

2003

LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

GOVERNMENT AMENDMENTS
BUSHFIRE INQUIRY (PROTECTION OF STATEMENTS) BILL 2003

EXPLANATORY STATEMENT

Circulated by authority of the
Attorney General
Mr Jon Stanhope MLA

GOVERNMENT AMENDMENTS BUSHFIRE INQUIRY (PROTECTION OF STATEMENTS) BILL 2003

Outline

The Government Amendments to the *Bushfire Inquiry (Protection of Statements) Bill 2003* ("the Bill") provide for defences to an action for defamation in relation to the Inquiry into the Operational Response to the January 2003 Bushfires ("the Inquiry").

Clause Notes

Amendment 1 – Commencement – opposes clause 2 of the Bill and provides that the Act will be taken to have commenced on 22 February 2003 (the date submissions were called in respect of the Inquiry). This will ensure that all submissions made to the Inquiry will attract the protections in these Amendments.

Amendment 2 – Protection of statements to the inquiry – Omits clause 4 (1) of the Bill and replaces it with sub-clauses 4 (1) and (1A).

These sub-clauses provide for two defences to an action for defamation in relation to the making of statements and giving of documents to the Inquiry, and the publication of the report of the Inquiry.

Firstly, where a matter is published to a person conducting or assisting in the conduct of the Inquiry, a defence to an action for defamation will be made out if it can be proved that the publication was made to that person. This is a broad defence, extending to material factually incorrect and/or motivated by malice.

Because this provision is broad, it has been cast only to apply in relation to a publication to the Inquiry. It does not apply to the publication of the same material to a third party.

Secondly, a defence to an action for defamation will be made out where a publication is a report of the Inquiry presented to the Legislative Assembly, a fair copy of such a report, a fair summary of such a report, or a fair extract from such a report. This defence is designed to ensure that the final report of the Inquiry may be discussed freely and evaluated critically.

Amendment 3 – Protection of statements to the inquiry – Replaces the term "person" with "defendant" in keeping with the defences established by Amendment 2.

Amendment 4 – Proposed new definition - Provides for a definition of the term "defamation" (to include both libel and slander) as used in Amendment 2.

Amendment 5 – Proposed new definition - Provides for a definition of the term "published matter" as used in Amendment 2 (see also s 56 *Civil Law (Wrongs) Act 2002*).