

Explanatory Notes

FOR

Amendments To Be Moved During Consideration In Detail By The Honourable Yvette D'Ath MP

Title of the Bill

Penalties and Sentences (Queensland Sentencing Advisory Council) Amendment Bill 2016

Objectives of the Amendments

The objectives of the amendments are to:

- respond to the recommendations made in the Legal Affairs and Community Safety Committee (the Committee) report on the Penalties and Sentences (Queensland Sentencing Advisory Council) Amendment Bill 2016 (the Bill); and
- defer the commencement of parts 8, 14 and 24 of the *Criminal Law (Criminal Organisations Disruption) and Other Legislation Amendment Act 2013* until 1 July 2017.

Recommendations of the Committee on the Bill

On 15 March 2016, the Bill was introduced into the Queensland Parliament. The Bill amends the *Penalties and Sentences Act 1992* to establish the Queensland Sentencing Advisory Council (QSAC). Parliament referred the Bill to the Committee for consideration and requested the Committee report on its consideration of the Bill by 29 April 2016. The Committee tabled its report on 29 April 2016 and two recommendations were made for amendments to the Bill.

Deferral of amendments in the Criminal Law (Criminal Organisations Disruption) and Other Legislation Amendment Act 2013

On 27 November 2013, the Queensland Parliament passed the Criminal Law (Criminal Organisations Disruption) and Other Legislation Amendment Act. The Act, inter alia, amends a number of other Acts with the aim of excluding participants in criminal organisations from working in certain licensed occupations. Parts 8, 14 and 24 amend

the *Electrical Safety Act 2002*, the *Queensland Building and Construction Commission Act 1991* and the *Work Health and Safety Act 2011*, in this regard.

The Criminal Law (Criminal Organisations Disruption) and Other Legislation Amendment (Postponement) Regulation 2014 (Subordinate Legislation No.91 of 2014) postponed the commencement of parts 8, 14 and 24 until 1 July 2015.

On 11 June 2015, the Queensland Parliament passed an amendment to the Criminal Law (Criminal Organisations Disruption) and Other Legislation Amendment Act (via the *Payroll Tax Rebate, Revenue and Other Legislation Amendment Act 2015*) to delay the commencement of parts 8, 14 and 24 until 1 July 2016 to allow time for the Government to consider the outcomes of the Taskforce on Organised Crime Legislation, chaired by the Honourable Alan Wilson QC (the Taskforce).

The Report of the Taskforce was delivered to the Attorney-General and Minister for Justice and Minister for Training and Skills on 31 March 2016.

The objective of the proposed amendment is to further postpone the commencement of parts 8, 14 and 24 of the Criminal Law (Criminal Organisations Disruption) and Other Legislation Amendment Act until 1 July 2017 to allow the Government to finalise its policy and legislative response to the finding and recommendations of the Taskforce.

Achievement of the Objectives

Recommendations of the Committee on the Bill

The first recommendation made in the Committee's report is to remove the word 'suffering' from the example provided in clause 5, proposed section 201(3)(d), which relates to the appointment of QSAC members.

The QSAC will comprise of 12 members who are to be appointed by the Governor in Council on recommendation of the Attorney-General. In making a recommendation for appointment, the Attorney-General must be satisfied that the proposed appointees have expertise or experience relevant to the functions of the QSAC.

In the Bill, proposed section 201(3) includes a non-exhaustive list of relevant areas of expertise or experience relevant to the QSAC. The list include persons with experience or expertise in relation to vulnerable persons facing the criminal justice system. One of the examples of vulnerable persons set out in the Bill is 'persons suffering mental illness'.

The Committee's report concluded that the use of the word 'suffering' in the example was inappropriate in the context, and recommended the Bill be amended to delete the word in favour of appropriate terminology.

The amendment is required to provide the example as: 'persons who have a mental illness'. This approach is consistent with the wording used in the *Mental Health Act 2000*.

The second recommendation made in the Committee's report is to amend clause 5, proposed section 203F(3), to insert the word 'present' in order to clarify that if neither the chairperson or deputy chairperson is in attendance, it is the members present who will chose a presiding member.

The amendment is required to clarify that in the absence of both the chairperson and deputy chairperson, it is the members who are present at the council meeting who select a presiding member.

Deferral of amendments in the Criminal Law (Criminal Organisations Disruption) and Other Legislation Amendment Act 2013

The proposed amendments postpone the commencement of parts 8, 14 and 24 of the Act for a further 12 months until 1 July 2017, which will allow the Government to finalise its policy and legislative response to the Report of the Taskforce on Organised Crime Legislation.

Alternative Ways of Achieving Policy Objectives

There are no alternative ways to achieve the policy objectives.

Estimated Cost for Government Implementation

Funding has been allocated for the establishment of the QSAC.

No costs have been identified regarding the delay of commencement of parts 8, 14 and 24 of the Criminal Law (Criminal Organisations Disruption) and Other Legislation Amendment Act.

Consistency with Fundamental Legislative Principles

The Bill is consistent with fundamental legislative principles.

Consultation

No consultation has been undertaken on the amendments.

NOTES ON PROVISIONS

Amendment 1 amends clause 5 (Insertion of new pt 12), new section 201(3)(d) to omit the word 'suffering' and insert 'who have a' to provide the example of 'persons who have a mental illness'.

Amendment 2 amends clause 5 (Insertion of new pt 12), new section 203F to clarify that if neither the chairperson or deputy chairperson are present at a meeting, a member of the council chosen by the members present is to preside.

Amendment 3 inserts new clauses 6A and 6B to amend the *Criminal Law (Criminal Organisations Disruption) and Other Legislation Amendment Act 2013* to provide that parts 8, 14 and 24 will commence on 1 July 2017.

Amendment 4 amends the long title of the Bill to include reference to the *Criminal Law (Criminal Organisations Disruption) and Other Legislation Amendment Act 2013*.