

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

INTERPRETATION AMENDMENT BILL 1999

EXPLANATORY MEMORANDUM

**Circulated by the authority of
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Attorney-General**



ACT GOVERNMENT

Interpretation Amendment Bill 1999

Outline

Various ACT laws provide for the making of instruments which determine fees and charges or make provision for other regulatory details necessary to give effect to the legislative scheme. In many cases, these instruments are required to be published in the ACT Gazette.

In 1994, the *Subordinate Laws Act 1989* was amended to enable a determination of fees and charges and disallowable instruments to be notified in the Gazette in the same way that a regulation, rule or by-law is notified, namely by a simple notice of its making and advice of the place at which a copy might be purchased.

Concerns about the efficacy of the first attempt at achieving this result led to a further amendment of the Act in the same year. The Subordinate Laws (Amendment) Bill (No.3) 1994 purported to amend the *Subordinate Laws Act 1989* to remove any doubt about the application of the simplified process of notifying the making of a subordinate law.

Notwithstanding the Assembly's clearly expressed intention to permit short form notifications in 1994, the statutory formulae used in section 6(2) of the *Subordinate Laws Act 1989* may not sufficiently deal with a certain class of instruments. In relation to certain instruments, "the Minister may, by notice in the Gazette, determine" a particular fee or rate, etc. In such cases, it might be argued that section 6(2) does not have effect because the instrument may not have any legal status before the act of Gazettal.

To resolve this issue, the Bill separates out the separate processes of making an instrument and then gazetting notice of it.

Because it was the clear intention of the Assembly in 1994 to deal with this issue, and because practice altered in accordance with the wishes of the Assembly, the Bill validates the past practice.

The amendment has been cast as an amendment to the *Interpretation Act 1967* rather than to the *Subordinate Laws Act 1989*. This will ensure that the Bill applies to all instruments (regardless of whether section 6 of the *Subordinate Laws Act 1989* applies to it).

Financial Implications

There are no financial implications arising from the Bill

Details of the Bill follow.

Clauses 1 and 2

Clauses 1 and 2 are formal requirements. Clause 1 provides for the short title of the Bill. Clause 2 provides that the Bill commences on the day it is notified in the Gazette.

Clause 3

Clause 3 identifies the Act to be amended as the "*Interpretation Act 1967*".

Clause 4

Clause 4 introduces a new section 27A into the *Interpretation Act 1967*.

New subsection 27A(1) provides that where a law enables the making of an instrument by notice in the Gazette, it is sufficient if the instrument is made and notice of that fact and where it can be purchased is published in the Gazette. New subsection 27A(9) provides that this process does not apply to the fixing of a date or time for commencement of an Act or regulation.

New subsections 27A(2), (3) and (6) provide that the above process can be used instead of the process in the *Subordinate Laws Act 1989*.

New subsections 27A(4), (5), (7) and (10) describe the processes following notice in the Gazette (and what must occur if there is a delay in making copies available for purchase).

New subsection 27A(8) provides that certain past processes are not invalid merely because they were done by instrument rather than notice in the Gazette.