

2000

**THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN
CAPITAL TERRITORY**

LEGISLATION (ACCESS AND OPERATION) BILL 2000

**LEGISLATION (ACCESS AND OPERATION) (CONSEQUENTIAL
PROVISIONS) BILL 2000**

EXPLANATORY MEMORANDUM

**Circulated by the authority of
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Legislation (Access and Operation) Bill

General outline

Background

1. Laws made by, or under the authority of, the Legislative Assembly define the basic rules under which the ACT is governed—they impact across government, business and all sections of the community.
2. It is a basic principle of our legal system that people are presumed to know the law. Ignorance of the law is no excuse. This important presumption depends on the law being readily available to people, particularly the authorised text of the law currently in force. Consequently, under the Self-Government Act, the Executive is obliged to publish copies of ACT legislation and make them available to members of the public.
3. At present, authorised versions of ACT legislation are published in printed form only. The underlying publishing system has changed little in decades. It is paper-based, requires extensive manual administration, and is inherently clumsy, slow and costly. Consequently, with the rate of legislative change it is difficult to satisfy fully the demand for timely access to up-to-date legislation in authorised printed form, particularly amended legislation.
4. The existing publishing system no longer serves anyone well. It frustrates access to the current law and undermines the principle that people are presumed to know the law. On the other hand, developments in publishing technology can now offer significant benefits to legislation users by providing faster production and publication systems for legislative documents and free access to those documents.
5. The new legislative publishing system foreshadowed by this Bill would be based on the Internet and other electronic technologies. However, legislation will continue to be made available in printed form. In fact, the new publishing system will facilitate the on-demand production of authorised versions of printed legislation. In addition, for users without Internet facilities, on-line access to the register will be provided in convenient places, for example, the ACT Shopfront and ACT public libraries.

Purpose of Bill

6. The Bill would give the ACT an advanced system for making its legislation accessible sooner and more widely. It would establish an electronic statute book (the ***ACT legislation register***), containing authorised versions of ACT Acts and statutory instruments, and make it accessible without charge on the Internet.
7. It would change the emphasis in publishing legislation from printed to electronic form, although printed copies would still be available, and could be produced more efficiently, on demand, from the register.
8. On the register, the following material would be available continually:
 - a) authorised republications of Acts and statutory instruments as in force from time to time;
 - b) each of the following, as enacted or made—Acts, subordinate laws, disallowable instruments, approved forms, commencement notices and other statutory instruments presently required to be published or notified in the Gazette (Approved forms are not presently required to be published or notified in the Gazette.);
 - c) notifications of the following—
 - i) the making of Acts, subordinate laws, disallowable instruments, approved forms, commencement notices and other statutory instruments presently required to be published or notified in the Gazette;
 - ii) amendments of subordinate laws or disallowable instruments by the Legislative Assembly.
9. The register could also contain (or provide links to) related material such as Bills (and amendments of Bills) presented to the Legislative Assembly, explanatory memoranda for Bills, superseded versions of authorised republications, repealed legislation and other material useful to legislation users. Assistance for users would be provided in the form of user guides, indexes, pointers to the responsible Government agencies, and so on.
10. The Bill would bring together in a single Act all the ‘machinery of government’ law relating to the various stages of the legislation ‘life cycle’, ie making (for statutory instruments), notification, commencement, publication, presentation and disallowance (for subordinate laws and disallowable instruments), amendment, republication and

repeal. The intention is to make the law easier to find and understand. At present, it is scattered through several Acts and is not easy to find, let alone use. The Legislation (Access and Operation) (Consequential Provisions) Bill (the ***Consequential Provisions Bill***) would omit the relevant provisions from those Acts.

11. The Bill would also deal with the following related matters:
 - a) sources of law in the Territory;
 - b) numbering of items of legislation;
 - c) exercise of powers under uncommenced provisions;
 - d) evidentiary value of authorised, electronic and printed versions of legislation;
 - e) references to laws.
12. With the publication on the register (***registration***) of the authorised text of Acts and statutory instruments, there would be no further need for the current, short form notices in the Gazette. Registration would replace gazettal (except as a temporary emergency measure). Although the Bill contains transitional provisions to enable registration to replace gazettal, it is proposed that all ACT Acts and subordinate laws will be reviewed and amended as necessary to bring them fully into line with the new legislative framework (for example, changing non-disallowable statutory instruments required to be notified in the Gazette into registrable instruments and making approved forms notifiable instruments). A Bill to make the necessary consequential amendments will be presented to the Legislative Assembly as early as possible in 2001.
13. Apart from the ‘machinery of government’ law relating to the various stages of legislation, it has also been necessary to bring together the corresponding provisions dealing with various kinds of instruments that will also be registered. In restating various provisions scattered throughout the *Interpretation Act 1967* and the *Subordinate Laws Act 1989* it has become clear that there is a lack of coherence in these provisions as well as anomalies, gaps and uncertainties affecting the making of instruments through which much of the day-to-day activity of government is carried on. It is undesirable that there should be any doubt about the legal effect in routine matters of government and it is certainly desirable that the relevant rules be systematised and made more accessible. Apart from these substantive issues, some of the restated provisions are based on much older provisions which have been little revised for many years. The

opportunity has therefore been taken, wherever possible, to restate these in simpler, up-to-date language more in keeping with current legislative practice.

14. It is also proposed that another Bill would be prepared and presented later in 2001. The Bill would amend the Legislation (Access and Operation) Act to include the remaining provisions of the *Interpretation Act 1967* in a remade form. The remaining provisions would provide a comprehensive, up-to-date set of provisions for the interpretation of ACT legislation. This would bring all the key provisions about ACT legislation into a single Act.

Notes on provisions

Chapter 1 Preliminary

Part 1.1—General

15. The formal provisions of this Part provide for the name and commencement of the Bill (clauses 1 and 2), and the status of the dictionary and notes (clauses 3 and 4).
16. The main object of the Bill, and supporting strategies, are set out in clause 5. The intention is to make legislation more accessible by significantly improving present arrangements with a 3-pronged approach as follows:
 - a) encouraging access to authorised, electronic versions of legislation on approved Internet sites, while maintaining access to authorised, printed legislation;
 - b) restructuring, restating and simplifying the relevant ‘machinery of government’ law dealing with the ‘life cycle’ of legislation to make it more accessible and easier to understand;
 - c) assisting users to find, read, understand and use legislation by—
 - i) facilitating the shortening and simplifying of legislation; and
 - ii) promoting consistency in the form and language of legislation; and
 - iii) facilitating the updating and republication of legislation to ensure its ready availability.
17. Legislation is shortened and simplified, and consistency in the form and language of legislation is promoted, particularly through reliance on standard provisions dealing comprehensively with the legislation ‘life cycle’. The updating and republication of

legislation is facilitated by the electronic publication of legislation and the provisions of the Bill that deal with the republication of Acts and statutory instruments.

