

1994

AUSTRALIAN CAPITAL TERRITORY LEGISLATIVE ASSEMBLY

DISCRIMINATION (AMENDMENT) BILL (NO. 3) 1994

EXPLANATORY MEMORANDUM

**Circulated by authority of
Terry Connolly MLA
Attorney-General**

DISCRIMINATION (AMENDMENT) BILL (NO. 3) 1994**OUTLINE**

The *Discrimination Act 1991* (the Act) makes discrimination on a number of grounds unlawful. Part VIII of the Act sets up a process by which complaints can be lodged with the ACT Discrimination Commissioner for investigation and conciliation. If a complaint cannot be resolved in this way, the Discrimination Commissioner may hold hearings to inquire into the matter and may make directions. There are appeal rights from the decisions of the Commissioner to the Administrative Appeals Tribunal.

The object of this Bill is to amend the *Discrimination Act 1991* to prevent disclosure of matters raised in conciliation in subsequent proceedings under the Act. This includes review of the Discrimination Commissioner's decisions by the Administrative Appeals Tribunal as provided by section 94 of the *Discrimination Act 1991*.

Clause 1: Short title

The legislation may be referred to as the *Discrimination (Amendment) (No. 3) Act 1994*.

Clause 2: Commencement

The Act will commence on the day on which it is notified in the Gazette.

Clause 3: Principal Act

The "Principal Act" means the *Discrimination Act 1991*.

Clause 4: Conciliation

Section 80 of the *Discrimination Act 1991* provides that the Discrimination Commissioner shall endeavour to resolve complaints through conciliation.

Proposed sub-section 80(2) adds that anything said or done during conciliation, such as at conciliation meetings or conferences, is not to be admitted as evidence in later proceedings. This means that parties could not attempt to use conciliation discussions as evidence at a subsequent discrimination hearing should conciliation fail.

Section 94 of the *Discrimination Act 1991* provides for the review of decisions of the Commissioner by the Administrative Appeals Tribunal. Paragraph 80(2)(b) ensures that anything said or done in conciliation is not admissible as evidence in these proceedings.