

2013-2014-2015-2016

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

**LAW AND JUSTICE LEGISLATION AMENDMENT (NORTHERN TERRITORY
LOCAL COURT) BILL 2016**

EXPLANATORY MEMORANDUM

(Circulated by authority of the
Attorney-General, Senator the Honourable George Brandis QC)

LAW AND JUSTICE LEGISLATION AMENDMENT (NORTHERN TERRITORY LOCAL COURT) BILL 2016

GENERAL OUTLINE

1. The Bill would make minor, technical and uncontroversial amendments to the *Acts Interpretation Act 1901* and other Commonwealth legislation to ensure that jurisdiction and powers currently being exercised under Commonwealth legislation by Northern Territory Local Court Magistrates may continue to be validly exercised after the *Local Court Act 2015* (NT) which is expected to occur on 1 May 2016.

2. This Bill is an omnibus bill which would amend the following Acts: the *Acts Interpretation Act 1901*, the *Bankruptcy Act 1966*, the *Customs Act 1901*, the *Environment Protection and Biodiversity Conservation Act 1999*, the *Excise Act 1901*, the *Export Control Act 1982*, the *Extradition Act 1988*, the *Fair Work Act 2009*, the *High Court of Australia Act 1979*, the *Inspector-General of Intelligence and Security Act 1986*, the *International War Crimes Tribunals Act 1995*, the *Judicial Misbehaviour and Incapacity (Parliamentary Commissions) Act 2012*, the *Law Enforcement Integrity Commissioner Act 2006*, the *Marriage Act 1961*, the *Mutual Assistance in Criminal Matters Act 1987*, the *Quarantine Act 1908*, and the *Royal Commissions Act 1902*. The Bill would also amend the *A.C.T. Self-Government (Consequential Provisions) Regulations*.

3. The Bill would make amendments that are consequential to the *Local Court Act 2015* (NT), which would amalgamate the Northern Territory Local Court and the Court of Summary Jurisdiction into one court called the Northern Territory Local Court and rename ‘magistrates’ as ‘judges’. Northern Territory magistrates currently perform functions under Commonwealth legislation in a variety of contexts, including persona designata functions for the purposes of Commonwealth criminal matters, for example the issuing of warrants. A number of Commonwealth Acts confer jurisdiction and functions on Northern Territory courts and judges, including through references to the terms ‘judge’, ‘magistrate’ and ‘court of summary jurisdiction’.

4. The Bill comprises one schedule.

5. **Schedule 1** would make consequential amendments to the Acts Interpretation Act to ensure that:

- Commonwealth legislation that refers to ‘magistrate’ would include references to Northern Territory Local Court Judges
- where appropriate, references to ‘judge’ in Commonwealth legislation would not include Northern Territory Local Court Judges, and
- ‘court of summary jurisdiction’ would continue to apply to the Northern Territory Local Court.

6. The Schedule would also make amendments to various Commonwealth Acts that define or describe the terms ‘magistrate’, ‘judge’ and ‘court of summary jurisdiction’ (thus displacing the Acts Interpretation Act definition) to encapsulate the Northern Territory Local Court.

FINANCIAL IMPACT

7. There are no financial implications from implementing these amendments.

STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Law and Justice Legislation Amendment (Northern Territory Local Court) Bill 2016

8. This Bill is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Bill

9. The Bill is an omnibus bill which would make minor, technical and uncontroversial amendments to the *Acts Interpretation Act 1901* and other Commonwealth legislation to ensure that jurisdiction and powers currently being exercised under Commonwealth legislation by Northern Territory Local Court Magistrates may continue to be validly exercised after the *Local Court Act 2015* (NT) commences.