18. Clause 6 sets out the Bill's application. The Bill applies to all Acts and all kinds of statutory instruments, whether legislative or administrative (eg regulations, rules and by-laws, disallowable instruments, commencement notices and all other instruments made under Acts or statutory instruments that are required or permitted to be published or notified in the Gazette). **Act** is defined in clause 7 and **statutory instrument** is defined in clause 13.

Part 1.2—Basic concepts

19. This Part sets out some of the basic concepts of the Bill and arranges the various kinds of statutory instruments into logical groups. The concepts in this Part are used to simplify the substantive provisions of the Bill. Most of the concepts in this Part are already widely used in the law, eg subordinate law and disallowable instrument. Clause 10, however, introduces a new concept ('notifiable instrument') for instruments (other than subordinate laws), disallowable instruments and commencement notices required to be notified under the Bill and clause 12 provides a new concept ('registrable instrument') to cover all the kinds of instruments required to be notified (or registered) under the Bill. Each of the clauses that explains a concept contains a 'sectional definition' that is applied to the entire Bill by a corresponding 'signpost definition' in the dictionary to the Bill (for a detailed illustration of how this works see example 1 to subsection 11F(2) of the *Interpretation Act 1967*). Each of the clauses (apart from clause 16) also provides for references to a law or instrument so defined to include a provision of the law or instrument. This is merely a way of simplifying the language of the Bill by avoiding the need to say, for example, 'if a disallowable instrument *or a provision of a disallowable instrument*'.

Clause 7 Meaning of Act

20. The Bill would apply to all **Acts**, meaning laws (however described or named) made by the Legislative Assembly under the Self-Government Act. This would re-enact paragraph (a) of the existing definition of **Act** in the dictionary to the *Interpretation Act 1967*. Under clause 17 (References to Acts include references to former Cwlth enactments), former NSW Acts and former UK Acts, which are part of the law of the

Territory, would also fall within the meaning of **Act**. As to the structure and scope of the definitions provided for in this clause, see the comments under ‘Basic concepts’.

Clauses 8, 9 and 10 Subordinate laws, disallowable instruments and notifiable instruments

21. The structure of the current law about subordinate laws and statutory instruments does not make it easy to use. Under the *Subordinate Laws Act 1989*, provisions of the *Interpretation Act 1967* (which are expressed to apply to Acts), are applied indirectly (and globally) to subordinate laws (and also to disallowable instruments and instruments of an administrative nature). The provisions also overlap, eg those that apply to regulations, rules and by-laws on one hand, and those that apply to other statutory instruments on the other.
22. These clauses arrange the various kinds of statutory instruments into logical groups, to permit a simpler and clearer structure for the substantive provisions later in the Bill.
23. Clause 8 provides for a definition of **subordinate law** adapted from the definition presently used in the dictionary to the *Interpretation Act 1967* and paragraph (a) of the definition of **subordinate law** in subsection 6 (19) of the *Subordinate Laws Act 1989*. The general meaning of ‘subordinate law’ is a rule of law made by an authority such as the Executive under power given by Parliament. Under our system of government, Parliament is the primary law-maker. Parliament makes laws known as Acts that lay down the basic features of a scheme of legislation. For example, Parliament has legislated to provide that people must not drive without a licence. But rather than clutter the Act with details about the form of a licence, how to obtain the licence or the fee for a licence, these matters are provided for in regulations or disallowable instruments. Parliament does not necessarily have sufficient time to develop and debate all aspects of the proposed legislative scheme. Therefore, the Act that lays down the general rules about driving will contain a section conferring power on the Executive to make the necessary regulations. Because the Executive is exercising powers given or delegated to it by the Parliament it is sometimes referred to as a ‘subordinate law-making body’ and the rules it makes ‘subordinate laws’.
24. One of the differences between the Interpretation Act definition and the definition in clause 8 is that under the clause a subordinate law will always be a regulation, rule or by-law. In this regard the definition follows the definition of **subordinate law** in subsection 6 (19) of the *Subordinate Laws Act 1989*. This will assist in standardising

the term throughout the ACT statute book. Regulations are the most common type of subordinate law in the ACT. If a subordinate law is primarily concerned with matters of procedure, it will usually be designated a rule (the best example being rules of court). A subordinate law that operates in a particular geographical area (eg a nature reserve) or applies to a particular body will often be designated as by-laws. These are rare in the ACT. It should be noted, however, that there is no legal requirement that regulations, rules and by-laws have the subject matter indicated. These are matters of usage relating to the way that subordinate law-making powers are commonly expressed. It is often the case, for example, that regulations will deal with matters of procedure.

25. Although clause 8 stipulates that a subordinate law will always be a regulation, rule or by-law, it does not require that the subordinate law must always be 'legislative' in nature. (The same approach is also taken by other clauses of the Part.) From time to time, the courts have had to grapple with the question whether a particular instrument is legislative or (say) administrative in nature. Essentially, an instrument is legislative if it lays down a general rule of conduct (often expressed as the power or duty to do something) while an administrative instrument may often apply such a rule to a particular person, time and place (for example, by effecting an appointment, delegation or some other exercise of power). While the broad distinction between legislative and administrative is clear enough, it is extremely difficult to fix the precise point at which something that is essentially administrative takes on a legislative character and vice versa. Clause 8 seeks to avoid these uncertain distinctions by providing in effect that if an Act provides for the making of something designated as a regulation, rule or by-law it is treated by the ACT legal system as a subordinate law without the need to embark on a further inquiry about whether it is also legislative in effect. In other words, it is a matter for the Legislative Assembly to decide the designation of delegated legislation (and the consequences flowing from that designation) when it gives power to make the delegated legislation.
26. As previously noted, a subordinate law will usually be made under the power specifically given by an Act for the purpose. Clause 8 allows for the possibility, however, that in making the subordinate law the Act may also draw upon another source of power such as a rule of common law or the prerogative.
27. As to the structure and scope of the definition of **subordinate law**, see the comments under "Basic concepts".

