

THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL
TERRITORY

OCCUPATIONAL HEALTH AND SAFETY (AMENDMENT) BILL 1999

EXPLANATORY MEMORANDUM

Circulated by authority of

Wayne Berry MLA

OCCUPATIONAL HEALTH AND SAFETY (AMENDMENT) BILL 1999

BACKGROUND

Current arrangements

Section 31 of the *Magistrates Court Act 1930* requires that prosecutions under the Act must be commenced within one year after the commission of an offence. This provision is relevant to all acts unless there is a specific provision in another act. The *Occupational Health and Safety Act 1989* has no specific provision and is therefore bound by the one year limitation.

However, with long and detailed coronial inquests or inquiries the situation may arise that the inquiry or inquest may take longer than one year. In these circumstances the ability to prosecute will lapse before the coronial findings are handed down or the inquest or inquiry is concluded.

The Bill

The purpose of the Occupational Health and Safety (Amendment) Bill 1999 is to put in place a provision which allows a prosecution to be commenced in the Magistrates Court within one year after the day on which a Coronial Report is made or a coronial inquest or inquiry is concluded.

OCCUPATIONAL HEALTH AND SAFETY (AMENDMENT) BILL 1999

Clauses 1, 2 and 3 are formal requirements. Clause 1 refers to the short title of the Bill; clause 2 sets out the commencement arrangements; and clause 3 identifies the title of the act being amended.

Clause 4 - Insertion.

Clause 4 inserts a new section 35A in Part III.

This allows a prosecution to be commenced in the Magistrates Court within 1 year after the day on which the report of a coronial inquest or inquiry was made or the inquest or inquiry was concluded. This provision applies in respect of a Coroner's inquest or inquiry where it appears from the Coroner's report or from proceedings at the inquest or inquiry that an offence has been committed against Part III of the *Occupational Health and Safety Act 1989*.