

1999

THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL
TERRITORY

MAGISTRATES COURT (AMENDMENT) BILL (NO 2) 1999

EXPLANATORY MEMORANDUM

Circulated by authority of

Gary Humphries MLA
Attorney-General
Minister for Justice and Community Safety

Outline

These are provisions to amend the *Magistrates Court Act 1930* (the Principal Act). The Principal Act contains provisions relating to the limitation period for prosecutions for certain offences. The limitation period varies depending on the particular penalty prescribed for the offence.

Under the Principal Act, a prosecution for an offence with a pecuniary penalty or, for a first conviction, a penalty of less than six months imprisonment, must commence within twelve months of the date of the commission of the offence, unless another Act makes specific provision for a longer period in which to commence a prosecution. Where there is no term of imprisonment and only a pecuniary penalty the limitation period is also one year. For offences where the penalty for an offence exceeds six months imprisonment, there is no limitation period.

Clause 4 of the Bill amends section 31 of the Principal Act by providing that where an offence has been committed and a Coronial inquest or inquiry, an inquiry under the *Inquiries Act 1991* or a royal commission, is held into a matter related to that offence, a prosecution may be commenced within one year after the day the Coroner's report is made or the report of the board of inquiry or royal commission is provided to the Chief Minister.

Notes on Clauses

Clauses 1 and 2 - short title and commencement

Clauses 1 and 2 are formal clauses dealing with the title of the Bill, once enacted, and the commencement arrangements. The substantive provisions of the Bill will take effect on the day the Bill is notified in the *Gazette*.

Clause 3 - Principal Act

This clause explains that the Act referred to by the use of the term "Principal Act" within the Bill is the *Magistrates Court Act 1930*.

Clause 4 - Limitation of proceedings

Clause 4 amends section 31 of the Principal Act by:

- (a) amending section 31(1) to make it clear that the general limitation period in subsection 31(1) does not apply in the circumstances outlined in new subsection 31(1A); and
- (b) inserting an additional subsection which extends the limitation period for offences in certain circumstances. Where an offence relates to a matter that is the subject of a coronial inquest or inquiry, an inquiry under the *Inquiries Act 1991* or a royal commission, the time for the commencement of a prosecution for that offence is extended to any time within one year after the day the coroner's report is made or the board of inquiry or royal commission report is provided to the Chief Minister. This applies to all offences where there is a maximum term of imprisonment of six months (for a first

conviction) or where there is no term of imprisonment, a pecuniary penalty only.

The amendment will enable additional time for the commencement of a prosecution for offences which:

- (a) may not have been commenced due to concerns that to prosecute would impede a coronial inquiry, royal commission or board of inquiry;
- (b) may have only be revealed during the course of such an inquiry; or
- (c) may have only been revealed after further investigation by law enforcement agencies as a result of a royal commission, coronial inquest or board of inquiry.