

PARLIAMENT OF QUEENSLAND AMENDMENT BILL 2003

EXPLANATORY NOTES

Title of the Bill

Parliament of Queensland Amendment Bill 2003

Policy Objective of the Bill

The objective of the Parliament of Queensland Amendment Bill 2003 is to provide absolute protection within Queensland to all authorised broadcasters of parliamentary proceedings on the Internet from criminal or civil liability.

Reasons for the Policy Objective of the Legislation

The Queensland Government has committed to broadcasting parliamentary proceedings on the Internet as one of the Government's e-democracy initiatives. The initiative will feature a live audio broadcast of parliamentary sittings, with text captioning to identify speakers and the stage of proceedings, where possible.

To facilitate the broadcast of parliamentary proceedings, the Bill extends the existing protection provided by the *Parliament of Queensland Act 2001* to the authorised publishers of parliamentary papers to provide absolute protection to all authorised broadcasters of parliamentary proceedings within Queensland. This means that authorised broadcasters such as the Speaker, Parliamentary Service staff, and Internet service providers engaged by the Speaker or the Clerk will not be liable to criminal or civil action in performing their legitimate functions of broadcasting parliamentary proceedings on the Internet.

Achieving the Policy Objective of the Legislation

The Bill has been prepared to amend Chapter 3 Part 3 of the *Parliament of Queensland Act 2001*. These amendments will provide for:

- (a) any entity authorised by the Legislative Assembly to publish the proceedings of the Assembly or its Committees will not incur any civil or criminal liability for the transmission or broadcasting of such proceedings of the Assembly; and
- (b) a process for external entities to broadcast parliamentary proceedings and for certification of such authorisation.

The Bill achieves this objective by adopting definitions of the terms ‘parliamentary record’ and ‘publication’ that are media and technology neutral. That is, whether a thing is a parliamentary record depends on whether it is a record of or relating to the proceedings in the Assembly, irrespective of the form that the record might take. Further, publication may take any form and is sufficiently broad to cover the live audio broadcast of parliamentary proceedings that is contemplated.

Administrative Cost

The only costs that the Bill will generate are the costs associated with its preparation and passage.

Consistency with Fundamental Legislative Principles

The Bill is consistent with the fundamental legislative principles.

Consultation

The Parliamentary Service and the Crown Solicitor were consulted on the Bill.

NOTES ON CLAUSES

PART 1—PRELIMINARY

Clause 1 sets out the short title of the Act.

PART 2—AMENDMENT OF PARLIAMENT OF QUEENSLAND ACT 2001

Clause 2 provides that part 2 of the Act amends the *Parliament of Queensland Act 2001*.

Clause 3 amends the heading of chapter 3, part 3 to reflect the newly defined broader term (in the new section 49) of parliamentary record.

Clause 4 replaces sections 48 to 51.

The broader scope of part 3 of the Act that will facilitate the live audio broadcast of parliamentary proceedings on the Internet is achieved through the inclusion of the new terms ‘parliamentary record’, ‘publication’ and ‘broadcast’. These terms are defined broadly to ensure that the protections afforded by part 3 of the Act are not restricted by the medium in which a parliamentary record is created or the means by which a parliamentary record might be published.

The terms ‘publication’ and ‘broadcast’ are defined in the new section 48.

The new section 49 provides that a ‘parliamentary record’ may be in any form, that it may be permanent or otherwise and that it may be made at the same time as the proceedings to which it relates or otherwise. The definition is specifically intended to include records of proceedings broadcast or published on the Internet, for example:

- a live audio broadcast that may endure for the length of the broadcast and then cease to exist; and
- the electronic version of the Hansard transcript.

The new sections 50(1),(2) and (4) include provisions to mirror the previous section 49 with the inclusion of an updated reference to ‘parliamentary records’ as defined in the new section 49. The new section 50(3) extends the authorisation to publish to include all acts preparatory to, or otherwise for the purposes of publication.

Clause 4 also inserts a new section 50(5) which updates the old section 50 by deeming that if the Assembly or a Committee authorise publication of a thing without mentioning who may publish the thing, then the government printer is taken to have been authorised to publish the thing.

