Purpose

Following an amendment to the Judiciary Act 1903 establishing the Australian Government Solicitor as a statutory body, to adapt the Crown Solicitors' functions under several Acts for performance by the Australian Government Solicitor.

Background

The Crown Solicitor is a personal office, carrying responsibility for providing solicitor services to the Commonwealth and its agencies. The Judiciary Amendment Bill (No.2) 1984 (q.v. Digest) establishes a statutory corporation, known as the Australian Government Solicitor.

It is indicated in the Second Reading Speech for that Bill that the major part of work within the Crown Solicitor's area is performed in the Deputy Crown Solicitors' Offices in the various States and Territories. Following a review within the Attorney-General's Department during 1983, the Judiciary Act 1903 s.55E is amended so that the powers and privileges of the Crown Solicitor attach to the Australian Government Solicitor. New subsection 55E(4) provides that the Secretary to the Department or persons authorized by the Secretary may act in the name of the statutory corporation.

The present Bill adapts other legislation which refers to the "Crown Solicitor". In some cases, the function is transferred to the Secretary or persons authorized to act as Australian Government Solicitor; in respect of some other Acts, the function is transferred to the Secretary alone.
Main Provisions

Textual amendments to transfer functions ascribed to the Crown Solicitor are set out in the Schedule to the Bill. In most cases the function is transferred to the Secretary to the Attorney-General's Department or a person authorized by him to act as Australian Government Solicitor. The Bankruptcy Act 1966 and Broadcasting and Television Act 1942 are amended for the Crown Solicitor's functions to be performed by the Secretary alone, while the Crimes Act 1914 is amended to transfer the functions of the Deputy Crown Solicitor to the Director of Legal Services in the Attorney-General's Department in the particular State or Territory. The last amendment is affected by subclause 2(2) so that if subsection 8(1) of the Director of Public Prosecutions (Consequential Amendments) Act 1983, which finally transfers this function to the Director of Public Prosecutions, commences later, the function will be ascribed to the Director of Legal Services in the intervening period.

The substantive provision of the Bill, clause 4, provides for the orderly transfer of functions. Subclause 4(1) makes provision for matters commenced by the Crown Solicitor prior to commencement by Proclamation, of the Bill where certificates, notices or documents remain to be supplied. Other subclauses provide specifically for bankruptcy notices issued under the Bankruptcy Act 1966, applications for early release of prisoners, and compensation under the Lands Acquisition Act 1955.

For further information, if required, contact:

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