

EXPLANATORY STATEMENT

COMMONWEALTH OF AUSTRALIA

DIRECTOR OF PUBLIC PROSECUTIONS REGULATIONS (AMENDMENT)

1990 No. 155

Section 34 of the Director of Public Prosecutions Act 1983 (the Commonwealth DPP Act) provides that the Governor-General may make regulations, not inconsistent with that Act, prescribing matters required or permitted by that Act to be prescribed or necessary or convenient to be prescribed for carrying out or giving effect to that Act.

Paragraph 6(2)(b) of the Commonwealth DPP Act provides for the prescribing of functions of the Director in addition to the statutory functions contained in subsection 6(1).

On 1 July 1990 the Government of the Australian Capital Territory (the Territory) gains effective responsibility for criminal matters in respect of Territory law. This is the effect of section 12 of the ACT Self-Government (Consequential Provisions) Act 1988 which deems a number of Ordinances dealing with criminal matters, that were reserved under section 34 of the Australian Capital Territory (Self-Government) Act 1988, to be Acts of the Territory legislature. The ACT Self-Government (Consequential Provisions) Regulations (Amendment) (No. 52 of 1989) amended the Commonwealth DPP Act so that the Commonwealth Director may no longer prosecute offences against laws of the Territory from 1 July 1990. In anticipation of this, the Legislative Assembly for the Territory has enacted the Director of Public Prosecutions Act 1990 (the Territory DPP Act). It is proposed that initially there be no appointment of a Director under the Territory DPP Act, but that the Commonwealth Director perform the functions and exercise the powers of the 'Director' under the Territory DPP Act.

The Regulations will enable the Commonwealth Director to perform the functions and exercise the powers of the 'Director' under the Territory DPP Act from 1 July 1990 while there is no appointment (or acting appointment) of a Territory Director.

Details of the Regulations are as follows:

Regulation 1: provides that the Regulations are to commence on 1 July 1990.

Regulation 2: amends regulation 3 of the Director of Public Prosecutions Regulations by adding paragraph (c) which gives the Commonwealth Director the function, in respect of matters arising under Territory legislation, of performing the functions of the 'Director' under the

Territory DPP Act, while no person holds office as (or is acting in) the position.

Regulation 3: amends the Director of Public Prosecutions Regulations by adding regulation 4 which gives the Commonwealth Director the power, in respect of matters arising under Territory legislation, to exercise the same powers conferred on the 'Director' under the Territory DPP Act, while no person holds office as (or is acting in) the position. This regulation is made under paragraph 34(b) of the Act.

Attorney-General