28. Clause 9 provides for a definition of **disallowable instrument** adapted from paragraph (b) of the definition of **subordinate law** in subsection 6 (19) and section 10 of the *Subordinate Laws Act 1989*. Before exploring in more detail the kinds of instruments that are disallowable instruments, it will be desirable to say something about the notion of disallowance itself. In the earlier discussion on clause 8 of the Bill relating to subordinate laws it was pointed out that Parliament may not have sufficient time to develop and debate the detailed rules usually provided for in regulations and other kinds of subordinate laws. The Parliament therefore delegates this task to an authority such as the Executive so that it becomes a subordinate law-maker. Unlike the process of law-making in the Legislative Assembly, regulations are not made in public proceedings with the corresponding opportunity for debate and questions. Subordinate laws are formulated within government agencies and need only become public when they are notified in the Gazette.
29. Although the Executive consists of Ministers who are responsible to the Legislative Assembly for the proper discharge of their duties, there is a need for some system by which the subordinate laws may be scrutinised by Members and citizens specially affected. In common with every other jurisdiction in Australia, section 6 of the *Subordinate Laws Act 1989* therefore requires that subordinate laws must ‘laid before’ the Legislative Assembly within a specified time after they are made. (Clause 52 provides for subordinate laws and disallowable instruments to be ‘presented’ to the Legislative Assembly.)
30. One of the consequences of presenting a subordinate law is that a period begins to run within which any Member (perhaps responding to representations from an individual or organisation) may move for the ‘disallowance’ (in effect, the repeal) or amendment of the subordinate law. If the motion for disallowance is passed by the Legislative Assembly (and in certain other circumstances that are not relevant for present purposes), section 6 of the *Subordinate Laws Act 1989* further provides that the subordinate law is taken to be repealed. (The details of the disallowance procedure are set out in Chapter 6 of the Bill.) It should be noted that although section 6 is only expressed to apply to ‘subordinate laws’, its provisions are extended by section 10 of the *Subordinate Laws Act 1989* to instruments that are declared to be disallowable instruments.
31. Section 10 does not limit the kind of instrument that may be so declared. It simply provides that the declaration may be made by an Act or a subordinate law. Ultimately

then, the significance of an instrument a disallowable instrument is that it may be disallowed or amended by the Legislative Assembly.

32. Paragraph 9 (1) (a) has been adapted from the definition of **disallowable instrument** in subsection 10 (1) of the *Subordinate Laws Act 1989* but is wider in that it allows an instrument to be declared to be a disallowable instrument by another disallowable instrument. Paragraph 9 (1) (b) has been adapted from paragraph (b) of the definition of **subordinate law** in subsection 6 (19) of the *Subordinate Laws Act 1989*. Current legislative drafting practice is to expressly declare statutory instruments mentioned in the paragraph to be disallowable instruments. As to the structure and scope of the definition of **disallowable instrument**, see the comments under ‘Basic concepts’.
33. Finally, clause 115 contains a transitional provision about the status of statutory instruments declared to be disallowable instruments under the *Subordinate Laws Act 1989*.
34. Clause 10 provides for a definition of **notifiable instrument**. As previously noted, this is a category of instruments not previously provided for in the ACT legal system (although clause 116 contains a transitional provision that, among other things, would treat certain statutory instruments made under existing provisions as notifiable instruments). The definition is essentially a convenient device to enable the Bill to deal in a consistent way with statutory instruments (other than subordinate laws, disallowable instruments and commencement notices) that are required to be notified under the Bill. Most of these instruments are presently required to be published or notified in the Gazette. Under the Bill, registration of the full text of such an instrument (and any particulars) would replace notification in the Gazette. The definition contemplates that the particular instruments to be registered would be identified by being declared for that purpose in an Act or a registrable instrument. As to the structure and scope of the definition, see the comment under ‘Basic concepts’.

Clause 11 Commencement notices

35. Under the Bill, commencement notices for Acts, subordinate laws, disallowable instruments would be published on the legislation register, rather than in the Gazette. This clause defines **commencement notice** comprehensively. As to the structure and scope of the definition of **commencement notice**, see the comments under ‘Basic concepts’.

Clause 12 Registrable instruments

36. This clause, which lists the statutory instruments to be published (ie registered) on the legislation register, is a machinery provision to facilitate the operation of Part 5.3 (Numbering and notification of registrable instruments). The provisions of that Part would apply in a similar way to all registrable instruments.
37. The concept of **registrable instrument** is used for all statutory instruments required to be notified. As to the structure and scope of the definition of **registrable instrument**, see the comment under ‘Basic concepts’.

Clauses 13 and 14 Statutory instruments and instruments

38. As the Bill would streamline the ‘machinery of government’ law about **statutory instruments** generally, clause 13 would define them broadly, to mean any **instrument** (whether legislative or not) made under an Act, another statutory instrument or a power given by an Act or statutory instrument or otherwise by law. Statutory instruments include, but are not limited to, subordinate laws, disallowable instruments, notifiable instruments and commencement notices. The definition is based on the existing definition of **statutory instrument** in the dictionary to the *Interpretation Act 1967*.
39. To support the meaning of **statutory instrument**, clause 14 would import the base level meaning of **instrument** from the dictionary to the *Interpretation Act 1967*, ie any writing or other document. As to the structure and scope of the definition of **statutory instrument**, see the comments under ‘Basic concepts’.

Clause 15 Authorised republications

40. Clause 15 defines an authorised republication as a law (as defined in clause 95) authorised by the Parliamentary Counsel under the Bill. Clause 23 authorises the Parliamentary Counsel to authorise printed and electronic versions of republications. As to the structure and scope of the definition, see the comments under ‘Basic concepts’.

Clause 16 Provisions

41. Clause 16 re-enacts the definition of **provision** in the dictionary to the *Interpretation Act 1967*. The definition makes it clear that a provision of an Act or statutory instrument means any words or anything else forming part of the Act or instrument. As to the structure and scope of the definition, see the comments under ‘Basic concepts’.

Part 1.3—Sources of law in the Territory

42. As part of the consolidation of the ‘machinery of government’ law, this Part would re-enact section 7A paragraph (b) of the definition of **Act** in the dictionary, the definition of **enactment** in the dictionary and Schedule 1, to the *Interpretation Act 1967*.

Clause 17—References to Acts

43. Clause 17 would enlarge the meaning of Act given by clause 7 (Meaning of Act) to include former Commonwealth enactments and former NSW and UK laws that form part of the law of the Territory.

Chapter 2—ACT Legislation register and web site

44. This Chapter is the core of the scheme to make ACT legislation accessible sooner and more widely, and move the emphasis in printing legislation from printed to electronic form.

Clauses 18 and 19 Legislation register

45. Clause 18 would require the Parliamentary Counsel to establish and maintain the **ACT legislation register** in 1 or more computer databases. To simplify access to the law, clause 19 provides for the register to be arranged in parts, with the various kinds of legislation and statutory instruments arranged in logical groups. Part 1 would be a key element, containing authorised, up-to-date republications of legislation and statutory instruments in force from time to time. (Subclauses 19 (5) and (6) would require the Parliamentary Counsel to keep laws and instruments in part 1 of the register up-to-date.)
46. Subclause 19 (2) would allow the Parliamentary Counsel to establish additional parts of the register, if considered useful to users. This would allow separate parts to be established, for example for appointments under the *Statutory Appointments Act 1994* (which are notifiable and disallowable in their own right under that Act) or executive appointments under the *Public Sector Management Act 1994* (which are notifiable in their own right under that Act, but not disallowable).
47. It would also allow bills and explanatory memoranda and amendments of bills presented to the Legislative Assembly to be included on the register, together with superseded (historical) versions of republications and repealed Acts and statutory instruments. At present, there is little or no access to much of this material.

