

CRIMINAL JUSTICE LEGISLATION AMENDMENT BILL 1996

EXPLANATORY NOTES

GENERAL OUTLINE

Objectives of the Legislation

The objectives of the Bill are:

- To ensure that Commissions of Inquiry established under the *Commissions of Inquiry Act 1950* have access to information and documents held by the Criminal Justice Commission and by its officers; and
- To provide that the Criminal Justice Commission and its officers are compellable to give evidence to such a Commission of Inquiry.

Reasons for the objectives and how they will be achieved

The Government received advice from the Solicitor-General to the effect that, in setting up a Commission of Inquiry under the *Commissions of Inquiry Act 1950*, specific legislation would be necessary to ensure that such a Commission of Inquiry would possess the power to obtain information held by the Criminal Justice Commission and to compel the Criminal Justice Commission and its officers to give evidence to the Commission of Inquiry.

This legislation implements the recommendations proposed by the Solicitor-General in this context and by senior counsel appointed to assist the Commission of Inquiry into the Criminal Justice Commission.

Administrative cost to Government of implementation

In themselves, these amendments do not represent any specific expenditure on the part of Government. They are merely designed to facilitate the appearance of the Criminal Justice Commission and its officers before a Commission of Inquiry held under the provisions of the *Commissions of Inquiry Act 1950*.

Fundamental legislative principles

The Bill is consistent with fundamental legislative principles.

Consultation

As indicated above, these amendments are based upon specific advice received from the Solicitor-General and from senior counsel appointed to assist the Commission of Inquiry into the Criminal Justice Commission.

NOTES ON PROVISIONS

Clause 1 sets out the short title of the Bill.

Clause 2 provides for the amendment of the *Criminal Justice Act 1989* by Part 2 of this Bill.

Clause 3 inserts new ss.132A and 132B into the *Criminal Justice Act 1989*.

Section 132A is designed to ensure that the Criminal Justice Commission itself and all present and former commissioners, staff and other persons engaged by the Commission are amenable to summonses issued, and requirements made, under s.5 of the *Commissions of Inquiry Act 1950*, thus confirming they are compellable to give evidence to a Commission of Inquiry. Further, this provision allows information to be given in such evidence, the disclosure of which would otherwise not be permitted under the *Criminal Justice Act 1989* or would be in breach of it.

Section 132B absolves persons of liability for assisting the Commission of Inquiry into the CJC and, further, imposes certain confidentiality requirements on the Commission of Inquiry.

Clause 4 provides for the amendment of the *Commissions of Inquiry Act 1950* by Part 3 of this Bill.

Clause 5 amends s.5 of the *Commissions of Inquiry Act 1950* to facilitate the provision of information to the Commission of Inquiry, particularly outside the hearings of the Commission.