

**2003**

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

**ROYAL COMMISSIONS AMENDMENT BILL 2003**

**EXPLANATORY STATEMENT**

Circulated by the authority of Jon Stanhope MLA  
Chief Minister

## **Royal Commissions Amendment Bill 2003**

### **Outline**

The *Royal Commissions Act 1991* provides a mechanism for the Executive to establish a Royal Commission to conduct an independent inquiry into an issue of significant public importance.

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 *Inquiries Act 1991* was requested by the Government. That review recommended amendments to the Inquiries Act. Because of the similarity between the Inquiries Act and the Royal Commissions Act, the same recommendations were made in relation to the *Royal Commissions Act 1991*. The recommendations are incorporated in the *Royal Commissions 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 *Royal Commissions 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 *Royal Commissions Act 1991*.

#### **Section 16**

Clause 4 substitutes a new section 16.

Subsection 16(1) provides that the Chief Minister may present a copy of a commission report to the Legislative Assembly.

Subsection 16(2) provides that the Chief Minister may make all or part of a commission report public, whether or not the Legislative Assembly is sitting and whether or not the report has been presented to the Assembly.

Subsection 16(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 23**

Clause 5 substitutes a new section 23.

Section 23 requires a commission to comply with the rules of natural justice, specifies that other rules of evidence do not bind the commission, and, permits the commission to do whatever it considers necessary or convenient for the fair and prompt conduct of the inquiry.

#### **Section 35A**

Clause 6 inserts new section 35A.

Subsection 35A(1) provides that a commission must not include an adverse comment in its report in relation to an identifiable person or agency, unless the commission has given the person or agency a copy of the proposed comment, with a written notice.

Subsection 35A(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 commission, that the submission or statement, or a fair summary, will be included in the commission's report, and, that the written notice must specify the period within which the submission or statement may be made.

Subsection 35A(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 35A(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 commission's report.

Subsection 35A(5) provides that the commission 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 49**

Clause 7 substitutes a new section 49.

Subsection 49(1) provides that proceedings of a commission are to be taken to be proceedings of public concern under section 60 of the *Civil Law (Wrongs) Act 2002*.

Subsection 49(2) provides that subsection 49(1) does not apply to the publication of a report of the proceedings, or part of the proceedings, if the commission has issued a direction under subsection 28(3) of the *Royal Commissions Act 1991*, restricting publication of a report of the proceedings or part of the proceedings.

Subsection 49(3) provides that a report of a commission made public by the Chief Minister is taken to be a public document under section 61 of the *Civil Law (Wrongs) Act 2002*.

Subsection 49(4) provides that a person is not civilly liable for a comment made honestly in relation to a commission report.