48. The Parliamentary Counsel would also be able to add other informational material in any part of the register. The material could include user guides, indexes, pointers to responsible Government agencies, or assistance for people with access disabilities.
49. To promote better access to Acts and statutory instruments, subclause 19 (8) would allow the publication on the register of any Act or statutory instrument, even if it had been notified in the Gazette before the commencement of the new arrangements. However, transitional clauses 110 (Application of s 28) and 111 (Application of s 50) make it clear there would be no obligation to register the Act or instrument if it has already been notified.
50. Under subclause 19 (9), the Parliamentary Counsel would be able to correct mistakes, errors and omissions in the register, subject to any requirements set out in the regulations.

Clause 20 Prompt registration

51. To underline the object of making legislation accessible sooner, this clause would expressly oblige the Parliamentary Counsel to act promptly in complying with requirements concerning the register.

Clauses 21 and 22 Approved web site(s) and access to material

52. To protect the integrity of ‘master’ legislation files, the legislation register itself would not be directly accessible by users. Instead, copies of the register would be available at 1 or more approved web sites which satisfy strict security requirements.
53. Clause 21 would allow the Parliamentary Counsel to approve the web sites, and enter into arrangements to ensure that users can authenticate approved sites or the material accessible at approved sites. Under clause 22, the Parliamentary Counsel would be obliged to ensure, as far as practicable, that registered material is accessible at all times at an approved web site. Subclause (2) would ensure that the Territory would not charge users for access.

Chapter 3—Authorised versions and evidence of Acts and statutory instruments

54. This Chapter would bring together existing and new provisions dealing with the ‘machinery of government’ law on these matters.
55. With regard to legislation in electronic form, the Bill does not provide for any ultimate version. Instead, it would create a range of presumptions in favour of authorised

versions, whether accessible at approved web sites or otherwise. This arrangement is similar to that currently applying to printed legislation.

56. As far as practicable, the Bill deals with both forms of authorised legislation in a similar way. In this respect, it would re-enact in simpler form a number of existing provisions in other Acts, particularly the *Legislation (Republication) Act 1996* and the *Evidence Act 1971*. The Consequential Provisions Bill provides for the repeal of the *Legislation (Republication) Act 1996* and omission of the relevant provisions from the *Evidence Act 1971*.

Clause 23 Authorisation by Parliamentary Counsel

57. Clause 23 would allow the Parliamentary Counsel to authorise printed or electronic versions of Acts, statutory instruments and republications. The clause restates the effect of section 8 of the *Legislation (Republication) Act 1996*, applies only to republications.

Clauses 24 and 25 Authorised versions of legislation

58. Clauses 24 and 25 indicate the electronic and printed versions of legislation which would be authorised.
59. Under subclause 24 (1) a version of an Act, statutory instrument or republication accessible at an approved web site would be authorised. Under subclause 24 (2) another electronic version of an Act, statutory instrument or republication (eg a CD-ROM version) authorised by the Parliamentary Counsel under clause 23 would also be an authorised version.
60. Subclause 24 (2) would provide a range of supporting presumptions necessary to ensure the legal effectiveness of authorised electronic versions of laws and instruments. The subclause is modelled on section 153 of the *Evidence Act 1995* (Cwlth), which deals with proof of Gazettes and officially printed documents. The presumptions restate the effect of the provisions of sections 20, 22 and 23 of the *Legislation (Republication) Act 1996* and extend them to cover relevant aspects of the legislative publishing system provided by the Bill.
61. Under subclause 25 (1) a version of an Act, statutory instrument or republication printed by authority of the government of the Territory, and authorised by the Parliamentary Counsel, is an authorised version. The subclause restates the effect of sections 6 to 10 of the *Legislation (Republication) Act 1996*, which applies only to republications.

Subclause 25 (2) provides a range of supporting presumptions to printed versions corresponding to the presumptions provided by subclause 24 (2) for electronic versions.

Clause 26 Judicial notice

62. This clause would facilitate the proof of important events in the legislation ‘life cycle’, for example the passing of a proposed law by the Legislative Assembly or its notification in the legislation register (or the Gazette, in emergencies—see clause 28). The clause is modelled on section 143 of the *Evidence Act 1995* (Cwlth), which deals with judicial notice of matters of law (including matters of ACT law). Subclause 26 (1) restates the effect of sections 8 to 10A and 10C of the *Evidence Act 1971* and extends them to the legislative publishing system provided by the Bill. Those sections would be omitted from that Act by the Consequential Provisions Bill. Subclause (1) supplements the evidentiary provisions of the *Evidence Act 1995* (Cwlth) (see ss 8 (4) (b) and 9 (3) (a) of that Act), which are drafted on the assumption of a paper-based system of publishing legislation (see eg s 143 (1) (d) of that Act).
63. Subclauses 26 (2) to (5) confirm that a court or tribunal could inform itself about any of the matters mentioned in subclause (1) in any way it considers appropriate, but must consider the reliability of the source of information. For this purpose, an authorised version of legislation would be reliable.

Chapter 4—Numbering and notification of Acts

64. This Chapter deals with matters that are currently dealt with in sections 8 to 9 and 10F of the *Interpretation Act 1967*.
65. The restatement of these sections includes several technical, but important, changes, ie—
- a) the Speaker of the Legislative Assembly (rather than the Chief Minister or an authorised Minister) would arrange for the Parliamentary Counsel to notify the making of proposed laws made by the Legislative Assembly;
 - b) the proposed law must be notified in the register, unless that is impracticable or a copy of a relevant part of the register is not accessible at an approved web site (eg because of a computing system failure);

- c) in that (rare) case, the proposed law must be notified in the Gazette and, later, in the register together with an explanation that the proposed law has previously been notified in the Gazette;
- d) notification in the register would consist of—
 - i) entering a statement in part 7 about the passing of the proposed law (this mirrors the existing requirement for Gazette notification); and
 - ii) entering the text of the law in part 2 (this mirrors the existing requirement for copies of the Act to be available on the Gazette date).

Chapter 5—Making, notification and numbering of statutory instruments

66. This Chapter brings together the relevant ‘machinery of government’ legislation about these matters. At present, they are dealt with in several Acts, particularly the *Evidence Act 1971*, the *Subordinate Laws Act 1989* and the *Interpretation Act 1967*. The Consequential Provisions Bill would repeal the *Subordinate Laws Act 1989* and omit the relevant provisions from the other Acts. It should be noted that many of the existing provisions of the *Interpretation Act 1967* that are expressed to apply to Acts apply also to subordinate laws, disallowable instruments and statutory instruments of an administrative nature (see *Subordinate Laws Act 1989* s 9 (1) and s 10). By contrast, the provisions of the Chapter expressly provide for the application of their provisions to statutory instruments or particular kinds of statutory instruments.

