
The Parliament of the Commonwealth of Australia

**Advisory Report on the Criminal Code
Amendment (Theft, Fraud, Bribery and
Related Offences) Bill 1999**

House of Representatives
Standing Committee on Legal and Constitutional Affairs

June 2000
Canberra

© Commonwealth of Australia 2000

ISBN 0 642 36624 1



Contents

Foreword.....	v
Membership of the Committee.....	vi
Terms of reference	viii
List of abbreviations.....	ix
List of recommendations.....	x
1 Introduction.....	1
Background to the <i>Criminal Code (Theft, Fraud, Bribery and Related Offences) Bill 1999</i>	1
The Bill.....	2
The inquiry	3
The report.....	3
2 General Dishonesty.....	5
Introduction.....	5
The Committee's concerns	7
The DPP prosecution guidelines	7
The Prosecution Policy Statement	8
The internal DPP guidelines.....	9
Conclusion.....	11
3 Other Issues.....	13
Organised fraud.....	13
Identity fraud.....	14

False or misleading information	15
Giving information derived from false documents	16
Burglary.....	17
Repealed provisions	18
Conclusion.....	20
Appendix A – List of Submissions.....	21
Appendix B – List of Exhibits	23
Appendix C – List of Witnesses	25
Appendix D – Example of Repeal	27



Foreword

The House of Representatives Standing Committee on Legal and Constitutional Affairs is pleased to have undertaken the task of reviewing the *Criminal Code Amendment (Theft, Fraud, Bribery and Related Offences) Bill 1999*.

No area of law is more fundamental to a society than its criminal law. The criminal law sets the parameters of right and wrong in society and hence the boundaries in which an individual must operate if they want to be part of society.

This Bill represents one of the most significant changes to the Commonwealth criminal law in recent years. It arises out of the Commonwealth's long-term aim of consolidating all of its criminal laws into one easily accessible, clear, and consistent Act of Parliament.

The Committee endorses the rationale for this legislative reform, hoping that it will help lead to efficiency in the application of the criminal law. The Committee's report is short and focused, reflecting the limits of the Committee's reporting timetable, the absence of evidence opposing this Bill, and the fact that the Committee only has a few areas of specific concern with this Bill.

The Committee hopes that its comments in this report will assist the process of reform.

Kevin Andrews MP
Chair



Membership of the Committee

Chair Mr Kevin Andrews MP

Deputy Chair Ms Nicola Roxon MP

Members Mr Bruce Billson MP
 Ms Julie Bishop MP
 Hon Alan Cadman MP
 Hon Duncan Kerr MP
 Ms Kirsten Livermore MP
 Mr John Murphy MP
 Mr Stuart St Clair MP
 Mrs Danna Vale MP

Committee Secretariat

Secretary (Acting) Catherine Cornish

Research Officers Robert Horne

Deborah Nance

Administrative Officers Jane Sweeney

Frances Wilson



Terms of reference

The *Criminal Code Amendment (Theft, Fraud, Bribery and Related Offences) Bill 1999* was introduced into the House of Representatives on 24 November 1999.

Senator the Hon Amanda Vanstone, Minister for Justice and Customs, wrote to the House of Representatives Standing Committee on Legal and Constitutional Affairs on 4 April 2000 referring the Bill for inquiry, and requesting it to report by 26 June 2000.



List of abbreviations

MCCOC Model Criminal Code Officers Committee

DPP Director of Public Prosecutions

SCAG Standing Committee of Attorneys-General



List of recommendations

Recommendation 1

The Committee recommends that the offence of general dishonesty in the *Criminal Code Amendment (Theft, Fraud, Bribery and Related Offences) Bill 1999* not be proclaimed until the Attorney-General and the Committee are satisfied by the Director of Public Prosecutions that prosecution guidelines will ensure the proposed offence of general dishonesty will be applied appropriately.

Recommendation 2

The Committee recommends that the offence of organised fraud in proposed s.135.3 be deleted from the *Criminal Code Amendment (Theft, Fraud, Bribery and Related Offences) Bill 1999*.

Recommendation 3

The Committee recommends that a defence similar to that suggested by the Attorney-General's Department at paragraph 30 of Submission No. 1 be added to proposed s.137.1 of the *Criminal Code Amendment (Theft, Fraud, Bribery and Related Offences) Bill 1999*.

Recommendation 4

The Committee recommends that the element of 'dishonesty' be added to proposed s.145.5 of the *Criminal Code Amendment (Theft, Fraud, Bribery and Related Offences) Bill 1999* directly before the word 'gives' in clauses 145.5(1)(a) and (2)(a).

Recommendation 5

The Committee recommends that clause 132.4(11) be deleted from the *Criminal Code Amendment (Theft, Fraud, Bribery and Related Offences) Bill 1999*.

