

Serial 151
Inquiries Amendment Bill 2016
Mr Giles

A Bill for an Act to amend the *Inquiries Act*

NORTHERN TERRITORY OF AUSTRALIA

INQUIRIES AMENDMENT ACT 2016

Act No. [] of 2016

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NORTHERN TERRITORY OF AUSTRALIA

Act No. [] of 2016

An Act to amend the *Inquiries Act*

[Assented to [] 2016]
[Second reading [] 2016]

The Legislative Assembly of the Northern Territory enacts as follows:

1 Short title

This Act may be cited as the *Inquiries Amendment Act 2016*.

2 Commencement

This Act commences on the day fixed by the Administrator by *Gazette* notice.

3 Act amended

This Act amends the *Inquiries Act*.

4 Section 3 amended

(1) Section 3

omit

, unless the contrary intention appears

(2) Section 3

insert (in alphabetical order)

acting in an official capacity, in relation to a Board member, Commissioner or authorised person, means the Board member, Commissioner or authorised person is exercising powers or performing functions under, or otherwise related to the administration of, this Act.

authorised person means a person authorised by the Chairperson of the Board or Commissioner under section 6A.

(3) Section 3, at the end

insert

Note for section 3

The Interpretation Act contains definitions and other provisions that may be relevant to this Act.

5 Section 3A inserted

After section 3

insert

3A Application of Criminal Code

Part IIAA of the Criminal Code applies to an offence against this Act.

Note for section 3A

Part IIAA of the Criminal Code states the general principles of criminal responsibility, establishes general defences, and deals with burden of proof. It also defines, or elaborates on, certain concepts commonly used in the creation of offences.

6 Section 6A inserted

After section 6

insert

6A Authorised persons

- (1) A Commissioner, or a Board, appointed to inquire into and report on a matter, may authorise a person or persons (the **authorised person**) to exercise powers and perform functions for the inquiry.

-
- (2) The authorised person may exercise the powers and perform the functions specified in the instrument of authorisation.

7 Section 8 replaced

Section 8

repeal, insert

8 Powers of entry, inspection and seizure

A Board member, Commissioner or authorised person (if appropriately authorised), for the purposes of the inquiry in respect of which the Board or Commissioner is appointed, may, without a warrant:

- (a) enter and search a building or a place; and
- (b) inspect and make extracts from, or copies of, books, documents or papers; and
- (c) seize any item, book, document or paper that they reasonably believe to be related to the inquiry.

8A Obstruction of Board member, Commissioner or authorised person

- (1) A person commits an offence if:
- (a) the person intentionally obstructs another person; and
 - (b) the other person is a Board member, Commissioner or authorised person; and
 - (c) the person knows the Board member, Commissioner or authorised person is acting in an official capacity.

Maximum penalty: 100 penalty units.

- (2) Strict liability applies to subsection (1)(b).

(3) In this section:

obstruct, includes hinder and resist.

8 Sections 11 and 12 replaced

Sections 11 and 12

repeal, insert

11 Contempt

(1) A person commits an offence if:

- (a) the person intentionally engages in conduct; and
- (b) the person is reckless as to the conduct constituting contempt of a Board or Commissioner.

Maximum penalty: 100 penalty units.

(2) It is a defence to a prosecution for an offence against subsection (1) if the defendant has a reasonable excuse.

12 Conduct constituting contempt of the Board or Commissioner

A person's conduct constitutes **contempt** of a Board or Commissioner if the person:

- (a) was served with a summons to attend the Board or Commissioner as a witness; and
- (b) does not do any of the following when required by the Board or Commissioner to do so:
 - (i) attend before the Board or Commissioner to give evidence;
 - (ii) take an oath;
 - (iii) answer a question;
 - (iv) produce a document or thing.

9 Section 14 replaced

Section 14

repeal, insert

14 Misleading information

(1) A person commits an offence if:

- (a) the person intentionally gives information to another person; and
- (b) the other person is a Board member, Commissioner or authorised person; and
- (c) the person knows the information is misleading; and
- (d) the person knows the Board member, Commissioner or authorised person is acting in an official capacity.

Maximum penalty: Imprisonment for 12 months.

(2) A person commits an offence if:

- (a) the person intentionally gives a document to another person; and
- (b) the other person is a Board member, Commissioner or authorised person; and
- (c) the person knows the document contains misleading information; and
- (d) the person knows the Board member, Commissioner or authorised person is acting in an official capacity.

Maximum penalty: Imprisonment for 12 months.

(3) Strict liability applies to subsections (1)(b) and (2)(b).

(4) Subsection (2) does not apply if the person, when giving the document:

- (a) draws the misleading aspect of the document to the Board member, Commissioner or authorised person's attention; and
- (b) to the extent to which the person can reasonably do so – gives the Board member, Commissioner or authorised person the information necessary to remedy the misleading aspect of the document.

-
- (5) In this section:

misleading information means information that is misleading in a material particular or because of the omission of a material particular.

14A Confidentiality of information

- (1) A person commits an offence if the person:
- (a) obtains information in the course of performing functions connected with the administration of this Act; and
 - (b) intentionally engages in conduct that results in the disclosure of the information.

Maximum penalty: 200 penalty units or imprisonment for 2 years.

- (2) Strict liability applies to subsection (1)(a).
- (3) Subsection (1) does not apply if:
- (a) the person discloses the information:
 - (i) for the administration of this Act; or
 - (ii) with the consent of the person to whom the information relates; or
 - (iii) for legal proceedings arising out of the operation of this Act; or
 - (b) the information is otherwise available to the public.

Note for subsection (3)

In addition to the circumstances mentioned in subsection (3), a person who discloses confidential information will not be criminally responsible for an offence if the disclosure is justified or excused by or under a law (see section 43BE of the Criminal Code).

10 Section 18 replaced

Section 18

repeal, insert

18 Regulations

- (1) The Administrator may make regulations under this Act.

(2) The Regulations may provide for the following:

- (a) a scale of allowances to be paid to a witness summoned under this Act;
- (b) a scale of allowances to be paid to a Board member, or a person, in exercising their functions under this Act for their travel expenses while absent from their usual place of residence.

11 Act further amended

The Schedule has effect.

12 Expiry of Act

This Act expires on the day after it commences.

Schedule Act further amended

section 11

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
section 4(2)	Chairman	Chairperson
section 4A(1)	Where shall	If must
section 4A(2)	Chairman	Chairperson
section 4A(3) and (4)	shall	must
section 4A(4)	he lay that report before	the Administrator table the report in
section 5	shall his have	has their
section 6	shall shall not be all words from "itself" to "thinks"	is to is not themselves on any matter in such manner they think
section 7	his	the person's
section 9(1)	Chairman by writing under his hand his custody he is	Chairperson in writing the person's possession the person is
section 9(2)	shall abode	must residence
section 13, heading	him	witness

section 13	shall be him	is the witness
section 15	shall have shall be subject to	has has
section 17(1)	shall lie	lies
section 17(2)	shall be deemed	is taken