Part 5.1—General

Clause 31 Meaning of *matter*

67. This definition is a shortening device to simplify the language of the substantive provisions. For example, the reference in clause 35 (3) to the application of a provision of a statutory instrument to a **matter** would include a reference to any circumstance, person, place and purpose. The definition re-enacts the definition in section 27B of the *Interpretation Act 1967* (which is proposed to be inserted by the *Statute Law Amendment Bill 2000*).

Clause 32 Presumption of validity

68. This clause deals separately and more simply with the intended effect of paragraph 10C (2) (e) of the *Evidence Act 1971*. That provision is proposed to be omitted from that Act by the Consequential Provisions Bill.

Clause 33 Exercise of regulation-making power

69. This clause restates section 3 of the *Subordinate Laws Act 1989* and would confirm that regulations are made when signed by the second Minister.

Part 5.2—Making of statutory instruments

70. This Part would re-enact relevant provisions of the *Interpretation Act 1967* (as it would be amended by the *Statute Law Amendment Bill 2000* and the *Statute Law Amendment Bill 2000 (No 2)*) and the *Subordinate Laws Act 1989*. The re-enactment involves some restructuring and clarification of provisions to bring them together.

Clause 34 Power to make statutory instruments

71. This clause would re-enact subsection 26 (1) and section 27C of the *Interpretation Act 1967*. (Section 27C is proposed to be inserted by the *Statute Law Amendment Bill* and remakes existing subsection 26A (2)).

Clause 35 Statutory instruments to be interpreted not to exceed power

72. This clause would restate subsection 9 (3) of the *Subordinate Laws Act 1989*. The clause makes it clear that a statutory instrument is to be interpreted as operating to the full extent of, but not to exceed, power given by the authorising law. Subclauses (2) and (3) (and their examples) indicate that a statutory instrument is to be read in the way necessary to ensure maximum validity of the instrument.

Clause 36 Power to make statutory instruments generally

73. This clause would restate section 2A of the *Subordinate Laws Act 1989* and widen it to apply to all statutory instruments and not just regulations. Subclause (3) makes it clear that the fact that an authorising law gives power to make a statutory instrument about a particular matter does not, of itself, limit power given by the authorising law to make a statutory instrument about any other matters.

Clause 37 Power to make rules of court

74. This clause would re-enact section 27I of the *Interpretation Act 1967*. (Section 27I, which is presently section 31, is proposed to be relocated (and renumbered) by the *Statute Law Amendment Bill 2000*.)

Clause 38 Power to make instrument includes power to amend or repeal

75. This clause would re-enact section 27D of the *Interpretation Act 1967*. (Section 27D corresponds to existing subsection 26A (1) and is proposed to be inserted by the *Statute Law Amendment Bill 2000*.)

Clause 39 Statutory instruments may apply other instruments

76. This clause would re-enact section 8 of the *Subordinate Laws Act 1989*. The clause is wider than section 8 in 2 respects. First, the section applies to instruments made under subordinate laws and disallowable instruments (which are subject to disallowance) and not just Acts. Second, the section applies to all statutory instruments and not just subordinate laws and disallowable instruments. (Section 8 is applied to disallowable instruments by section 10 of the *Subordinate Laws Act 1989*.)

Clause 40 Power to make instrument includes power to make different provision for different categories

77. This clause would re-enact section 27E of the *Interpretation Act 1967*. (Section 27E in turn substantially re-enacts existing subsection 27 (2) and is proposed to be inserted by the *Statute Law Amendment Bill 2000*.)

Clause 41 Single instrument may exercise several powers or satisfy several requirements

78. This clause would re-enact section 27F of the *Interpretation Act 1967*. (Section 27F is proposed to be inserted by the *Statute Law Amendment Bill 2000*.)

Clause 42 Relationship between authorising law and instrument dealing with same matter

79. This clause would re-enact section 27G of the *Interpretation Act 1967*. (Section 27G in turn substantially re-enacts existing subsection 27 (2) and is proposed to be inserted by the *Statute Law Amendment Bill 2000*.)

Clause 43 Instrument may make provision in relation to land by reference to map etc

80. This clause would re-enact section 27GA of the *Interpretation Act 1967*. (Section 27GA is proposed to be inserted by the *Statute Law Amendment Bill 2000 (No 2)*.)

Clause 44 Instrument may authorise determination of matter

81. This clause would re-enact section 27GB of the *Interpretation Act 1967*. (Section 27GB is proposed to be inserted by the *Statute Law Amendment Bill 2000 (No 2)*.)

Clause 45 Instrument may prohibit

82. This clause would re-enact section 27GC of the *Interpretation Act 1967*. (Section 27GC is proposed to be inserted by the *Statute Law Amendment Bill 2000 (No 2)*.)

Clause 46 Instrument may provide for reconsideration etc

83. This clause would re-enact section 27GD of the *Interpretation Act 1967*. (Section 27GD is proposed to be inserted by the *Statute Law Amendment Bill 2000 (No 2)*.)

Clause 47 Instrument may require the making of a statutory declaration

84. This clause would re-enact section 27H of the *Interpretation Act 1967*. (Section 27H in turn re-enacts existing subsection 27 (4) and is proposed to be inserted by the *Statute Law Amendment Bill 2000*.)

Part 5.3—Numbering and notification of registrable instruments

Clause 48 Numbering

85. This clause would remake subsection 4 (1) of the *Subordinate Laws Act 1989* and extend its application to subordinate laws, disallowable instruments, commencement notices and other registrable instruments. The Parliamentary Counsel would be able to apply different alpha-numeric series to enable different kinds of instruments to be distinguished readily. Regulations could disapply the section to particular instruments if its application to them was inappropriate, eg perhaps certain notifiable instruments for appointments. Statutory instruments numbered under the clause may be referred to using the year of making and the number given under the clause (see cl 88 (1) (b)).

Clause 49 Correction of name of registrable instrument

86. This clause would allow the Parliamentary Counsel to make minor adjustments to the names of registrable instruments, eg to complete or correct details and ensure instruments are registered properly with a unique name. Minor adjustments could also be made to bring the names of instruments into line with current drafting practices. These ‘housekeeping’ powers are intended to permit the ready identification of

instruments to ensure their accessibility. Under paragraph 88 (1) (a), a statutory instrument may be referred to by any name the instrument gives itself.

Clause 50 Notification of registrable instruments

87. This clause would provide notification requirements common to all registrable instruments and, for subordinate laws and disallowable instruments would replace the requirement in section 6 of the *Subordinate Laws Act 1989* to notify them in the Gazette. The scheme is similar to that applying to Acts (see cl 28, Notification of Acts).
88. To cater for the range of people or entities who make registrable instruments, the clause provides for the maker or authorised person (as defined) to arrange for notification by the Parliamentary Counsel. The clause enables the regulations to prescribe requirements that must be met for registration, eg production of the original, or an appropriately authenticated copy, of the instrument to be registered.
89. As with Acts, notification would consist of entering the full text of the instrument, and related particulars, in the relevant parts of the register. If that is impracticable or the relevant parts of the register are not accessible on an approved web site (eg because of computer failure), the instrument would have to be notified in the Gazette and, later, published in the register with an explanation that the instrument has previously been notified in the Gazette.
90. Unless a registrable instrument is registered (or notified in the Gazette), it would not commence (see ch 7, esp cl 61 (2)).

