

CHAPTER 1

INTRODUCTION AND BACKGROUND

Referral of the inquiry

1.1 On 29 May 2013, the Crimes Legislation Amendment (Law Enforcement Integrity, Vulnerable Witness Protection and Other Measures) Bill 2013 (Bill) was introduced into the House of Representatives by the Attorney-General, the Hon Mark Dreyfus QC MP (Attorney-General).¹ The Bill was passed by the House of Representatives on 17 June 2013,² and introduced into the Senate on 19 June 2013.³

1.2 On 18 June 2013 the Senate referred the provisions of the Bill to the Legal and Constitutional Affairs Legislation Committee (committee), for inquiry and report by 20 August 2013.⁴ In order to assist the parliament's timely consideration of the Bill, the committee decided to present its report for the inquiry on 25 June 2013.

Purpose of the Bill

1.3 In his second reading speech, the Attorney-General stated that the Bill 'includes a range of measures which strengthen existing laws and ensure that the criminal law in this country is responsive to emerging threats'.⁵ The Attorney-General explained that, in particular, the proposed amendments would strengthen Commonwealth criminal law 'in combating corruption and protecting the vulnerable victims of serious Commonwealth offences'.⁶

Overview of the Bill

1.4 The Bill comprises six schedules, which would make amendments to various Commonwealth Acts.

1.5 Schedule 1 contains amendments to the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML-CTF Act) and the *Law Enforcement Integrity Commissioner Act 2006* to improve the Integrity Commissioner's ability to

1 House of Representatives, *Votes and Proceedings*, No. 166, 29 May 2013, p. 2303.

2 House of Representatives, *Votes and Proceedings*, No. 172, 17 June 2013, p. 2404.

3 *Journals of the Senate*, No. 149, 19 June 2013, pp 4095-96.

4 *Journals of the Senate*, No. 148, 18 June 2013, p. 4048.

5 The Hon Mark Dreyfus QC MP, Second Reading Speech, *House of Representatives Hansard*, 29 May 2013, p. 8.

6 The Hon Mark Dreyfus QC MP, Second Reading Speech, *House of Representatives Hansard*, 29 May 2013, p. 11.

access information held by the Australian Transaction Reports and Analysis Centre (AUSTRAC) and to improve the ability of the Australian Commission for Law Enforcement Integrity (ACLEI) to second employees of police forces who are not sworn police officers.⁷

1.6 Schedule 2 contains amendments to the *Crimes Act 1914* (Crimes Act) and *Criminal Code Act 1995* to ensure that victims and witnesses in Commonwealth criminal proceedings for slavery, slavery-like and human trafficking offences are afforded appropriate support and protection.⁸

1.7 Schedule 3 contains amendments to the Crimes Act and the *Migration Act 1958* (Migration Act) in relation to investigations and prosecutions of people smuggling crew members, including to:

- remove wrist x-rays as a prescribed age determination process;
- clarify that the prosecution bears the onus of proof in establishing that a defendant is 18 years or older, in cases where age is in dispute;
- enable the use of evidentiary certificates in people smuggling cases; and
- ensure that time spent in immigration detention is taken into consideration during sentencing for people smuggling offences.⁹

1.8 Schedule 4 contains amendments to the AML-CTF Act to strengthen the Commonwealth anti-money laundering and counter-terrorism legislative framework.¹⁰

1.9 Schedule 5 contains amendments to the *International War Crimes Tribunal Act 1995* and the *International Transfer of Prisoners Act 1997* in order to recognise the International Residual Mechanism for Criminal Tribunals.¹¹

1.10 Schedule 6 contains amendments to the *Australian Federal Police Act 1979* in order to update the legislative framework for the provision of policing and regulatory services in the external territories.¹²

7 Explanatory Memorandum (EM), p. 2.

8 EM, p. 3.

9 EM, p. 4.

10 EM, p. 5.

11 EM, p. 6.

12 EM p. 6.

Conduct of the inquiry

1.11 Details of the inquiry, including links to the Bill and associated documents, were placed on the committee's website at www.aph.gov.au/senate_legalcon. The committee also wrote to over 90 organisations and individuals, inviting submissions by 20 June 2013.

1.12 The committee received six submissions, which are listed at Appendix 1. All submissions were published on the committee's website. No public hearings were held for the inquiry. The committee thanks those organisations that made submissions to the inquiry.