

AUSTRALIAN CAPITAL TERRITORY  
LEGISLATIVE ASSEMBLY

## Explanatory Memorandum

### *Administration (Interstate Agreements) Bill 1997*

(Michael Moore)

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#### OUTLINE

This is unusual legislation which, like the *Statutory Appointments Act 1994* and the *Subordinate Laws Act 1989* (as amended in 1993), ensures that the Assembly is able to perform as a legislature of high quality.

This Bill, like the Acts mentioned above, ensures that oversight of the actions of the Executive operates at an empowered level. The Bill also aims to ensure that the actions of the Executive do not constrain the freedom of the Assembly to deliberate on legislation without undue constraint.

This Bill operates at the level of information and consultation. Actual legal constraint on the actions which the Executive may take is kept to the minimum necessary to give effect to the Bill's aims.

#### DETAILS OF CLAUSES

*Clause 1* **Short Title—**

This clause is standard.

*Clause 2* **Commencement—**

Note that this clause includes a 3-month 'Macklin Clause'.

*Clause 3* **Object—**

The object clause states the purpose of this Bill, which is to ensure that the proper role of the legislature is not interfered with by necessity or compulsion to enact legislation arising from executive agreements of which the legislature was not informed or consulted.

- Clause 4 Interpretation—**  
The interpretation clause defines the following terms used frequently in this Bill “government”, “interstate agreement”, and “negotiation”.
- Clause 5 Application—**  
This clause provides for the exclusion of certain interstate executive agreements to be excluded from the ambit of the legislation. There are two items listed in the Schedule.
- Clause 6 Notification of negotiations—**  
This clause provides for the duties of Ministers to notify Members at the commencement of a process of negotiating an agreement.
- Clause 7 Consultation regarding agreements—**  
This clause provides the requirement for Ministers to consult with a relevant committee of the Assembly, as nominated by the Speaker. The clause is modelled on an equivalent provision of the *Statutory Appointments Act 1994*.
- Clause 8 Procedure before entering agreements—**  
This clause constrains the freedom of Ministers to enter agreements to the extent necessary to give force to the consultation requirements of clause 7.
- Clause 9 Notification of outcomes—**  
This clause provides the requirement for Ministers to notify Members of the results of a process of negotiating an agreement.
- Clause 10 Urgent or extraordinary negotiations—**  
This clause gives Ministers a capacity to avoid the application of one or more of the requirements of clauses 6, 7 or 8, provided that urgency or the interests of the Territory give the Minister reasonable grounds for doing so, and provided that the Minister notifies Members of those grounds.
- Clause 11 Ministers negotiating jointly—**  
This clause simplifies the requirements of this Act where more than one Minister is engaged in a given negotiation.
- Schedule** The Schedule lists the agreements which are excluded from the application of this Bill, as is provided by clause 5.