

Crimes Legislation Amendment Bill (No. 2) 1988

Date Introduced: 24 March 1988

House: House of Representatives

Presented by: The Hon. Lionel Bowen, M.P., Attorney - General

Digest of Bill

Purpose

The major amendments contained in this Bill will give the National Crimes Authority (NCA) the same power to use listening devices under the *Customs Act 1901* as is currently held by the Australian Federal Police (AFP); allow a wider range of information to be given by the NCA to law enforcement bodies; and correct problems that have arisen since the *Mutual Assistance in Criminal Matters Act 1987* commenced operation.

Background

For information on the NCA, refer to the Digest for the Crimes Legislation Amendment Bill 1988.

Under the *Customs Act 1901*, the AFP may apply for a warrant to use a listening device to investigate serious narcotic offences. The power allows the AFP more thoroughly to investigate suspects and is an important tool in gathering information on drug traffickers. The NCA also has power to investigate serious drug offences, and the addition of the power to use listening devices in certain circumstances will aid the NCA in its investigations. The NCA currently has power to intercept telecommunications under the *Telecommunications (Interception) Act 1979*.

At present, the NCA may only distribute information either relating to a relevant criminal activity or gained in the course of its investigations. This prevents the distribution of information to law enforcement agencies which is relevant to those bodies but which was not gained in either of those manners (e.g. unsolicited 'tip offs').

Main Provisions

Amendments to the *Customs Act 1901*

Section 219A of this Act, which contains the interpretation provisions for the Division authorising the AFP to use listening devices, will be amended by clause 4. The amendments will include members of the NCA and AFP in the definition of official (officials will have power to apply for warrants),

Section 219B of this Act deals with use of listening devices. This section will be amended by clause 5 to allow applications for warrants to

be made by officials and for warrants to be granted to such people.

A new section 219D will be substituted into the Principal Act by clause 6 and will clarify the exercise of power under a warrant. Under the proposed section, the warrant is to be enforced only by the chief officer of the agency concerned, or the official/s authorised by that person to execute the warrant or warrants. Under the proposed section, warrants currently being executed by members of the AFP will continue to be in force.

Clause 8 will apply the restrictions on the disclosure of information to the NCA. Similarly, the NCA will also be required to report to the Minister on the use of listening devices.

Amendments to the *Mutual Assistance in Criminal Matters Act 1987*

Clause 13 will amend section 3 of this Act which contains the interpretation provisions. The major amendment will be to substitute a new definition of political offence into this Act. The term will have the same meaning as in the *Extradition Act 1988*.

Under amendments to section 13 contained in clause 15, people giving evidence in Australia at the request of a foreign country will have the same rights not to answer questions or produce documents as they would have in the foreign country.

Clause 16 will amend section 19 of this Act to clarify the immunities of people coming to Australia to give evidence. The amendments will make it clear that such people will be immune from civil suits that the person could not be subject to if they were not in Australia.

Amendments to the *National Crime Authority Act 1984*

Clause 21 will amend section 59 of this Act to allow the NCA to communicate all relevant information to law enforcement agencies.

For further information, if required, contact the Law and Government Group.

6 April 1988

Bills Digest Service
Legislative Research Service

This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.

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