

2016

**LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

**ACT CIVIL AND ADMINISTRATIVE TRIBUNAL
AMENDMENT BILL 2016**

EXPLANATORY STATEMENT

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ACT CIVIL AND ADMINISTRATIVE TRIBUNAL AMENDMENT BILL 2016

Outline

Purpose of the Bill

The *ACT Civil and Administrative Tribunal Amendment Bill 2016* amends the *ACT Civil and Administrative Tribunal Act 2008* (ACAT Act) to validate the appointments of two ACT Civil and Administrative Tribunal presidential members following the inadvertent repeal of the appointments of these members. Both members were originally appointed as presidential members for seven year terms under section 94(1) of the ACAT Act.

This Bill includes transitional provisions to validate the appointments of the members from the time of their revocation on 1 January 2016 to the dates that their respective original terms of appointment expired. The Bill also provides that the decisions made by the members during the period in which their appointments were not in place are, and always have been, valid.

Human Rights Considerations

The Bill does not engage any rights under the *Human Rights Act 2004*.

ACT Civil and Administrative Tribunal Amendment Bill 2016

DETAIL

Part 1 – Preliminary

Clause 1 — Name of Act

This is a technical clause that names the short title of the Act. The name of the Act will be the *ACT Civil and Administrative Tribunal Amendment Act 2016*.

Clause 2 — Commencement

This clause provides that amendments in the Act will commence the day after the Act is notified.

Clause 3 — Legislation amended

This clause identifies the legislation amended by the Act.

Clause 4 – New part 31 - Validations

New part 31

Clause 4 inserts new part 31 in the Act consisting of new sections 350 and 351.

New section 350 provides for validation of the appointments of Peta Spender and Elizabeth Symons as presidential members of the ACT Civil and Administrative Tribunal despite the repeal of the original instrument appointing them, by section 5 of the *ACT Civil and Administrative Tribunal (Presidential Members) Appointment 2015 (No 2)* (NI 2015-657).

Sections 350(2) and (4) provide that Peta Spender and Elizabeth Symons are taken to have been appointed as presidential members of the ACT from 1 January 2016 – the date the unintended revocation of their appointments took effect – until the dates that their respective appointments were due to expire under their original appointments.

Sections 350(3) and (5) validate any action undertaken, including decisions made, by these members during the periods in which their appointments were not in place due to their revocation.

Section 350 (6) is intended to make clear that the appointments effected by sections (2) and (4) are subject to the provisions of the Act which apply to appointments made in accordance with the Act.

Section 350(7) makes clear that the conditions of the appointments effected by sections (2) and (4) are the conditions stated in the original instrument appointing Peta Spender and Elizabeth Symons, and any other conditions applying from time to time under the Act or other Territory law, for example, terms and conditions relating to remuneration.

New section 351 provides that new part 31 expires on the day it commences. Note 1 explains that where a law validates something, that validation continues to have effect after the expiry of the law. Note 2 states that notwithstanding the formal repeal of a transitional provision, it continues to have effect under section 88 of the *Legislation Act 2001*.