

1999

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

**LAW AND JUSTICE LEGISLATION AMENDMENT BILL 1998**

SUPPLEMENTARY EXPLANATORY MEMORANDUM

Amendments to be moved on behalf of the Government

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

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AMENDMENTS OF THE  
LAW AND JUSTICE LEGISLATION AMENDMENT ACT 1998

OUTLINE OF AMENDMENTS

The Bill makes amendments of a minor policy nature to a number of Acts within the Attorney-General's portfolio including the *Administrative Appeals Act 1975* and the *Judiciary Act 1903*.

Schedule 1 of the Bill amends the Administrative Appeals Tribunal Act to implement the Government's decisions on recommendations made by the Senate Legal and Constitutional Legislation Committee in its 'Report on the Role and Function in the Administrative Review Council' (June 1997). Proposed amendments 1-8 amend Schedule 1 to correct drafting errors and clarify the scope of the amendments contained in the Bill.

Item 1 of Schedule 11 of the Bill amends subsection 39B(1A) of the Judiciary Act to exclude the conferral of criminal jurisdiction on the Federal Court except where it is expressly conferred by other Commonwealth legislation. Proposed amendment 11 redrafts the amendment to avoid any ambiguity by expressly excluding criminal matters.

Amendments (9), (10) and (12) correct drafting errors.

FINANCIAL IMPACT STATEMENT

The amendments to the Bill contain no significant financial impact.

## NOTES ON AMENDMENTS

### **Amendment 1**

This amendment inserts a new paragraph 50(c) in the Administrative Appeals Tribunal Act (AAT Act) which further clarifies the qualifications required of persons who may be appointed as a member of the Administrative Review Council (ARC). The new paragraph 50(c) makes it clear the person should have had direct experience, and direct knowledge, of the needs of people, or groups of people, significantly affected by government decisions.

### **Amendment 2**

2. This amendment inserts a new paragraph 51(1)(ab) in the AAT Act to make it clear that the ARC may inquire into the adequacy of procedures used to exercise administrative discretions as well as the procedures used to make administrative decisions.

### **Amendment 3**

3. This amendment inserts a new paragraph 51(1)(g) in the AAT Act to make it clear that the ARC may facilitate training for persons exercising administrative discretions or making of administrative decisions.

### **Amendment 4**

4. This amendment corrects a drafting error and will enable the Minister to give written directions to the President of the ARC.

### **Amendment 5**

5. This amendment corrects a drafting error and will enable the Minister, by writing given to the President of the ARC, to refer matters to the Council for inquiry and report.

### **Amendment 6**

6. This amendment inserts a new subsection 52(2) in the AAT Act to make it clear that a person may be appointed to be a member of the ARC for the purposes of a particular project.

### **Amendment 7**

7. This amendment inserts a new paragraph 52(3)(b) in the AAT Act to make it clear that a person appointed to be a member of ARC for the purposes of a particular project has the rights of a member only for the purposes of taking part in the project.

### **Amendment 8**

8. This amendment inserts new paragraphs 52(3)(d) and (e) in the AAT Act to clarify the period of appointment of a person appointed to be a member of the ARC for the purposes of a particular project.

#### **Amendment 9**

9. This amendment corrects a drafting error in Schedule 4 of the Bill.

#### **Amendment 10**

10. This amendment omits the proposed amendment to the *Copyright Amendment Act 1989* as it is not necessary.

#### **Amendment 11**

11. Amendment substitutes new Item 1 of Schedule 11. Item 1 of Schedule 11 amends subsection 39B (1A) of the Judiciary Act to exclude the conferral of criminal jurisdiction on the Federal Court except where it is expressly conferred by other Commonwealth legislation. New item 1 redrafts the amendment to avoid any ambiguity by defining the Federal Court's jurisdiction in terms which expressly excludes criminal matters, rather than by including civil matters.

#### **Amendment 12**

12. This amendment omits the amendment to the *Telecommunications (Interception) Act 1979* as the error in the Act has already been corrected.