Clause 51 References to *notification* of registrable instruments

91. This is a machinery provision that defines the concept of *notification* in relation to registrable instruments.

Chapter 6—Presentation, amendment and disallowance of subordinate laws and disallowable instruments

92. This chapter re-enacts much of section 6 of the *Subordinate Laws Act 1989* and restructures it to deal separately and more clearly with the matters covered by the section.

Clause 52 Presentation

93. This clause would restate paragraph 6 (1) (c) and subsections 6 (6) and (8) of the *Subordinate Laws Act 1989* in simpler form.

Clause 53 Disallowance

94. This clause would restate subsections 6 (7) (7A) and (8) of the *Subordinate Laws Act 1989*.

Clause 54 Revival of affected laws

95. This clause would restate subsection 6 (9) of the *Subordinate Laws Act 1989* more fully and simply.

Clause 55 Making of instruments same in substance within 6 months after disallowance

96. This clause would restate subsection 6 (10) of the *Subordinate Laws Act 1989* more fully and simply.

Clause 56 Amendment by resolution of Assembly

97. This clause would restate subsections 6 (7A) (11) (13) (15) and (17) of the *Subordinate Laws Act 1989*.

Clause 57 Notification of amendments made by resolution of Assembly

98. This clause would restate subsection 6 (11) of the *Subordinate Laws Act 1989* but would require the Speaker of the Legislative Assembly to arrange for the notification of the amendment by the Parliamentary Counsel. Notification would be made in a similar fashion to that for Acts and subordinate laws, ie in the register or the gazette (eg because of a computer failure). If notified in the gazette, the Parliamentary Counsel would be required to publish the amendment in the register with a statement about the earlier gazettal.

Clause 58 Making of amendment restoring effect of law within 6 months after amendment

99. This clause would restate subsection 6 (10) of the *Subordinate Laws Act 1989*.

Clause 59 Effect of dissolution or expiration of Legislative Assembly on notice of motion

100. This clause would restate subsection 6 (7B) of the *Subordinate Laws Act 1989*.

Chapter 7—Commencement and exercise of powers before commencement

101. This Chapter would bring together the relevant provisions from the *Interpretation Act 1967* and the *Subordinate Laws Act 1989* and restate them more simply.

102. At present, the *Subordinate Laws Act 1989* operates, in relation to the matters dealt with in this Chapter, largely by reference to the provisions of the *Interpretation Act 1967*, which applies to Acts. Those provisions are applied by reference (indirectly) to subordinate laws, disallowable instruments and administrative instruments (see *Subordinate Laws Act 1989*, s 9 (1) and s 10)). This makes the relevant law difficult to find and understand. By contrast, the provisions of the Chapter expressly provide for the application of their provisions to statutory instruments or particular kinds of statutory instruments.

Clause 60 Meaning of *law* in ch 7

103. This is a machinery provision to avoid the need for separate references to Acts, subordinate laws and disallowable instruments (and their provisions).

Clause 61 General rules about commencement

104. Subclauses 61 (1) and (2) restate sections 10 of the *Interpretation Act 1967* and paragraph 6 (1) (b) of the *Subordinate Laws Act 1989* by reference to *notification day* as defined in the dictionary to the Bill, ie registration on the legislation register instead of notification in the Gazette. Under subclause 61 (2), the same commencement rules would apply to notifiable instruments as presently apply to subordinate laws and disallowable instruments. Paragraphs (2) (c) and (d) recognise that the Legislative Assembly may, by an Act, authorise the making of retrospective subordinate laws, disallowable instruments or notifiable instruments.
105. Subclause 61 (3) deals with cases where a subordinate law, disallowable instrument or notifiable instrument is notified after the date stated in it for its commencement. (For example, a subordinate law that provides for its commencement on 30 June 2001 is not registered until 1 July 2001.) The subclause provides that the instrument is valid but commences on its notification day. (In the example given, the subordinate law would commence on 1 July 2001.) This result is equivalent to the result achieved under subsection 10C (2) of the *Interpretation Act 1967* in the case of a commencement notice that is notified after the commencement date provided in the notice. Subclause 61 (3) does not apply to instruments that have valid retrospective operation (see the exception in the subclause and cl 61 (5) (b)).

106. Subclause 61 (4) states commencement rules for statutory instruments that are not required to be registered under the Bill. Under the subclause a non-registrable instrument may commence when it is made or, if relevant, approved, at a later date or time stated in the instrument, or at an earlier date or time if authorised by an Act.
107. Subclause 61 (5) provides that the general commencement rules provided in the subclauses (1) to (4) are subject to the following exceptions:
- a) the commencement of naming and commencement provisions on the notification day under clause 63;
 - b) the retrospective commencement of non-prejudicial provisions under clause 64;
 - c) the automatic commencement of a postponed law under clause 67.

Clause 62 Time of commencement

108. This clause would re-enact section 10A of the *Interpretation Act 1967*.

Clause 63 Commencement of naming and commencement provisions on notification day

109. This clause would re-enact section 10B of the *Interpretation Act 1967*.

Clause 64 Non-prejudicial provision may commence retrospectively

110. A law or instrument is said to commence retrospectively if it has effect on a date earlier than the date when it is notified. This clause is intended to make it clear that an instrument of a legislative or administrative nature may commence retrospectively provided ordinary citizens, companies and other businesses are not disadvantaged and the instrument clearly indicates that it is to commence retrospectively.
111. It is not unusual, for example, for an industrial award to give a pay rise ‘backdated’ to an earlier time. It may also be desirable for legislation to commence at the beginning of a month or other period to avoid the inconvenience of reports being prepared for broken periods, provided no-one is disadvantaged. Similarly, there is no reason in principle why appointments and other instruments of an administrative nature should not operate retrospectively, in appropriate cases, if there is no prejudice to anyone.
112. At present section 7 of the *Subordinate Laws Act 1989* prohibits retrospective subordinate laws in certain cases (equivalent to those provided in clause 64) and section 10 applies that section to disallowable instruments. The effect of the combined operation of sections 7 and 10 is that a subordinate law or disallowable instrument may

not apply retrospectively if the rights of a person would be prejudiced or the instrument would have the effect of imposing liability for past acts or omissions. However, it is implicit in the sections that subordinate laws and disallowable instruments may apply retrospectively in other cases (ie if a person's rights would *not* be prejudiced or the instrument would *not* have the effect of imposing liability for past acts or omissions). Clause 64 is expressed in these terms and would not therefore change the law. In other words, the clause identifies cases where it is permissible to give an instrument a retrospective operation because no-one (other than the Territory or a Territory authority or instrumentality) is disadvantaged. The qualification relating to the Territory and Territory authorities would be carried over from section 7. In other cases, the general commencement rules in clause 61 would apply. These rules prohibit a retrospective commencement unless authorised by an Act.