10. This Bill would amend the following Acts: the *Acts Interpretation Act 1901*, the *Bankruptcy Act 1966*, the *Customs Act 1901*, the *Environment Protection and Biodiversity Conservation Act 1999*, the *Excise Act 1901*, the *Export Control Act 1982*, the *Extradition Act 1988*, the *Fair Work Act 2009*, the *High Court of Australia Act 1979*, the *Inspector-General of Intelligence and Security Act 1986*, the *International War Crimes Tribunals Act 1995*, the *Judicial Misbehaviour and Incapacity (Parliamentary Commissions) Act 2012*, the *Law Enforcement Integrity Commissioner Act 2006*, the *Marriage Act 1961* and the *Mutual Assistance in Criminal Matters Act 1987*, the *Quarantine Act 1908*, and the *Royal Commissions Act 1902*. The Bill would also amend the *A.C.T. Self-Government (Consequential Provisions) Regulations*.

Human rights implications

11. The Bill does not engage any of the applicable rights or freedoms.

12. All persons have the right to an effective remedy and a fair trial or hearing. This is ensured by having a competent and independent judiciary, including rights of appeal and review of judicial decisions, and a well-functioning court administration. This Bill would not alter any substantive right of litigants as they currently exist nor would it alter any of the substantive powers of the judiciary. The Bill would preserve the existing jurisdiction of the Northern Territory Local Court and therefore would not impact on the existing rights to an effective remedy and a fair trial or hearing. The Bill would ensure that these rights are maintained and promoted.

Conclusion

13. The Bill is compatible with human rights as it does not raise any human rights issues. The Bill would maintain and promote the right to an effective remedy and a fair trial or hearing.

NOTES ON CLAUSES

PRELIMINARY

Law and Justice Legislation Amendment (Northern Territory Local Court) Amendment Bill 2016

Clause 1 – Short title

14. This clause specifies that the short title of the Bill, once enacted, may be cited as the *Law and Justice Legislation Amendment (Northern Territory Local Court) Act 2016*.

Clause 2 – Commencement

15. Clause 2 of the Bill provides for the commencement of each provision of the Bill.

16. Subclause 2(1) of the Bill provides that each provision of the Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

17. Table item 1 provides that sections 1 to 3 of the Act and anything in the Act not elsewhere covered by the table would commence on the day on which this Act receives the Royal Assent.

18. Table item 2 provides that Schedule 1, Part 1 would commence at the same time as section 4 of the *Local Court Act 2015* (NT) commences.

19. Table item 3 provides that Schedule 1, Part 2 would commence immediately after the commencement of Part 1 of Schedule 2 to the *Norfolk Island Legislation Amendment Act 2015*. Column 3 of item 3 specifies that this date is 1 July 2016.

20. The note in subclause 2(1) makes it clear that the table relates only to the provisions of the Act as originally enacted. The table would not be amended to deal with any later amendments to the Act.

21. Subclause 2(2) of the Bill provides that any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of the Act.

Clause 3 – Schedules

22. Subclause 3(1) provides that legislation that is specified within a Schedule to this Bill is amended or repealed as set out by the provisions of the Bill, and that any other item in a Schedule to the Bill has effect according to its terms.

23. Subclause 3(2) provides that the amendment of any regulation under subsection (1) does not prevent the regulation, as so amended, from being amended or repealed by the Governor-General.

SCHEDULE 1— AMENDMENTS

Part 1— Main amendments

A.C.T. Self-Government (Consequential Provisions) Regulations

Item 1: Schedule 1 (heading relating to the *Extradition Act 1988*)

24. This item repeals the heading relating to the *Extradition Act 1988*.

Item 2: Schedule 1 (modifications relating to the *Extradition Act 1988*)

25. This item repeals the modifications relating to the *Extradition Act 1988*. The *A.C.T. Self-Government (Consequential Provisions) Regulations* modify the definition of *magistrate* to include references to ‘the Australian Capital Territory’ after references to the ‘Northern Territory’. These modifications would no longer operate as a result of the amendments to the *Extradition Act*; instead these modifications would be incorporated into the definition within the *Extradition Act*.

Acts Interpretation Act 1901

Item 3: Section 2B

This item includes a definition of *judge* into the list of defined terms in the *Acts Interpretation Act 1901* to note that the term ‘judge’ has a meaning affected by section 16BA. The purpose of this item is to assist readers of the Bill to locate the description of the term ‘judge’ in section 16BA.

