

2024

**THE LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

**LEGISLATIVE ASSEMBLY LEGISLATION AMENDMENT BILL 2024—EXPOSURE
DRAFT**

EXPLANATORY STATEMENT

Presented by

**Joy Burch MLA
Speaker of the Legislative
Assembly for the ACT**

Legislative Assembly Legislation Amendment Bill 2024

This explanatory statement relates to the exposure draft of the Legislative Assembly Legislation Amendment Bill 2024.

It has been prepared to assist the reader of the Bill to understand the policy rationale and the scope of the amendments and to help inform debate. It does not form part of the Bill and has not been endorsed by the Legislative Assembly.

The Statement must be read in conjunction with the Bill. It is not, and is not meant to be, a comprehensive description of the Bill. What is said about a provision is not to be taken as an authoritative guide to the meaning of a provision, this being a task for the courts.

Background

With the passage of the Legislative Assembly (Office of the Legislative Assembly) Bill in 2012, for the first time, the agency responsible for providing administrative support and advice on the practice and procedure of the Assembly was given a firm statutory basis for its functions and express independence from the Executive and ministers.

Upon enactment of the Bill, other ACT legislation was also amended to fortify the independence of the Office.

These legislative arrangements have, for the most part, operated effectively in the intervening period. However, there remain a number of legislative provisions that either in appearance or substance have the potential to affect the independence exercise of the Office's statutory functions.

This exposure draft bill seeks to address several of these matters.

Human rights

No human rights issues are identified as being engaged by the provisions in this exposure draft bill.

CLAUSE NOTES

Part 1 Preliminary

Clause 1 Name of Act

This Act is the *Legislative Assembly Legislation Amendment Act 2024*.

Clause 2 Commencement

The Act commences on the 7th day after its notification day.

Clause 3 Legislation Amended

The Act amends the following legislation:

- *Legislative Assembly (Members' Staff) Act 1989*
- *Legislative Assembly (Office of the Legislative Assembly) Act 2012*
- *Legislative Assembly Precincts Act 2001*
- *Public Sector Management Act 1994*.

Part 2 *Legislative Assembly (Members' Staff) Act 1989*

Clause 4 Regulation-making power New section 23(2)

Provides that the Executive is required to consult with the Speaker before making a regulation under the Act.

Part 3 *Legislative Assembly (Office of the Legislative Assembly) Act 2012*

Clause 5 Independence of the Office New section 8 (2) to (4)

Section 5(2) provides that neither the Clerk, nor staff of the Office, are subject to direction by the Speaker in relation to advice sought from, or given by, the Clerk or Office staff in relation to the Assembly, its committees, or its members.

Section 5(3) provides that the Office is not required to comply with a whole-of-government strategy if the Clerk considers that it would prejudice the exercise of the Office's functions.

Section 5(4) provides that **whole-of-government strategy** is defined in the *Public Sector Management Act 1994*

Clause 6 **New section 8A**

Section 8A provides that the Clerk is not required to comply with the *Annual Reports (Government Agencies) Act 2004* to the extent that the Clerk considers that compliance would prejudice the exercise of the Office's functions.

Part 4 ***Legislative Assembly Precincts Act 2001***

Clause 7 **Regulation-making power**
New section 12(2)

Section 12(2) provides that the Executive must consult with the Speaker before making a regulation under the Act.

Part 5 ***Public Sector Management Act 1994***

Clause 8 **Functions of commissioner**
Section 144(1) (a) (ii)

Provides that it is a function of the Commissioner to conduct investigations under an industrial agreement authorising the Commissioner to conduct the investigation or in accordance with subsection (2).

Clause 9 **New section 144 (1A)**

Provides that if the Commissioner investigates a matter that has been declared by the Chief Minister—

- the Commissioner has discretion to decide how the investigation is conducted;
- a reference to the Commissioner at s 144(1)(b) is taken to be a reference to the Speaker; and
- the Commissioner may delegate such an investigation but only with the agreement of the Speaker.

Clause 10 **Dictionary, note 2**

Inserts at note 2 of the Act's dictionary:

- Office of the Legislative Assembly; and
- Speaker