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**THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA**

**HOUSE OF REPRESENTATIVES**

**LAW AND JUSTICE LEGISLATION AMENDMENT BILL 1996**

**SUPPLEMENTARY EXPLANATORY MEMORANDUM**

Amendments and new items to be moved on behalf of the Government

(Circulated by the authority of the Attorney-General and Minister for Justice,  
the Honourable Daryl Williams AM QC MP)

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AMENDMENTS TO THE  
LAW AND JUSTICE LEGISLATION AMENDMENT BILL 1996

OUTLINE OF AMENDMENTS

The amendments proposed by the Government will amend the *Federal Court of Australia Act 1976*.

Section 18AB of the Federal Court Act, which provides that the judges of the Court may delegate certain powers to judicial registrars, will be amended to provide that the judges may delegate the power to hear general Federal Court matters up to a monetary limit of \$100,000. The proposed exercise of jurisdiction by judicial registrars in matters under the *Workplace Relations Act 1996*, the Human Rights Legislation Amendment Bill 1996 and the Native Title Amendment Bill 1996 will not be affected by this amendment.

There will be a new subsection 24(2A) that provides that an appeal may not be brought to the High Court from a judgment of the Supreme Court of the ACT when it is known as the Court of Disputed Elections.

Existing section 53A, which provides for proceedings to be referred to mediation, will be amended to provide that referrals to mediation may be made with or without the consent of the parties to the proceedings.

FINANCIAL IMPACT STATEMENT

The amendments to the Bill contain no significant financial impact.

## NOTES ON AMENDMENTS AND NEW CLAUSES

### **Amendment 1**

1. Clause 2 provides for the commencement of Items in the Law and Justice Legislation Amendment Bill 1996.
2. Amendment 1 adds new subclause 2(4) that provides for the commencement of the Court's power to delegate additional jurisdiction to judicial registrars, provided for by Amendment 2. The provisions will commence immediately after the transfer of jurisdiction in industrial relations matters to the Federal Court takes effect.

### **Amendment 2**

3. Amendment 2 inserts new items 1A, 1B, 1C and 1D in Schedule 8 of the Bill.

#### Item 1A – Before subsection 18AB(1)

4. Item 1A inserts new subsection 18AB(1A) into the *Federal Court of Australia Act 1976*. New subsection 18AB(1A) provides for the judges of the Court to make Rules of Court delegating to judicial registrars all or any of the Court's powers, in relation to proceedings in the Court, up to a monetary limit of \$100,000, subject to the exceptions outlined in paragraphs 5 and 6.
5. The judges may not delegate the Court's powers in proceedings for a prerogative writ or in matters under the *Workplace Relations Act 1996*, the *Human Rights and Equal Opportunity Commission Act 1986* or the *Native Title Act 1993* unless this is expressly provided for in other legislation.
6. The *Workplace Relations Act 1996*, the Human Rights Legislation Amendment Bill 1996 and the Native Title Amendment Bill 1996 allow for judicial registrars to exercise delegated jurisdiction in certain circumstances. This amendment will not affect the Court's capacity to delegate powers under those provisions.

#### Item 1B – Subsection 18AB(3)

#### Item 1C – Subsection 18AB(6)

#### Item 1D – Subsection 18AB(7)

7. These items make amendments to the listed subsections, consequential upon the insertion of new subsection 18AB(1A), provided for in item 1A.

### **Amendment 3**

8. Item 2 of Schedule 8 in the Bill inserts a new subsection 24(1A). However there is already an existing subsection 24(1A) in the *Federal Court of Australia Act 1976*.

9. Amendment 3 omits (1A) and substitutes (1AA), with the effect that the new subsection is inserted after existing subsection 24(1) and before existing subsection 24(1A).

#### **Amendment 4**

10. Item 2 in Schedule 8 of the Bill provides that an appeal may not be brought to the Federal Court from a judgment of the Supreme Court of the Australian Capital Territory when that Court is known as the Court of Disputed Elections.
11. The policy intention is to preclude appeals to any court from the Supreme Court of the ACT when it is known as the Court of Disputed Elections. However, existing subsection 24(2) of the *Federal Court of Australia Act 1976* provides for an appeal to the High Court from a Supreme Court of a Territory.
12. Amendment 4 inserts new items 2A and 2B in Schedule 8 of the Bill.

#### **Item 2A – Subsection 24(2)**

12. Existing subsection 24(2) of the *Federal Court of Australia Act 1976* provides that appeals may be brought to the High Court from a judgment of the Supreme Court of a Territory.
14. Item 2A amends existing subsection 24(2) by making it subject to subsection (2A), which is to be inserted by item 2B.

#### **Item 2B – After subsection 24(2)**

15. Item 2B inserts new subsection 24(2A). New subsection 24(2A) provides that an appeal may not be brought to the High Court from a judgment of the Supreme Court of the ACT when that Court is known as the Court of Disputed Elections.

#### **Amendment 5**

16. Amendment 5 inserts new items 12 and 13 in Schedule 8 of the Bill.

#### **Item 12 – Subsection 53A(1)**

17. Existing subsection 53A(1) of the *Federal Court of Australia Act 1976* provides that the Court may, with the consent of the parties to proceedings, refer the proceedings to a mediator or an arbitrator for mediation or arbitration.
18. Item 12 omits the reference to consent of the parties to the proceedings.

#### **Item 13 – After subsection 53A(1)**

19. Item 13 inserts new subsection 53A(1A) into the *Federal Court of Australia Act 1976*. New subsection 53A(1A) provides that referral under subsection 53A(1) to a mediator may be made with or without the consent of the parties but that referrals to an arbitrator may be made only with the consent of the parties.





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