

AUSTRALIAN CAPITAL TERRITORY

AGENTS ACT 1968

DECLARATION

INSTRUMENT No. 189 of 2001

EXPLANATORY STATEMENT

Section 3 of the *Agents Act 1968* (“the Act”) permits the Attorney-General, by disallowable instrument, to declare that provisions of the Act do not apply to a person (including an incorporated body – sub-section 15(1) of the *Interpretation Act 1967*). In addition, the declaration may be expressed to be subject to specified conditions.

Sub-section 19(5) of the *Agents Act 1968* provides that a company shall not carry on business as an employment agent unless it holds an employment agent’s licence. In the Act, “company” has a wide meaning, including an incorporated association (see sub-sections 5(1) and 5(1B)). This meaning is wide enough to apply to the Koomarri Association ACT Incorporated (Koomarri) which is body incorporated under the *Associations Incorporation Act 1991*.

Accordingly, under section 19 of the Act, Koomarri cannot carry on business as an employment agent unless it holds an employment agent’s licence. However, the effect of sub-section 5(1B) and Part 5 of the Act is that a body incorporated under the *Associations Incorporation Act 1991* cannot obtain a licence under the Act.

Under the Act, Koomarri is unable to carry on business as an employment agent. This is an unintended consequence of recent amendments to the legislation. The declaration disapplies the Act in relation to Koomarri to enable it to continue to provide a range of employment services for disabled persons in the ACT.