

CRIMINAL LAW AMENDMENT BILL 2014

Explanatory Notes

FOR

Amendments To Be Moved During Consideration In Detail By The Honourable Jarrod Bleijie MP

Title of the Bill

Criminal Law Amendment Bill 2014

Objective of the Amendments

Following two reviews of the Crime and Misconduct Commission (now known as the Crime and Corruption Commission – ‘CCC’), the *Crime and Misconduct and Other Legislation Amendment Act 2014* (the amendment Act) was passed by the Legislative Assembly on 6 May 2014. The amendment Act, which commenced on 1 July 2014, substantially reformed the organisational structure and complaints management process of the CCC.

One of the reforms in the amendment Act changed the requirement for the bipartisan support of the relevant parliamentary committee for the Minister’s nomination of a person for appointment as a permanent commissioner, to a right of veto by the parliamentary committee.

The Government has decided to reintroduce the requirement of bipartisan parliamentary committee support for the appointment of the chairman, deputy chairman and ordinary commissioners. The effect of the amendment will be that the parliamentary committee has the same role in the permanent appointment of the chairman, deputy chairman and ordinary commissioners as it had with the appointment of the former commissioners prior to commencement of the amendment Act. As the separate position of CEO was established by the amendment Act, there is no need to introduce a bipartisan appointment process for the chief executive officer.

Achievement of the Objective

A new Part 4A will be inserted into the Criminal Law Amendment Bill 2014 that amends the *Crime and Corruption Act 2001* (CC Act). The new part will amend

section 228 of the CC Act to remove the provisions that allow the parliamentary committee a right to veto the appointment of a person nominated by the Minister as a permanent chairman, deputy chairman or ordinary commissioner and replace them with the requirement that the Minister may only nominate a person for appointment as a CCC chairman, deputy chairman or ordinary commissioner if bipartisan support of the parliamentary committee has been obtained.

The new part will not amend the appointment process for the new separate position of chief executive officer. Therefore, the requirement of bipartisan parliamentary committee support is not required for the appointment of the chief executive officer, and the parliamentary committee's right to veto the appointment of the person nominated by the Minister as the chief executive officer will remain.

Alternative Ways of Achieving Policy Objective

There is no alternative way to achieve the objective other than by amending section 228 of the CC Act.

Estimated Cost for Government Implementation

There are no costs associated with these amendments.

Consistency with Fundamental Legislative Principles

The amendment is consistent with fundamental legislative principles. However, the amendment will take effect from 1 July 2014, which is the commencement day of the provision of the amendment Act which removed the parliamentary committee bipartisan support requirement from section 228 of the CC Act.

The retrospective operation of the proposed amendment to 1 July 2014 will have the effect that the parliamentary committee has the same role in the permanent appointment of commissioners as it had prior to commencement of the amendment Act

Given there has been no permanent appointment of a CCC commissioner since the commencement of the amendment Act, the retrospective operation of the amendments will have no adverse practical effect.

Consultation

No consultation on the amendments has been undertaken because the proposal to amend the CC Act was publicly announced by the Government on 21 July 2014.

NOTES ON PROVISIONS

Amendment 1 amends part 1 of the Bill to insert a new clause 1A to provide that part 4A of the Bill is taken to have commenced on 1 July 2014 immediately after the commencement of the *Crime and Misconduct and Other Legislation Amendment Act 2014*.

Amendment 2 inserts after clause 23 a new part 4A in the Bill that amends the *Crime and Corruption Act 2001*. The new part 4A contains two new clauses, clause 23A and 23B.

Clause 23A provides that part 4A amends the *Crime and Corruption Act 2001*.

Clause 23B amends section 228 of the *Crime and Corruption Act 2001* so that subsections (2) and (3), which allow the parliamentary committee the right to veto a nomination made by the Minister, apply only to the appointment of a chief executive officer. A new subsection (1A) is inserted that provides the Minister may nominate a person for appointment as a chairman, deputy chairman or ordinary commissioner only if the nomination is made with the bipartisan support of the parliamentary committee.

‘Bipartisan support’ is defined in the schedule 2 to the *Crime and Corruption Act 2001*.

Amendment 3 amends the long title of the Bill to include a reference to the *Crime and Corruption Act 2001*.