

1990

LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

**DIRECTOR OF PUBLIC PROSECUTIONS (CONSEQUENTIAL PROVISIONS)
BILL 1990**

EXPLANATORY MEMORANDUM

**(circulated by the authority of Mr Bernard Collaery MLA
Attorney-General)**

DIRECTOR OF PUBLIC PROSECUTIONS BILL (CONSEQUENTIAL PROVISIONS)
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OUTLINE

The Director of Public Prosecutions (Consequential Provisions) Bill 1990 (the Bill) makes transitional provisions and a series of amendments to other Acts. These are a consequence of the Director of Public Prosecutions Bill 1990.

The transitional provisions are necessary to ensure that any proceedings concerning ACT matters which the Commonwealth Director of Public Prosecutions (the Commonwealth DPP) started but did not finish before the ACT legislation came into effect are carried on by the Territory Director of Public Prosecutions (the DPP) under the ACT legislation. On 1 July 1990 the Commonwealth Act will cease to apply to offences under Territory laws.

The Bill also amends eight other Acts to remove provisions which require the Attorney-General or some other named officer to consent to prosecutions under the Act in question.

These consent provisions were originally enacted to provide some control over certain summary prosecutions. It is still the case that anyone (even a private citizen) can institute a summary prosecution. Since the DPP has a power to intervene and discontinue an inappropriate prosecution which someone else has started, the consent requirement becomes unnecessary.

FINANCIAL CONSIDERATIONS

The Bill has no financial implications.

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CLAUSE NOTES

Clause 1: Short title

Clause 1 is a formal provision which cites the proposed Act as being the Director of Public Prosecutions (Consequential Provisions) Act 1990.

Clause 2: Commencement

Clause 2 provides that the substantive provisions of the Bill came into effect on a day to be notified by the Attorney-General in the Gazette.

Clause 3: Amendment of Acts

Clause 3 provides that the Acts specified in the Schedule are amended as set out in that Schedule.

Clause 4: Transitional

This clause provides that any general proceedings or coronial inquiry which the Commonwealth DPP had commenced, but not completed, before the Director of Public Prosecutions Act comes into effect are to be continued by the Territory DPP under the provisions of the Director of Public Prosecutions Act 1990.

Schedule

The amendments to all specified Acts except the Evidence (Laws and Instruments) Act 1989 delete provisions which require a named

officer (usually the Attorney-General) to consent to prosecutions of certain offences created in those Acts.

The amendment to the Evidence (Laws and Instruments) Act 1989 adds the Director of Public Prosecutions to the list of public officers in paragraph 10(1)(a). This will have the effect of requiring courts to take judicial notice of the DPP's signature or official seal.