

**2008**

**LEGISLATIVE ASSEMBLY FOR THE  
AUSTRALIAN CAPITAL TERRITORY**

**LAW OFFICER AMENDMENT BILL 2008**

**EXPLANATORY STATEMENT**

Presented by  
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## **Law Officer Amendment Bill 2008**

### **Outline**

The Law Officer Amendment Bill 2008 would establish, as a function of the Attorney General, a requirement that litigation that is instituted and conducted on behalf of the Crown in right of the Territory; the Territory; a Minister; or a person suing or being sued on behalf of the Territory, is started and conducted in accordance with proper standards.

In setting those standards the Bill would empower the Attorney General to issue “model litigant guidelines”, which must be issued as a notifiable instrument.

Anyone performing Territory work would be required to comply with the guidelines, but would be protected from any civil liability if acting or believing to be acting honestly and without recklessness under the guidelines.

The Bill would also protect individuals from any civil liability arising, rather requiring the Territory to carry that burden.

Finally the Bill would require the Department of Justice and Community Safety, in its annual report, to report on the measures taken to ensure compliance with the model litigant guidelines and to report on any breaches.

## Law Officer Amendment Bill 2008

### Detail

#### **Clause 1 — Name of Act**

The short title – *Law Officer Amendment Act 2008*.

#### **Clause 2 — Commencement**

Commencement is the day after the Act is notified on the Legislation Register.

#### **Clause 3 — Legislation amended**

This Act amends the *Law Officer Act 1992*.

#### **Clause 4 — Section 4**

This clause inserts a new paragraph (e) into section 4 of the Act, which expands the functions of the Attorney General such that the Attorney General would ensure litigation that is instituted and conducted on behalf of the Crown in right of the Territory; the Territory; a Minister; or a person suing or being sued on behalf of the Territory, is started and conducted in accordance with proper standards.

It also renumbers the subsequent paragraphs to (f) and (g), and makes minor amendments of language and style.

#### **Clause 5 – New Sections 5AA, 5AB and 5AC**

New section 5AA enables the Attorney General to issue model litigant guidelines. Any guidelines that are issued are done so as a notifiable instrument.

The section also provides that anyone performing Territory legal work must comply with the guidelines.

New section 5AB provides protection for individuals who honestly and without recklessness carry out or believe they are carrying out Territory legal work in accordance with the model litigant guidelines.

It also provides that any civil action arising attaches to the Territory, not the individual.

New section 5AC requires the Department of Justice and Community Safety, in its annual report, to report on measures it has taken to ensure compliance with the model litigant guidelines and to report on any breaches.

#### **Clause 6 – Dictionary**

This clause inserts definitions of “model litigant guidelines” and “Territory legal work”.