Item 4: Section 2B (definition of *Magistrate*)

26. This item alters the definition of *Magistrate* in section 2B of the *Acts Interpretation Act 1901* to direct readers to both subsections 16C(2) and 16C(3). The purpose of this item is to assist readers of the Bill to locate the description of the term ‘Magistrate’ within section 16C.

Item 5: Section 2B (definition of *Stipendiary Magistrate*)

27. This item alters the definition of *Stipendiary Magistrate* in section 2B of the *Acts Interpretation Act 1901* to direct readers to both subsections 16C(1) and 16C(3). The purpose of this item is to assist readers of the Act to locate the description of the term ‘Stipendiary Magistrate’ within section 16C.

Item 6: After section 16B

28. This item inserts new section 16BA which provides that in any Act, a reference (whether general or otherwise) to a ‘judge’ does not include a reference to a Judge, or an acting Judge, of the Local Court of the Northern Territory. The purpose of this item is to ensure that undefined references to the term ‘judge’ in Commonwealth legislation do not include Northern Territory Local Court Judges. This provision is intended to apply to references to a ‘judge’ and also to a ‘judge in a state or territory’ (or similar phrase) in Commonwealth legislation. This provision would ensure that present jurisdiction and powers of the Northern Territory Local Court are maintained, following commencement of the *Local Court Act 2015* (NT) and that the renaming of Magistrates as Judges does not have a practical effect on the operation of Commonwealth legislation.

Item 7: At the end of section 16C

29. This item provides that in any Act, a reference to a ‘Stipendiary Magistrate’ or ‘Magistrate’ includes a reference to a Judge, or an acting Judge, of the Local Court of the Northern Territory. The purpose of this amendment is to ensure that references to ‘Magistrate’ and ‘Stipendiary Magistrate’ in Commonwealth legislation would be read to include Northern Territory Local Court Judges. By way of example, the *Privacy Act 1988* refers to a ‘Magistrate’ in section 68, and the term ‘Magistrate’ is undefined in that Act. Given that the Privacy Act does not include a definition contrary to the *Acts Interpretation Act 1901*, the definition in the Acts Interpretation Act would apply.

30. Unlike existing subsection 16C(2) of the Acts Interpretation Act (which only applies to Acts passed after the commencement of section 16C, this item would apply in relation to Acts enacted at any time (see also ‘Arrangements – transitional provisions’ below).

Bankruptcy Act 1966

Item 8: Subsection 5(1) (paragraph (b) of the definition of *magistrate*)

31. This item would amend the definition of *magistrate* to include a Judge of the Northern Territory Local Court. The purpose of this amendment is to ensure that the Commonwealth can still make arrangements with the Northern Territory for the performance of functions under the *Bankruptcy Act 1966* by magistrates of the Northern Territory, who would be known as Judges following commencement of the *Local Court Act 2015* (NT).

Item 9: Subsection 5(1) (paragraph (c) of the definition of *magistrate*)

32. This item omits the phrase ‘(other than the Northern Territory)’ from paragraph 5(1)(c) of the definition of *magistrate* to remove the reference to magistrates ‘other than the Northern Territory’ as this distinction is no longer necessary.

Item 10: Section 17B (heading)

33. This item repeals the heading to section 17B of the *Bankruptcy Act 1966* and substitutes a heading that refers to Northern Territory Local Court Judges.

Item 11: Subsection 17B(2)

34. This item would amend subsection 17B(2) of the *Bankruptcy Act 1966* so that it refers to ‘Judges of the Local Court of the Northern Territory’ instead of ‘Magistrates of the Territory’.

Customs Act 1901

Item 12: Subsection 4(1) (paragraph (c) of the definition of *Division 1B Magistrate*)

35. This item amends the definition of *Magistrate* for the purposes of Division 1 of Part XII to ensure that this would include Northern Territory Local Court Judges.

