

2014

**LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

CRIMES AMENDMENT BILL 2014

EXPLANATORY STATEMENT

Presented by
Simon Corbell MLA
Attorney-General

Crimes Amendment Bill 2014

Outline

Purpose of the Bill

The Crimes Amendment Bill 2014 provides an amendment to support the Supreme Court's power to consider inquiry reports under the Crimes Act 1900.

In summary the Bill will:

- Repeal section 431 of the *Crimes Act 1900*; and
- Introduce a transitional provision which will ensure that the repeal of section 431 applies to the Supreme Court's consideration of reports already delivered by an inquiry board at the time this Bill is introduced.

Human Rights Considerations

The Crimes Amendment Bill 2014 engages the right to a fair trial and/or rights under criminal proceedings (sections 21 and 22) the ACT's *Human Rights Act 2004* (the Human Rights Act)

The repeal of section 431 supports the right to a fair trial and/or rights in criminal proceedings by clarifying that, in considering a report of an inquiry board and making an order in relation to a conviction, the Court is able to consider matters, take evidence and hear submissions in accordance with its usual practice.

Crimes Legislation Amendment Bill 2014

Detail

Clause 1 — Name of Act

This is a technical clause that names the short title of the Act. The name of the Act would be the Crimes Amendment Act 2014.

Clause 2— Commencement

This clause commences the Act on the day the bill for the Act is presented to the Legislative Assembly.

Clause 3— Legislation amended

This clause identifies the legislation amended by the Act.

Clause 4 – Repeal, section 431

This clause repeals section 431. Section 431 provides that consideration of “whether to make an order” in relation to a report of a board of inquiry is not a judicial proceeding and places some limitations on the Court considering matters, taking evidence and hearing submissions in considering whether to make an order about an inquiry report. Section 429 allows the Court to make an order in relation to publication of the report. Section 430 requires that Court to make an order in relation to the conviction to which the report relates. This repeal eliminates any confusion in the legislation about the scope or application of those limitations and removes statements about the nature of the Court’s function in making a decision about a report.

Clause 5 – New section 620

Section 620 is a transitional provision that clarifies the application of the repeal of section 431 to proceedings that commenced immediately before the repeal. Under section 620, the repeal of section 431 will apply to a report of a board of inquiry if, immediately before the commencement of the Bill, the Full Court had considered, or had started considering a report, whether or not it had made an order under section 430 (2).