113. Subclause 64 (2) requires a clear intention in the instrument that a provision operate retrospectively for the clause to apply. In the absence of a clear intention, subclause 61 (3) would apply to the instrument and the provision would commence on the notification day.
114. As noted, sections 7 and 10 of the *Subordinate Laws Act 1989* apply only to subordinate laws and disallowable instruments. For the reasons indicated above, clause 64 would apply the rule generally to all statutory instruments (which term includes subordinate laws and disallowable instruments).

Clause 65 Commencement by commencement notice

115. This clause would re-enact section 10C of the *Interpretation Act 1967*.

Clause 66 Separate commencement of amendments

116. This clause would re-enact section 10D of the *Interpretation Act 1967*.

Clause 67 Automatic commencement of postponed law

117. This clause would re-enact section 10E of the *Interpretation Act 1967*.

Clause 68 References to commencement of law

118. This clause would re-enact section 11 of the *Interpretation Act 1967*.

Clause 69 Exercise of powers between notification and commencement

119. This clause would re-enact section 5 of the *Subordinate Laws Act 1989* in simpler, more comprehensive form and extend its application to all statutory instruments.

Chapter 8—Repeal and amendment of laws

Part 8.1—General

120. It should be noted that many of the existing provisions of the *Interpretation Act 1967* (re-enacted in this Chapter) that are expressed to apply to Acts apply also to subordinate laws, disallowable instruments and administrative instruments (see *Subordinate Laws Act 1989* s 9 (1) and s 10). By contrast, the provisions of the Chapter expressly provide for the application of their provisions to statutory instruments or particular kinds of statutory instruments.

Clause 70 Definitions for ch 8

121. This clause would re-enact section 37 of the *Interpretation Act 1967*.

Clause 71 Consequences of amendment of statutory instrument by Act

122. This clause would re-enact section 8A of the *Subordinate Laws Act 1989* and extend its application to all statutory instruments.

Clause 72 Saving of operation of repealed and amended laws

123. This clause would re-enact section 41 of the *Interpretation Act 1967* in a simpler form (see also the definition of **penalty** in the dictionary to that Act). Some of the concepts used in the clause are clarified by the definitions in subclause (5).

Part 8.2—Repeal

Clause 73 When repeal takes effect

124. This clause would re-enact section 38 of the *Interpretation Act 1967*. **Repeal** would include expiry (see cl 70 (Definitions for ch 8)).

Clause 74 Repealed and amended laws not revived on repeal of repealing or amending law

125. This clause would re-enact section 39 of the *Interpretation Act 1967* (as proposed to be amended by the *Statute Law Amendment Bill 2000 (No 2)*).

Clause 75 Commencement not undone if repealed

126. This clause would re-enact section 40 of the *Interpretation Act 1967* (as proposed to be amended by the *Statute Law Amendment Bill 2000 (No 2)*).

Clause 76 Repeal does not end transitional or validating effect

127. This clause would re-enact section 42 of the *Interpretation Act 1967*.

Clause 77 Automatic repeal of certain laws and provisions

128. This clause would re-enact section 43 of the *Interpretation Act 1967* (as proposed to be amended by the *Statute Law Amendment Bill 2000* and the *Statute Law Amendment Bill 2000 (No 2)*).

Part 8.3—Amendment

Clause 78 Law and amending laws to be read as one

129. This clause would re-enact section 44 of the *Interpretation Act 1967*.

Clause 79 Insertion of provisions by amending laws

130. This clause would re-enact section 45 of the *Interpretation Act 1967* (as proposed to be replaced by the *Statute Law Amendment Bill 2000 (No 2)*).

Clause 80 Amendment to be made wherever possible

131. This clause would re-enact section 46 of the *Interpretation Act 1967*.

Clause 81 Provisions included in another provision for amendment purposes

132. This clause would re-enact section 46A of the *Interpretation Act 1967* (as proposed to be inserted by the *Statute Law Amendment Bill 2000 (No 2)*).

Clause 82 Continuance of appointments etc made under amended provisions

133. This clause would re-enact section 47 of the *Interpretation Act 1967*.

Clause 83 Status of modifications

134. This clause would re-enact section 48 of the *Interpretation Act 1967*.

Clause 84 Relocated provisions

135. This clause would re-enact section 49 of the *Interpretation Act 1967*.

Chapter 9—Referring to laws

136. Some of the existing provisions of the *Interpretation Act 1967* (re-enacted in this Chapter) that are expressed to apply to Acts apply also to subordinate laws, disallowable instruments and administrative instruments (see *Subordinate Laws Act 1989* s 9 (1) and s 10). By contrast, the provisions of the Chapter expressly provide, where appropriate, for the application of their provisions to statutory instruments or particular kinds of statutory instruments.

Clause 85 References to a law include law containing reference

137. This clause would re-enact subsection 50 (2) of the *Interpretation Act 1967*.

Clause 86 Referring to laws in general terms

138. This clause would re-enact subsection 50 (1) of the *Interpretation Act 1967*.

Clause 87 Referring to particular Acts

139. This clause would re-enact section 51 of the *Interpretation Act 1967*.

Clause 88 Referring to statutory instruments

140. This clause would re-enact section 52 of the *Interpretation Act 1967* and subsection 4(2) of the *Subordinate Laws Act 1989*. In relation to ACT statutory instruments, the clause restates its application in the context of the legislation register.

Clause 89 Referring to provisions of laws or instruments

141. This clause would re-enact section 53 of the *Interpretation Act 1967*.

Clause 90 Meaning or references to a law or instrument generally

142. This clause would re-enact section 54 of the *Interpretation Act 1967*.

Clause 91 References to laws and instruments with amended names

143. This clause would re-enact section 55 of the *Interpretation Act 1967*.

Clause 92 References to laws include references to instruments under laws

144. This clause would re-enact section 55A of the *Interpretation Act 1967* (as proposed to be inserted by the *Statute Law Amendment Bill 2000 (No 2)*).

Clause 93 References in statutory instruments to *the Act*

145. This clause would re-enact section 55B of the *Interpretation Act 1967* (as proposed to be inserted by the *Statute Law Amendment Bill 2000 (No 2)*).

Clause 94 References to repealed laws

146. This clause would re-enact section 55C of the *Interpretation Act 1967* (as proposed to be inserted by the *Statute Law Amendment Bill 2000 (No 2)*).