Item 13: Paragraph 11(2)(b)

36. This item would amend paragraph 11(2)(b) to ensure that references within this section include Northern Territory Local Court Judges.

Item 14: Subsection 183UA(1) (definition of *magistrate*)

37. This item repeals the definition of *magistrate* under subsection 183UA(1) of the *Customs Act 1901*. The purpose of this amendment is to remove this definition as it is no

longer necessary in this context. The definition in the *Acts Interpretation Act 1901* should apply instead.

Item 15: After subsection 219ZL(3)

38. This item amends subsection 219ZL(3) to ensure that Northern Territory Local Court Judges, or Acting Judges, performing functions of, or connected with, issuing warrants or giving orders would continue to have the protections and immunities applying to magistrates prior to commencement of the *Local Court Act 2015* (NT).

Environment Protection and Biodiversity Conservation Act 1999

Item 16: Section 528 (at the end of the definition of *magistrate*)

This item would amend the definition of *magistrate* to include a Judge, or acting Judge, of the Northern Territory Local Court. The purpose of this amendment is to ensure that Northern Territory Local Court Judges (who were formerly known as magistrates) may continue to exercise functions under the *Environment Protection and Biodiversity Conservation Act 1999*

Excise Act 1901

Item 17: Section 107AA (at the end of the definition of *magistrate*)

39. This item would amend the definition of *magistrate* to include a Judge, or acting Judge, of the Northern Territory Local Court. The purpose of this amendment is to ensure that Northern Territory Local Court Judges (who were formerly known as magistrates) may continue to exercise functions under the *Excise Act 1901*.

Export Control Act 1982

Item 18: Section 3 (at the end of the definition of *magistrate*)

40. This item would amend the definition of *magistrate* to include a Judge of the Northern Territory Local Court. The purpose of this amendment is to ensure that Northern Territory Local Court Judges (who were formerly known as magistrates) may continue to exercise functions under the *Export Control Act 1982*.

Extradition Act 1988

Item 19: Section 5 (definition of *magistrate*)

41. This item would repeal the current definition of *magistrate* and insert a new definition that includes a Judge, or acting Judge, of the Northern Territory Local Court. The purpose of this amendment is to ensure that Northern Territory Local Court Judges (who were formerly known as magistrates) may continue to exercise functions under the *Extradition Act 1988*. This provision will also include modifications to the definition of *magistrate*, which are to be removed from the *A.C.T. Self-Government (Consequential Provisions) Regulations* (see item 1).

Item 20: Paragraph 46(1)(b)

42. This item would repeal and remake subparagraph 46(1)(b) which provides for arrangements to be made with the states and territories to enable magistrates to perform particular functions. The purpose of this amendment is to ensure that the Commonwealth can still make arrangements with the Northern Territory for the performance of functions under the *Extradition Act 1988* by magistrates of the Northern Territory, who would be known as Judges following commencement of the *Local Court Act 2015* (NT). This provision will also

include modifications which are to be removed from the *A.C.T. Self-Government (Consequential Provisions) Regulations* (see item 1).

Fair Work Act 2009

Item 21: Section 12 (at the end of the definition of *magistrates court*)

43. This item would make consequential amendments to the definition of *magistrates court* in section 12 of the *Fair Work Act 2009* to ensure that small claims proceedings can continue to be brought in courts of summary jurisdiction in the Northern Territory under section 548 of the *Fair Work Act*.

44. In the Northern Territory, an application for a small claims procedure can currently be made to a magistrates court or the Federal Circuit Court. The policy intention is to continue to allow small claims procedures to be run in the Northern Territory.

High Court of Australia Act 1979

Item 22: At the end of paragraph 7(a)

45. This item would continue the current exclusion of Northern Territory Local Court Judges, or acting Judges, from eligibility under the qualification requirements for appointment to the High Court in paragraph (a) of the section, consistent with the applicant of the section to State judicial officers.

