

1993

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

**NATIONAL CRIME AUTHORITY (TERRITORY PROVISIONS)
(AMENDMENT) BILL 1993**

EXPLANATORY MEMORANDUM

Circulated by authority of

Terry Connolly MLA

Attorney General

EXPLANATORY MEMORANDUM

**NATIONAL CRIME AUTHORITY (TERRITORY PROVISIONS)
(AMENDMENT) BILL 1993****OUTLINE**

This Bill amends the *National Crime Authority (Territory Provisions) Act 1991*, referred to in the amending Bill as the Principal Act.

The Bill brings the ACT legislation into line with the Commonwealth legislation, the *National Crime Authority Act 1984*, which it underpins.

The Bill inserts provisions which will require or enable the National Crime Authority ("the NCA") to prohibit the disclosure of the existence of, or any information about summonses or notices, issued under the *National Crime Authority (Territory Provisions) Act 1991* or any proceedings or matters connected with those documents. It also enables the NCA to apply for the issue of a warrant of apprehension to secure the attendance of a witness at a NCA hearing where the person fails or refuses to appear. Some technical amendments relating to meetings of the NCA and gender neutral language are also included.

FINANCIAL IMPACT

The Bill will have no financial impact on Australian Capital Territory expenditure.

NOTES ON CLAUSES

Clause 1: Short Title

1. This is a formal clause providing for the citation of the legislation as the *National Crime Authority (Territory Provisions) (Amendment) Act 1993*.

Clause 2: Commencement

2. This clause provides for the Act to commence on the day on which it is notified in the Gazette.

Clause 3: Principal Act

3. This clause identifies the Principal Act as the *National Crime Authority (Territory Provisions) Act 1991*.

Clause 4: Disclosure of summons or notice etc may be prohibited

4. This clause adds a new section 17A at the end of section 17 of the *National Crime Authority (Territory Provisions) Act 1991*. It provides that in an appropriate case and subject to some restrictions, a summons to a witness issued under section 16 or a notice requiring production of a document or other item of evidence issued under section 17, may include a notation prohibiting disclosure of any information relating to the summons or notice or to any official matter connected with it. Prohibitions ultimately terminate automatically and thereupon the NCA is required to notify the parties on whom the original summons or notice was served.

5. Proposed section 17B makes it an offence to disclose information subject to such a prohibition while it is in force.

6. Proposed sections 17A and 17B are intended to clarify the position of those receiving summonses or notices (such as financial institutions) who may feel bound to notify their client of receipt of the document. The amendment will help to prevent people under investigation by the NCA from being alerted and concealing or destroying evidence or going into hiding as has happened in the past when people were informed of the existence of such process. It will also help to protect people's safety and reputation and their right to a fair trial.

7. Proposed section 17B(7) contains the definitions of 'legal aid officer' and 'official matter'. 'Official matter' defines the range of NCA activity covered by the prohibition. It includes information relating to references, investigations, NCA hearings and court proceedings.

Clause 5: Warrant for arrest of witness

8. Clause 5 amends section 19 of the Act to enable the NCA to apply for the issue of a warrant of apprehension to secure the attendance of a witness at an NCA hearing where the person fails or refuses to appear. This corrects an anomaly under the *National Crime Authority (Territory Provisions) Act 1991* whereby the NCA has power to apply for a warrant of apprehension where a summons has been issued and the person has absconded, is likely to abscond, or is otherwise likely to attempt to evade service of a summons, but not where the person fails or refuses to appear at a hearing.

Clause 6: Amendments to Principal Act

9. This clause provides for the Principal Act to be amended in accordance with the changes set out in the Schedule of the Act. Several of the changes in the Schedule are designed to ensure that the language of the statute is gender neutral, and these amendments make no substantive change to any provision of the Principal Act.

10. The Schedule also includes minor amendments which are intended to streamline the Authority's day-to-day operations to reduce the need for meetings of the Authority.