

2003

LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

JUSTICE AND COMMUNITY SAFETY LEGISLATION AMENDMENT
BILL 2002 (NO 2)

SUPPLEMENTARY
EXPLANATORY MEMORANDUM
GOVERNMENT AMENDMENTS

Circulated by authority of the
Attorney General
Mr Jon Stanhope MLA

JUSTICE AND COMMUNITY SAFETY LEGISLATION AMENDMENT
BILL 2002 (NO 2)
Amendments to be moved by the Attorney-General

Amendment 1

Amendment 1 replaces Clause 2 of the Bill previously circulated. The amendment provides that in addition to Parts 6 and 7, Part 11 and a new Part 14A of the Justice and Community Safety Legislation Amendment Bill 2002 (No 2), will commence on the day after this Act's notification. Part 11 contains amendments to the *Leases (Commercial and Retail) Act 2001* and Part 14A contains an amendment to the *Magistrates Court (Civil Jurisdiction) Act 1982*.

Amendment 2

Amendment 2 replaces Clause 57 of the Bill previously circulated.

Amendment 2 reproduces the existing parts of sections 144 and 145 of the *Leases (Commercial and Retail) Act 2001*, and adds a further subsection to both.

A third subsection is added to section 144 which enables the Magistrates Court, when acting under the jurisdiction of the *Leases (Commercial and Retail) Act 2001*, to exercise any power that the Court could exercise under the *Magistrates Court (Civil Jurisdiction) Act 1982*. The new subsection also provides that the Court may exercise any other power that is necessary or convenient for the exercise of the jurisdiction under the *Leases (Commercial and Retail) Act 2001*.

Amendment 2 also inserts a new subsection into section 145 of the *Leases (Commercial and Retail) Act 2001*. The new subsection 145(2) provides that an application, in relation to a dispute that may be made under section 145 of the *Leases (Commercial and Retail) Act 2001*, cannot be made under the *Magistrates Court (Civil Jurisdiction) Act 1982*. This prevents a dispute from being brought under both section 5(1) of the *Magistrates Court (Civil Jurisdiction) Act 1982* and section 145 of the *Leases (Commercial and Retail) Act 2001*.

Amendment 3

Amendment 3 is consequential on Amendment 2 above.

Amendment 3 inserts a new section into the transitional provisions of the *Leases (Commercial and Retail) Act 2001*. The new section 168A will save any Magistrate Court orders made in a proceeding under the *Leases (Commercial and Retail) Act 2001* that was commenced before the introduction of this section.

Section 168A(2) provides that if an order made was not provided for by the *Leases (Commercial and Retail) Act 2001*, then the order is taken to be made, or have been made, validly under the powers that the Court can exercise under the *Magistrates Court (Civil Jurisdiction) Act 1982*.

Amendment 4

Amendment 4 is a new amendment that is consequential on Amendment 2 above.

The amendment removes section 12 of the *Magistrates Court (Civil Jurisdiction) Act 1982* that caused conflict between the *Magistrates Court (Civil Jurisdiction) Act 1982* and the *Leases (Commercial and Retail) Act 2001*. Furthermore, the purpose of section 12, which was to ensure disputes under the *Leases (Commercial and Retail) Act 2001* could only be brought under that Act, is better achieved through Amendment 2.