Inspector-General of Intelligence and Security Act 1986

Item 23: Subsection 3(1) (at the end of paragraph (a) of the definition of *Judge*)

46. This item would amend the definition of *Judge* for the purposes of the *Inspector-General of Intelligence and Security Act 1986*. The amendments to the *Local Court Act 2015* (NT) may result in Northern Territory Local Court Judges, or acting Judges, whose role is essentially the same as that performed by magistrates in other jurisdictions being captured under paragraph (a) of the definition of *Judge* in section 3. This would seem to result in an inconsistent application of the *Inspector-General of Intelligence and Security Act* to judicial officers in the Northern Territory as compared to those in other State jurisdictions. The purpose of this amendment is to continue to exclude Northern Territory judicial officers from being included within the definition of *Judge* for the purposes of the *Inspector-General of Intelligence Security Act*.

International War Crimes Tribunals Act 1995

Item 24: Section 4 (paragraph (b) at the end of the definition of *magistrate*)

47. This item would amend the definition of *magistrate* to include a Judge, or acting Judge, of the Northern Territory Local Court. The purpose of this amendment is to ensure that Northern Territory Local Court Judges (who were formerly known as magistrates) may continue to exercise functions under the *International War Crimes Tribunals Act 1995*.

Item 25: Section 4 (at the end of the definition of *magistrate*)

48. This item would include a reference to arrangements under section 82. The purpose of this amendment is to link with the amendment in item 26 to ensure that the Commonwealth can still make arrangements with the Northern Territory for the performance of functions under the *International War Crimes Tribunals Act 1995* by magistrates of the Northern Territory, who would be known as Judges following commencement of the *Local Court Act 2015* (NT).

Item 26: At the end of subsection 82(5)

49. This item provides that a reference to persons who, from time to time, hold office as magistrates of that State are taken to be references to persons who hold office as Judges of the Local Court of the Northern Territory. The purpose of this amendment is to link with item 25 to ensure that the Commonwealth can still make arrangements with the Northern Territory for the performance of functions under the *International War Crimes Tribunals Act 1995* by magistrates of the Northern Territory, who would be known as Judges following commencement of the *Local Court Act 2015* (NT).

Judicial Misbehaviour and Incapacity (Parliamentary Commissions) Act 2012

Item 27: Section 7 (at the end of paragraph (b) of the definition of *Commonwealth or State Judicial Officer*)

50. This item would add the words ‘(other than a Judge or acting Judge of the Local Court of the Northern Territory)’ at the end of paragraph (b) of the definition of ‘Commonwealth or State Judicial Officer’. The effect of this item would be to continue to exclude Northern Territory Local Court Judges, or acting Judges, from being a ‘State judicial officer’ for the purposes of the section, consistent with the application of the section to State judicial officers.

Law Enforcement Integrity Commissioner Act 2006

Item 28: Subsection 5(1) (paragraph (b) of the definition of *magistrate*)

51. This item would amend the definition of *magistrate* to include a Judge, or acting Judge, of the Northern Territory Local Court. The purpose of this amendment is to ensure that Northern Territory Local Court Judges (who were formerly known as magistrates) may continue to exercise functions under the *Law Enforcement Integrity Commissioner Act 2006*.

Marriage Act 1961

Item 29: Subsection 5(1) (paragraph (b) of the definition of *magistrate*)

52. This item would amend the definition of *magistrate* to include a Judge of a Local Court (including the Northern Territory Local Court). The purpose of this amendment is to ensure that Northern Territory Local Court Judges, (who were formerly known as magistrates) may continue to exercise functions under the *Marriage Act 1961*.

Mutual Assistance in Criminal Matters Act 1987

Item 30: Subsection 3(1) (paragraph (a) of the definition of *Magistrate*)

53. This item would amend the definition of *Magistrate* to include a Judge of the Northern Territory Local Court. The purpose of this amendment is to ensure that Northern Territory Local Court Judges (who were formerly known as magistrates) may continue to exercise functions under the *Mutual Assistance in Criminal Matters Act 1987*.

