

**LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY
ADMINISTRATIVE DECISIONS (JUDICIAL REVIEW) (AMENDMENT) BILL 1991**

EXPLANATORY MEMORANDUM

**(Circulated by the authority of Mr Terry Connolly MLA
Attorney General)**

ADMINISTRATIVE DECISIONS (JUDICIAL REVIEW) (AMENDMENT) BILL 1991

Outline

The Administrative Decisions (Judicial Review) (Amendment) Bill 1991 (the Bill) will remove the requirement that a person's interests must be adversely affected before that person is entitled to seek judicial review of decisions made under the Land (Planning and Environment) Bill 1991 and the Heritage Objects Bill 1991.

For the purposes of the above legislation the Bill will provide that a person who considers a decision, failure to make a decision or conduct to be contrary to law may apply for review of the decision, failure or conduct.

In effect, therefore, the Bill will allow a person to challenge decisions of an administrative character, or conduct for the purpose of making the decision; arising under the specified legislation. By contrast, the requirement that a person's interests must be adversely affected has been interpreted by the courts as excluding persons whose only interest is emotional or intellectual (rather than a material or pecuniary interest) and where those interests are not affected to a greater degree than the general public.

The Bill will also extend the Supreme Court's discretion not to entertain an application for review if it relates to a matter which is already under review under another law.

Financial Impact Statement

It is not possible at this stage to estimate the number of matters which will go to the Supreme Court because of the widened standing provision. It is anticipated that any increase in caseload will not be significant and should be able to be accommodated within the Court's existing resources.

However, no quantification of the effect of the amendments will be possible until they have been in force for a reasonable time.

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CLAUSE NOTES

Clause 1: Short Title

Clause 1 is a formal provision which cites the eventual Act as being the *Administrative Decisions (Judicial Review) (Amendment) Act 1991*.

Clause 2: Commencement

Clause 2 provides for the commencement of the Bill.

Clause 3: Principal Act

This clause defines "Principal Act" as meaning the *Administrative Decisions (Judicial Review) Act 1989*.

Clause 4: Interpretation

This clause amends the interpretation section of the Principal Act (section 3) by expanding the definition of 'person aggrieved' for the purposes of the Land (Planning and Environment) Bill 1991 and the Heritage Objects Bill 1991 so that the term 'person aggrieved' includes a person who considers the relevant decision, conduct or failure to be contrary to law.

Clause 5: Effect of Act on other rights

This clause amends section 9 of the Principal Act by providing that the Supreme Court may, in its discretion, refuse to hear an application in relation to matters arising under a prescribed Act if the matter is being reviewed, or if an application for review has been made, by any person under some other law (for example, the *Administrative Appeals Tribunal Act 1989*).