Chapter 10—Republication of Acts and statutory instruments

Part 10.1—General

Clause 95 Meaning of *law* in ch 10

147. This clause would restate provisions of the *Legislation (Republication) Act 1996* (s 5, def of *law* and s 8 (2)).

Clause 96 Republication in register

148. This clause would allow the Parliamentary Counsel to republish laws by entering the text in part 1 of the register, but not limit the ways in which a law may be republished.

Clause 97 Republications may be republished with other information

149. This clause would allow the Parliamentary Counsel to enhance the usefulness of authorised publications by including material that is likely to be useful to users. For example, this would permit the inclusion of notes and other helpful material.

Clause 98 Collections

150. This clause would re-enact section 19A of the *Legislation (Republication) Act 1996*.

Part 10.2—Substantive amendments made by laws

Clause 99 Incorporation of amendments

151. Clause 99 would restate section 10 of the *Legislation (Republication) Act 1996* and extend its operation to include in republications the renumbering or relocation of provisions and any consequential amendments. The clause would also allow the preparation of ‘future law’ republications that show the effect of uncommenced amendments, but only if the republication indicates that the amendments have not commenced. **Republication date** is defined in the dictionary.

Clause 100 Reference to amending laws

152. This clause would restate subsection 11 (1) of the *Legislation (Republication) Act 1996*.

Clause 101 Provisions not republished or relocated

153. This clause would restate section 12 of the *Legislation (Republication) Act 1996*.

Part 10.3—Editorial changes

Clause 102 Authorisation for Parliamentary Counsel

154. This clause would restate sections 13 and 19 of the *Legislation (Republication) Act 1996*.

Clause 103 Amendments not to effect change

155. This clause would restate section 14 of the *Legislation (Republication) Act 1996*.

Clause 104 Ambit of editorial amendments

156. This clause would restate section 15 of the *Legislation (Republication) Act 1996* (as proposed to be amended by the *Statute Law Amendment Bill 2000 (No 2)*).

Clause 105 Legal effect of editorial amendments

157. This clause would restate section 16 of the *Legislation (Republication) Act 1996*.

Clause 106 Reference to editorial amendments

158. This clause would restate section 17 of the *Legislation (Republication) Act 1996*.

Chapter 11—Miscellaneous

Clause 107 Delegation

159. This standard provision would allow the Parliamentary Counsel to delegate powers under the proposed Act to public servants.

Clause 108 References to Subordinate Laws Act

160. The Consequential Provisions Bill, and further consequential Bills to be presented to the Legislative Assembly early in 2001, would aim to bring ACT legislation into line with the new legal framework surrounding the legislation register. The *Interpretation Act 1967* is particularly affected, and the *Subordinate Laws Act 1989* and *Legislation (Republication) Act 1996* would be repealed.

161. At present, there are extensive references in laws, statutory instruments and other documents to those Acts and, despite the consequential amendments program, some references are bound to remain. Consequently, this provision would ‘convert’ the old references to the appropriate new ones under the Legislation (Access and Operation) Act.

Clause 109 Regulation-making power

162. This clause is a standard regulation-making power.

Chapter 12—Transitional

163. This Chapter provides for transitional arrangements, including arrangements to deal with the registration of instruments currently required to be notified or published in the Gazette. It is proposed that all ACT Acts and subordinate laws will be reviewed and amended as necessary to bring them fully into line with the new legislative framework (for example, changing non-disallowable statutory instruments required to be notified in the Gazette into registrable instruments and making approved forms notifiable instruments). A Bill to make the necessary consequential amendments will be presented to the Legislative Assembly as early as possible in 2001.

Clauses 110, 111 and 112 Notification of Acts etc

164. Clause 110 would confirm that the obligation to notify Acts on the legislation register under the Bill would not apply to Acts already notified in the Gazette before the commencement day. Under clauses 111 and 112, similar arrangements would apply to registrable instruments and amendments made by resolution of the Legislative Assembly.

Clause 113 and 114 Transitional arrangements

165. Under clause 113, regulations could be made to deal with consequential savings and transitional matters, not inconsistent with the Act, for 1 year after the commencement. Regulations may be needed to adjust details arising from the change to the new legal framework. Under clause 114, regulations may also modify this Part to deal with matters not, or not adequately, dealt with by this Part. Because of the review of existing Acts and subordinate laws mentioned above, there should be minimal need to make regulations under clauses.

Clause 115 Status of certain instruments as disallowable instruments

166. This clause would ensure that disallowable instruments under the current law remain disallowable under the new Act.

Clause 116 Status of certain instruments as notifiable instruments

167. This clause would ensure that certain instruments (other than a subordinate law, disallowable instrument or commencement notice, or a statutory instrument of a kind prescribed under the regulations for this clause) are notifiable instruments under the new Act. The instruments, including approved forms and instruments requiring Ministerial approval, would be required to be registered under the Act. The clause provides also that notification of these instruments on the register replaces notification or publication in the Gazette, even though another Act or statutory instrument provides otherwise.

Clause 117 Compliance with authorisation or requirement to do something by notice in the Gazette

168. This clause would re-enact section 27A of the *Interpretation Act 1967*.

Clause 118 Status of republications under the Legislation (Republication) Act

169. This clause would ensure that authorised republications under the current law remain authorised republications under the new law.

Schedule 1 Acts included in sources of law of Territory

170. With the re-enactment (by clause 17) of section 7A of the *Interpretation Act 1967*, the schedule lists the former UK and NSW laws that now form part of the law of the Territory.

Dictionary

171. The dictionary defines the terms used in the Bill.

Legislation (Access and Operation) (Consequential Provisions) Bill

General outline

This Bill is consequential on the enactment of the Legislation (Access and Operation) Bill.

Notes on provisions

Clauses 1 and 2 provide for the name and commencement of the Bill.

Clause 3 provides for the consequential amendments of Acts, which are set out in Schedule 1 to the Bill.

Clause 4 provides for the consequential repeal of the *Legislation (Republication) Act 1996* and the *Subordinate Laws Act 1989*. Both Acts would be declared to be laws to which section 76 of the Legislation (Access and Operation) Act applies, to preserve their earlier operation despite the repeal.

Schedule 1 sets out the consequential amendments of Acts.

Amendment 1.5 substitutes a new section 2 into the *Interpretation Act 1967*. The new subsection 2 (2) re-enacts subsection 9 (1) of the *Subordinate Laws Act 1989*. For consistency with the Legislation (Access and Operation) Act, the new subsection applies the Interpretation Act to statutory instruments generally, rather than to only the particular types of instruments dealt with in *Subordinate Laws Act 1989*.

Amendment 1.8 inserts a new section 11BA into the *Interpretation Act 1967*. The new section re-enacts subsection 9 (2) of the *Subordinate Laws Act 1989*.

Various amendments in Schedule 1 amend the dictionary to the *Interpretation Act 1967* by including signpost definitions to definitions that are now included in the Legislation (Access and Operation) Act.

Other Schedule 1 amendments provide for the repeal of provisions that are being replaced in the Legislation (Access and Operation) Act.