Item 31: Subsection 3(1) (after paragraph (a) of the definition of *Magistrate*)

54. This item would amend the definition of *Magistrate* to include a Judge, or acting Judge, of the Local Court of the Northern Territory in respect of whom an arrangement under section 39 is in force. The purpose of this amendment is to ensure that the Commonwealth can still make arrangements with the Northern Territory for the performance of functions under the Mutual Assistance in Criminal Matters Act by magistrates of the Northern Territory, who would be known as Judges following commencement of the *Local Court Act 2015* (NT).

Quarantine Act 1908

Item 32: Subsection 5(1) (at the end of the definition of *magistrate*)

55. This item would amend the definition of *magistrate* to include a Judge, or acting Judge, of the Northern Territory Local Court. The purpose of this amendment is to ensure that Northern Territory Local Court Judges (who were formerly known as magistrates) may continue to exercise functions under the *Quarantine Act 1908*.

Royal Commissions Act 1902

Item 33: At the end of paragraph 4(6)(a)

56. This item would exclude the Northern Territory Local Court Judges (or acting Northern Territory Local Court Judges or acting Chief Judge) from being a ‘Judge of a prescribed court’ in section 4. The purpose of this amendment is to ensure that references to ‘Judge’ in the *Royal Commissions Act 1902* do not include Northern Territory Local Court Judges.

Item 34: Application provisions

57. Sub-item (1) would apply section 16BA of the *Acts Interpretation Act 1901*, as inserted by item 6 of Schedule 1, to Acts enacted before, on or after the commencement of sub-item (1). The purpose of this item is to ensure that references to a ‘judge’ in Commonwealth Acts enacted before, on or after the commencement of section 16BA of the Acts Interpretation Act do not include a reference to a Judge, or acting Judge, of the Local Court of the Northern Territory.

58. Sub-item (2) would apply subsection 16C(3) of the Acts Interpretation Act, as inserted by item 7 of Schedule 1, to Acts enacted before, on or after the commencement of sub-item (2). The purpose of this item is to ensure that references to a ‘Stipendiary Magistrate’ or ‘Magistrate’ in Commonwealth Acts enacted before, on or after the commencement of subsection 16(3) of the Acts Interpretation Act include a reference to a Judge, or an acting Judge, of the Local Court of the Northern Territory.

Item 35: Arrangements – transitional provisions

Arrangements under the Customs Act

59. Sub-item (1) would ensure that if an arrangement, in relation to persons who hold office as Magistrates of the Northern Territory for the purposes of paragraph 11(2)(b) of the Customs Act, was in force immediately before the commencement of sub-item (1), the arrangement has effect after the commencement of sub-item (1), as if it had been entered into in relation to persons who hold office as Judges of the Local Court of the Northern Territory. The item would ensure that arrangements made in relation to persons who held office as Magistrates of the Northern Territory for the purposes of paragraph 11(2)(b) of the Customs Act, as in force immediately before the commencement of sub-item (1), will remain in effect after the change in judicial office holder title from Magistrate to Judge of the Local Court of the Northern Territory.

Arrangements under the Extradition Act

60. Sub-item (2) would ensure that if an arrangement between the Governor-General and the Chief Minister of the Australian Capital Territory was made under subsection 46(1) of the *Extradition Act 1988* (as modified by the *A.C.T. Self-Government (Consequential Provisions) Regulations*) and was in force immediately before the commencement of sub-item (2), the arrangement has effect after the commencement of this item, as if it had

been made under subsection 46(1) of the Extradition Act as amended by this Act. This item would ensure that arrangements made between the Governor-General and the Chief Minister of the Australian Capital Territory under subsection 46(1) of the Extradition Act, which were in force immediately before the commencement of sub-item (2), would remain in effect after amendments are made to subsection 46(1) of the Extradition Act by this Act.

61. Sub-item (3) would ensure that an arrangement entered into under subsection 46(1) of the Extradition Act between the Governor-General and the Administrator of Norfolk Island, that was in force immediately before the commencement of sub-item (3), would not be affected by the amendments to the Extradition Act made by Schedule 1.

