

1997
THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN
CAPITAL TERRITORY

Law Reform (Repeal of Laws) Bill 1997

EXPLANATORY MEMORANDUM

Circulated by the authority of
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ACT GOVERNMENT

Law Reform (Repeal of Laws) Bill 1997

OUTLINE

Within the body of NSW legislation applied in the ACT in 1909 and 1910 were some 550 private Acts made in NSW between 1832 and 1910. Private acts have particular application to a person or group, such as a public company or local authority, and do not have general application. NSW private acts typically dealt with the construction of large public works (including bridges and railways), the incorporation of companies and associations, divorces and corrections to wills or other legal instruments. These Acts, many of which remain in force in NSW, have never been reprinted in the ACT.

Many private acts operative on 31 December 1910 were never applicable in a practical sense in the Territory. They applied to specific people or places within NSW. Many acts were probably not applicable in the ACT in a legal sense, as subsection 6(1) of the *Seat of Government Acceptance Act 1909* provided that: "...all laws in force in the Territory immediately before the proclaimed day shall, *as far as applicable*, continue in force until other provision is made". It is arguable that because private acts of these types were never applicable in a practical sense in the area that was to become the ACT, they were not received into ACT law on 1 January 1911.

To remove any doubt about whether these laws continue to apply in the Territory, these Acts are to be specifically repealed.

Other private acts are not obviously inapplicable in the ACT. In particular, acts incorporating (old NSW) companies or concerning the administration of trusts may have acquired a separate life as laws of the ACT. This was an unintended effect of the legislative device used to import NSW law into the ACT.

These acts are to be repealed because there is scope for confusion where both NSW and the ACT have (identical) legislation purporting to incorporate or confer powers on the same named entity or person.

The opportunity is also being taken to repeal 3 ACT laws which are spent

Revenue Cost Implications

The Bill will not impact on the 1997/8 Budget.

DETAILS OF THE BILL

- Formal provisions** Section 1 and 2 provide for formal provisions for the short title and commencement.
- Repeal of Acts** This provision repeals the ACT Acts set out in Schedule 1.
- Repeal of applied NSW laws** This provision repeals the applied NSW Acts set out in Schedule 2.
- Repeal of applied Imperial laws—amendment of *Imperial Acts Application Act 1986***
 This removes redundant references to Acts repealed by the *Law Reform (Abolitions and Repeals) Act 1996*.