The new section 50(6) provides that any documents authorised to be ‘printed’ by the Assembly are also taken to have been authorised to be

‘published’ and that publication of a document other than in printed form is deemed to be sufficient for compliance with any requirement that the document be printed.

Clause 4 also replaces section 51. Section 51 deems that the Assembly has authorised the publication of certain classes of parliamentary records, provided the publication:

- occurs with the authority of an authorising person (defined in section 48 as the Speaker, the chairperson of a committee, the Clerk or the chief reporter of the parliamentary reporting staff); and
- is by an authorised publisher.

The new section 51(4) uses the term ‘authorised parliamentary record’ to specify the records that are covered by this deeming provision. This is the same list of records that was defined in the previous section 51(4) under the term ‘parliamentary document’, with the addition of ‘an audio or visual record of proceedings in the Assembly’. The new section 51(4) also defines the term ‘authorised publisher’ of a parliamentary record which replicates the list of persons previously authorised to publish parliamentary documents under section 51, with the addition of an engaged entity.

By extending the definition of ‘authorised publisher’ to include an engaged entity, section 51 allows the Speaker or the Clerk or chairperson of a committee to engage an external entity for the purpose of publishing particular parliamentary records. The definition includes employees, contractors or agents of the entity and may extend to subcontractors provided the written approval of the engaging party (the Speaker, Clerk or chairperson of a committee) is obtained.

Clause 5 amends section 52(1) to insert the term ‘published’ in place of the term ‘printed’ in line with the new definition of ‘publication’ in the new section 48 (see clause 4) and omits the words ‘ordered or otherwise’ which are no longer necessary.

Clause 6 amends section 53 to insert the term ‘published’ in place of the term ‘printed’ in line with the new definition of ‘publication’ in the new section 48 (see clause 4).

Clause 7 amends section 54 to omit the words ‘orders or otherwise’ which are no longer necessary and to insert the term ‘published’ in place of the term ‘printed’ in line with the new definition of ‘publication’ in the new section 48 (see clause 4).

Clause 8 amends section 55(2) to update the matters that may be evidenced by a certificate signed by an authorising person to reflect the changes made by the Bill to chapter 3, part 3 of the *Parliament of Queensland Act 2001*.

Clause 9 amends section 56(1) to extend the protection from criminal or civil liability to the publication of a 'parliamentary record', as defined in the new section 49 (see clause 4), under the authority of the Assembly.

Clause 10 amends section 57 to prescribe that only the authorised reports of the Assembly in printed form (as opposed to any other form) are to be received in evidence as the true and correct record of what happened in the Assembly.

Clause 11 amends section 58. In addition it is relocated and renumbered, in chapter 9, as section 161.

Clause 12 inserts a new section 58 which allows the Assembly, at any time, to impose conditions on the publication of a parliamentary record irrespective of whether the parliamentary record has been previously published or whether the Assembly authorises or has authorised the publication. For example, the Assembly can impose conditions on the further publication of an audio stream of the proceedings in Parliament broadcast on the Internet by any person who accesses the broadcast. These conditions can provide that the audio stream material can not be used for the purposes of, say, commercial advertising. In addition, it prescribes that any contravention of a condition imposed is a contempt of the Assembly.

Clause 13 amends section 59 to insert the term 'published' in place of the term 'printed' in line with the new definition of 'publication' in the new section 48 (see clause 4).

Clause 14 amends the heading of Chapter 9.

Clause 15 inserts Chapter 10, 'Further Transitional Provisions', that contains a new section 162.

Clause 16 amends the Dictionary of terms contained in the schedule to the Act to include signposts to the new definitions of 'broadcast', 'parliamentary record' and 'publication' inserted into the new sections 48 and 49 by clause 4. Clause 13 also amends the definition of 'government printer'.

PART 3—CONSEQUENTIAL AMENDMENTS

Clause 17 includes a Schedule to the Act to make consequential amendments to other legislation to generally replace references to the Legislative Assembly ordering the ‘printing’ of documents to references to the Assembly ordering documents to be ‘published’.