62. Sub-item (4) would ensure that if an arrangement, in relation to persons who hold office as magistrates of the Northern Territory for the purposes of subsection 46(1) of the Extradition Act, was in force immediately before the commencement of sub-item (4), the arrangement has effect after the commencement of sub-item (4), as if it had been entered into in relation to persons who hold office as Judges of the Local Court of the Northern Territory. The item would ensure that arrangements made in relation to persons who held office as magistrates of the Northern Territory for the purposes of subsection 46(1) of the Extradition Act, as in force immediately before the commencement of sub-item (4), will remain in effect after the change in judicial office holder title from Magistrate to Judge of the Local Court of the Northern Territory.

Arrangements under the International War Crimes Tribunal Act

63. Sub-item (5) would ensure that if an arrangement, in relation to persons who hold office as magistrates of the Northern Territory for the purposes of section 82 of the *International War Crimes Tribunals Act 1995*, was in force immediately before the commencement of sub-item (5), the arrangement has effect after the commencement of sub-item (5), as if it had been entered into in relation to persons who hold office as Judges of the Local Court of the Northern Territory. The item would ensure that arrangements made in relation to persons who held office as magistrates of the Northern Territory for the purposes of section 82 of the *International War Crimes Tribunals Act*, as in force immediately before the commencement of sub-item (5), will remain in effect after the change in judicial office holder title from Magistrate to Judge of the Local Court of the Northern Territory.

Arrangements under the Mutual Assistance in Criminal Matters Act

64. Sub-item (6) would ensure that if an arrangement, in relation to persons who hold office as Magistrates of the Northern Territory for the purposes of subsection 39(1) of the *Mutual Assistance in Criminal Matters Act*, was in force immediately before the commencement of sub-item (6), the arrangement has effect after the commencement of sub-item (6), as if it had been entered into in relation to persons who hold office as Judges of the Local Court of the Northern Territory. The item would ensure that arrangements made in relation to persons who held office as Magistrates of the Northern Territory for the purposes of subsection 39(1) of the *Mutual Assistance in Criminal Matters Act*, as in force immediately before the commencement of sub-item (6), will remain in effect after the change in judicial office holder title from Magistrate to Judge of the Local Court of the Northern Territory.

Other arrangements in which the Commonwealth is a party

65. Sub-item (7) would ensure that any other arrangement which was in force immediately before the commencement of sub-item (7) and which was made in relation to persons who held office as magistrates of the Northern Territory and to which the Commonwealth is a party will have effect after the commencement of sub-item (7) as if the

arrangement had been made in relation to persons who hold office as Judges of the Local Court of the Northern Territory.

PART 2— OTHER AMENDMENTS

Extradition Act 1988

Item 36: Section 5 (definition of *magistrate*)

66. This item would repeal the definition of *magistrate* that was implemented by item 19 and insert a new definition. The new definition would continue to include a Judge, or acting Judge, of the Northern Territory Local Court, within the definition of *magistrate*, for the purposes of ensuring that Northern Territory Local Court Judges can continue to exercise functions under that Act. The new definition would also remove references to Norfolk Island which would no longer be required following the commencement of Part 1 of Schedule 2 to the *Norfolk Island Legislation Amendment Act 2015*, which is scheduled to commence on 1 July 2016.

Item 37: Paragraph 46(1)(b)

67. This item would repeal and remake subparagraph 46(1)(b) which provides for arrangements to be made with the states and territories to enable magistrates to perform particular functions. This amendment would also remove references to Norfolk Island which would no longer be required following the commencement of Part 1 of Schedule 2 to the *Norfolk Island Legislation Amendment Act 2015*, which is scheduled to commence on 1 July 2016.

Item 38: Transitional provision

68. This item would ensure that an arrangement entered into under subsection 46(1) of the *Extradition Act 1988* that was in force immediately before the commencement of item 37 is not affected by the amendments to the Extradition Act made by item 37.