

1999

THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

SUBORDINATE LAWS (AMENDMENT) BILL 1999

EXPLANATORY MEMORANDUM

Circulated by authority of

**Gary Humphries MLA
Attorney-General
Minister for Justice and Community Safety**

Outline

These are amending provisions. They amend the *Subordinate Laws Act 1989* (referred to as the Principal Act). The Principal Act contains procedural requirements for the tabling of all delegated legislation, including regulations, rules, by-laws and other disallowable instruments.

Under the Principal Act such delegated legislation must be tabled in the Assembly within 15 sitting days from the date of publication in the Gazette. After tabling in the Assembly the subordinate laws may be disallowed by the Assembly during a period of 15 sitting days. Sitting days are those days when the Legislative Assembly sits.

Clause 4 of the *Subordinate Laws (Amendment) Act 1999* amends the Principal Act by reducing the period of time for disallowance of subordinate legislation from 15 sitting days to 6 sitting days.

Notes on Clauses

Clauses 1 and 2 - short title and commencement

Clauses 1 and 2 are formal clauses dealing with the title of the Bill, once enacted, and the commencement arrangements. The substantive provisions of the Bill will take effect either on a date set by the Minister by notice in the *Gazette* or on the day after 6 months have expired from the date the enactment was notified in the *Gazette*, whichever happens first.

Clause 3 - Principal Act

This clause explains that the Act referred to by the use of the term "Principal Act" within the Bill is the *Subordinate Laws Act 1989*.

Clause 4 - Notification, tabling and disallowance

This clause amends section 6 of the Act which provides for the tabling in the Legislative Assembly of subordinate laws, and the period of time during which subordinate legislation is disallowable.

Subsection (7) of Section 6 of the Principal Act is amended so that a notice of motion given within six sitting days of tabling of the subordinate law, upon resolution will disallow the law or provision, and the law or provision will no longer have effect.

Subsection (7A) of section 6 of the Principal Act is a deeming provision. The provision is amended to the effect that if after six sitting days, the notice of motion to disallow or amend the law or a provision of the law, has not been dealt with (by either being withdrawn or not called on, or where called on and moved has been withdrawn or disposed of) the subordinate law or a provision of the law is deemed to have been disallowed and of no effect, or amended (depending on the content of the notice of motion).

Subsection (7B) of section 6 contains provisions detailing the procedure when the Legislative Assembly is dissolved or it expires. In this situation the period of time for disallowance runs from the first sitting day of the next Legislative Assembly. The period of time in the Principal Act is fifteen sitting days from the first sitting day of the new Assembly, this is amended in the Bill, to six sitting days.

Subsection (11) of section 6, provides that where the Legislative Assembly by resolution, amends a law or provision pursuant to a Notice of Motion given with six sitting days, the law or provision is amended and has effect in accordance with the resolution.

Clause 5 - Addition

This clause inserts a transitional provision which ceases to have effect 1 year after the day it commences. The clause provides that the procedure for tabling and disallowance of all subordinate laws and instruments that were notified in the Gazette before the commencement of this amending Bill, is the procedure set down in the *Subordinate Laws Act 1989*, before the commencement of this Bill.

This means that any subordinate laws or instruments published in the Gazette and not yet tabled, or where tabled and the fifteen sitting day disallowance period has not yet elapsed, must be tabled and subject to disallowance during fifteen sitting days in accordance with the provisions of the *Subordinate Laws Act 1989* before the commencement of the provisions contained in this Bill.