

2003

**THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN
CAPITAL TERRITORY**

INQUIRIES AMENDMENT BILL 2003

EXPLANATORY STATEMENT

Circulated by the authority of Jon Stanhope MLA
Chief Minister

Inquiries Amendment Bill 2003

Outline

The *Inquiries Act 1991* (the Act) provides a mechanism for the Executive to establish a Board of Inquiry to conduct an independent inquiry into an issue of significant public importance.

The most recent inquiry established under the Act was the inquiry into Disability Services provided within the Australian Capital Territory. Following the presentation of the Report entitled *Board of Inquiry into Disability Services* prepared by The Honourable Mr John Gallop AM, and the subsequent matters heard in the ACT Supreme Court, a review of the Act was requested by the Government. That review recommended amendments to the Act, which are incorporated in the *Inquiries Amendment Bill 2003*.

Financial Implications

There are no financial implications arising from the Bill.

Detail of Clauses

Name of the Act

Clause 1 names the Act the *Inquiries Amendment Act 2003*.

Commencement

Clause 2 sets the Act's commencement as the day after its notification day.

Act Amended

Clause 3 identifies the Act being amended as the *Inquiries Act 1991*.

Section 14A

Clause 4 substitutes a new section 14A.

Subsection 14A(1) provides that the Chief Minister may present a copy of a board of inquiry report to the Legislative Assembly.

Subsection 14A(2) provides that the Chief Minister may make all or part of a board of inquiry report public, whether or not the Legislative Assembly is sitting and whether or not the report has been presented to the Assembly.

Subsection 14A(3) provides that the Chief Minister is not civilly or criminally liable in relation to the publication of a report, or part of a report.

Section 18

Clause 5 substitutes a new section 18.

Section 18 requires a board of inquiry to comply with the rules of natural justice, specifies that other rules of evidence do not bind the board of inquiry, and, permits the board of inquiry to do whatever it considers necessary or convenient for the fair and prompt conduct of the inquiry.

Section 26A

Clause 6 inserts new section 26A.

Subsection 26A(1) provides that a board of inquiry must not include an adverse comment in its report in relation to an identifiable person or agency, unless the board of inquiry has given the person or agency a copy of the proposed comment, with a written notice.

Subsection 26A(2) provides that the written notice must tell the person or agency that a submission or a written statement in relation to the proposed adverse comment may be made to the board of inquiry, that the submission or statement, or a fair summary, will be included in the board of inquiry's report, and, that the written notice must specify the period within which the submission or statement may be made.

Subsection 26A(3) provides that the period within which a submission or a written statement may be made must not be less than 14 days after the day on which the notice is given.

Subsection 26A(4) provides that a copy of the submission or written statement made by the person or agency, about whom an adverse comment is proposed, made within the time allowed, must be included in the board of inquiry's report.

Subsection 26A(5) provides that the board of inquiry may include a fair summary of the submission or statement in its report, if it is satisfied on reasonable grounds that the submission or statement is excessively long, or contains defamatory or offensive language.

Section 38

Clause 7 substitutes a new section 38.

Subsection 38(1) provides that proceedings of a board of inquiry are to be taken to be proceedings of public concern under section 60 of the *Civil Law (Wrongs) Act 2002*.

Subsection 38(2) provides that subsection 38(1) does not apply to the publication of a report of the proceedings, or part of the proceedings, if the board of inquiry has issued a direction under subsection 21(3) of the *Inquiries Act 1991*, restricting publication of a report of the proceedings or part of the proceedings.

Subsection 38(3) provides that a report of a board of inquiry made public by the Chief Minister is taken to be a public document under section 61 of the *Civil Law (Wrongs) Act 2002*.

Subsection 38(4) provides that a person is not civilly liable for a comment made honestly in relation to a board of inquiry report.