will provide that, if the court gives a direction under new subsection 35A(1), proceedings for and in relation to the winding-up must be taken before the Master or the Registrar. This will allow such proceedings to be taken before either one or other of those officers, interchangeably.

54. Proposed paragraph 35A(2)(b) will provide that the Master and the Registrar have all the powers of the Court in relation to the winding-up. Proposed paragraph 35A(2)(c) will provide that the Master or the Registrar is able to refer to the Court any matter in relation to the winding-up that he or she thinks proper to be determined by the Court.

55. Proposed paragraph 35A(2)(d) will provide that any order, decree or direction of the Master or the Registrar, made or given in relation to the winding-up, may be appealed to the Court.

BILLS OF EXCHANGE ACT 1909

56. The effect of paragraph 19(a) of this Act is that, where a bill of exchange is not payable on demand, the day on which it falls due is determined by adding three days (called days of grace) to the time of payment as fixed by the bill, except where the bill itself does not otherwise provide. Under this provision, a bill becomes due and payable on the last day of grace or, if that day is not a business day, on the next succeeding business day.

57. Section 19 will be amended by omitting paragraph 19(a) with its reference to the days of grace. Proposed subsection 19(1) will provide that a bill that is not payable on demand will be payable on the last day of the time of payment fixed by the bill. Proposed subsection 19(2) will pick up those paragraphs of the present section 19 which will not be repealed and which set out the rules to be applied in working out the time of payment.

58. The amendment will bring this Act into line with similar provisions under United Kingdom and New Zealand law.

COMMONWEALTH LEGAL AID ACT 1977

59. The title of this Act will be amended to omit reference to the National Legal Aid Representative Council ("the Council") which is being abolished by the repeal of Part II of the Act.

60. Subsection 3(1) will be amended by omitting the definition of "Council", "Council Chairperson" and "Council Member".

61. Part II, which established the Council, will be repealed.

62. Subsection 8(1) will be amended to allow for the appointment of one additional member to the National Legal Aid Advisory Committee ("the Committee").

63. The heading to Part IIIA, dealing with administrative provisions relating to the Council and the Committee, will be omitted. Those provisions of the former Part IIIA that will continue to be relevant to the Committee will be subsumed under Part III which deals with the Committee.

64. The interpretation provision defining "member", contained in Section 10, will be repealed as redundant, following the abolition of the Council.

65. Sections 11 and 12 and subsections 13(1) and (2) will be amended to make a specific reference to Committee members.

66. Paragraphs 13(3)(a) and (b), which deal with the termination of appointment of the Council Chairperson and Council members, will be repealed.

67. Section 14, which deals with meetings of the Council, will be repealed.

68. Subsections 17(1), (2) and (3) will be amended to make a specific reference to Committee members.

69. Consequential amendments will be made to subsection 17(1) following abolition of the Council.

70. The definitions in subsection 17(4) will no longer be required after the abolition of the Council so that the subsection will be repealed.

71. Subsection 18(1), which deals with the provision of annual reports by the Council, will be repealed, and a consequential amendment made to subsection 18(3).

FAMILY LAW ACT 1975

72. Section 38V of this Act, which requires that the estimates of the Family Court of Australia be submitted to, and approved by, the Attorney-General before monies appropriated by Parliament can be spent, will be repealed.

FEDERAL COURT OF AUSTRALIA ACT 1976

73. Section 18V of this Act, which requires that the estimates of the Federal Court of Australia be submitted to, and approved by the Attorney-General before monies appropriated by Parliament can be spent, will be repealed.

STATUTORY DECLARATIONS ACT 1959

74. The definitions of "Commissioner for Affidavits" and "Commissioner for Declarations" will be omitted. New definitions, for the purposes of the proposed section 8, will be provided in the regulations to be prescribed under the proposed section 14.

75. The amendment to section 7 will make a plain English drafting change.

76. Section 8, which prescribes the categories of persons before whom a statutory declaration may be made, will be repealed and a new section substituted, which will provide that a statutory declaration must be in the form provided in the Schedule to the Act and be made before a person prescribed in regulations. Regulations for this purpose will be made in anticipation of the commencement of this provision.

77. Section 9, which provides that the Attorney-General may appoint persons to be Commissioners for Declarations, will be repealed. The amendment will remove the requirement for the Attorney-General or his delegate to make individual appointments as Commissioner for Declarations. The appointments of all current Commissioners for Declarations are preserved, during the Attorney-General's pleasure, by the savings provisions in subclause 3(3) and (4) of the Bill.

78. A new section 14 will be inserted, which will enable the Governor-General to make such regulations as are required or permitted by the Act or are necessary or convenient to give effect to the Act. In particular, this provision will enable regulations to be made to specify the classes of persons able to witness statutory declarations under the proposed section 8 of the Act.

LAW OFFICERS ACT 1964

79. Subsection 16(4) is to be omitted and replaced by 2 new subsections. Proposed subsection 16(4) will provide that a pro-rated pension will be payable to a Solicitor-General who has served in the office of Solicitor-General for an aggregate period of seven years and who ceases to hold office, after the commencement of the provision, otherwise than if the Solicitor-General is removed from office for misbehaviour.

80. The amount of the pro-rated pension is calculated by reference to subsections 16(5) to 16(9) of the Law Officers Act. A pension will not be payable under this section if the Solicitor-General is entitled to a pension under the provisions of the Judges Pensions Act 1968 because of subsection 16(1) of the Law Officers Act.

81. Proposed subsection 16(4A) will provide that a person who is in receipt of a pro-rated pension, because of the operation of subsection 16(8), who is appointed as Solicitor-General shall cease to receive that pension. This provision will avoid the payment of two pensions to a Solicitor-General who serves a second, discontinuous term of office after having attained the age of 60.

