

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

**SENATE FOREIGN AFFAIRS, DEFENCE
AND TRADE
LEGISLATION COMMITTEE**

**Veterans' Affairs Legislation Amendment
(Application of the Criminal Code) Bill 2000**

February 2001

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ISSN 1326-9348

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TABLE OF CONTENTS

| | |
|--|------------|
| <i>Membership of the Committee</i> | <i>iii</i> |
| Report—Veterans’ Affairs Legislation Amendment Bill (Application of the Criminal Code) Bill 2000 | 1 |
| Recommendation | 2 |
| Appendix 1: Letter from Department of Veterans’ Affairs | 3 |

REPORT OF COMMITTEE

1.1 In its Report No. 1 of 2001, the Selection of Bills Committee recommended that the Veterans' Affairs Legislation Amendment (Application of the Criminal Code) Bill 2000 be referred to the Senate Foreign Affairs, Defence and Trade Legislation Committee for report by 26 February 2001. In Appendix 1 of the Selection of Bills Committee's report, the principal issue for consideration was 'The appropriateness of the penalties'. On 7 February 2001, the Senate referred the Bill to the Committee.

1.2 The Committee noted the background to this Bill as explained in the Explanatory Memorandum:

On 1 September 1993, the Government agreed to develop a National Uniform Criminal Code by 2001. As part of the development of this nationwide Code, the Commonwealth has enacted the *Criminal Code Act 1995* (the Criminal code) which contains the general principles of criminal responsibility.

While the Criminal code was passed in 1995, it only began to apply to new offences from 1 January 1997, and all new offences are now drafted according to the requirements of the Criminal Code. Staggered implementation was considered necessary in relation to existing offences to provide departments with sufficient time to assess the effect of the Criminal Code on their offence provisions, and to make any amendments necessary to their legislation. The Criminal Code is scheduled to apply to pre-existing offences from 15 December 2001.¹

1.3 The amendments to the *Defence Service Homes Act 1918* and the *Veterans' Entitlements Act 1986*, which are contained in the Bill, 'harmonise a number of offence-creating and related provisions with the general principles of criminal responsibility as codified in Chapter 2 of the *Criminal Code*'.²

1.4 In its consideration of the penalties contained in the Bill, the Committee compared the penalties in the Bill with those contained in the relevant sections of the *Defence Service Homes Act 1918* and the *Veterans' Entitlements Act 1986*. This comparison showed that the penalties in existing legislation had not been changed by the Bill. This was confirmed in writing by the Department of Veterans' Affairs (see Appendix 1).

1.5 As the Bill does not change the existing penalties, the Committee decided not to seek public comment on those penalties.

1.6 The Committee noted that the Explanatory Memorandum did not draw attention to the fact that the Bill is not amending the existing penalties in the two Acts. It would be helpful if, in similar circumstances in the future, a comment to that effect could be made in the Explanatory Memorandum.

1 Explanatory memorandum, p. 1.

2 Explanatory memorandum, p. 1.

1.7 The Committee reports to the Senate that it has considered the relevant provisions of the Veterans' Affairs Legislation Amendment (Application of the Criminal Code) Bill 2000 and recommends that the Bill proceed.

Senator Sandy Macdonald
Chairman

February 2001



COMMONWEALTH DEPARTMENT OF
VETERANS' AFFAIRS

OFFICE OF THE SECRETARY



Paul Barsdell
Secretary
Senate Foreign Affairs, Defence and Trade Committee
Parliament House
CANBERRA ACT 2600

Dear Mr Barsdell

On 6 February 2001 the Selection of Bills Committee referred the Veterans' Affairs Legislation Amendment (Application of Criminal Code) Bill 2000 to the Foreign Affairs, Defence and Trade Legislation Committee. The referral was made to consider the appropriateness of the penalties.

This Bill harmonises all offence-creating and related provisions in Veterans' Affairs legislation with the general principles of criminal responsibility as codified in Chapter 2 of the *Criminal Code Act 1995*. The only penalties in the Bill are those attached to offence-making provisions that the Bill will substitute for legislation that is to be repealed. The explanatory memorandum states "(T)he amendments are intended to ensure that relevant offences continue to have much the same meaning and to operate in the same manner as they do at present."

The Bill does not alter any existing penalties that are attached to the provisions that are being replaced.

Yours sincerely

NEIL JOHNSTON

9 FEBRUARY 2001