

# CHAPTER 1

## INTRODUCTION

### Summary of key amendments

1.1 On 17 September 2009, the Senate referred the provisions of the Crimes Legislation Amendment (Serious and Organised Crime) Bill (No.2) 2009 (the Bill) to the Legal and Constitutional Affairs Legislation Committee (the committee) for inquiry and report by 26 October 2009. The Senate subsequently extended the reporting date to 16 November 2009.

1.2 The Standing Committee of Attorneys-General (SCAG) agreed at its meetings in April and August 2009 to a comprehensive national response to combat organised crime.<sup>1</sup> On 17 September 2009, the committee reported on the first package of amendments aimed at implementing the Commonwealth's commitment to this SCAG agreement.<sup>2</sup>

1.3 This Bill is the second package of amendments designed to implement the SCAG agreement and it seeks to enhance the Commonwealth's 'ability to effectively prevent, investigate and prosecute organised criminal activity, and target the proceeds of organised crime.'<sup>3</sup> An officer of the Attorney-General's Department outlined the purpose of the Bill in more detail:

Organised crime has impacts for Australian governments, the economy, businesses and the wider community. Organised criminal networks are involved in a range of criminal activities and have become an increasingly complex threat in the modern global environment. These groups are also less readily identifiable than they once were, instead operating in loose, fluid networks. To meet this threat, it is critical that our laws for the investigation of criminal activity, the confiscation of criminal assets and the detection of money laundering are as effective as possible, and it is also important that offence regimes are effective in disrupting and deterring involvement in organised crime at all levels.<sup>4</sup>

1.4 In particular, the Bill contains provisions:

- (a) to amend the *Proceeds of Crime Act 2002* (the POC Act) (Schedule 1);
- (b) to broaden the powers under the *Crimes Act 1914* (the Crimes Act):

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1 Standing Committee of Attorneys-General, *Communiqués*, 17 April 2009 and 7 August 2009 available at: [http://www.scag.gov.au/lawlink/SCAG/ll\\_scag.nsf/pages/scag\\_meetingoutcomes](http://www.scag.gov.au/lawlink/SCAG/ll_scag.nsf/pages/scag_meetingoutcomes) (accessed 28 September 2009).

2 *Report on the Crimes Legislation Amendment (Serious and Organised Crime) Bill 2009 [Provisions]*, September 2009.

3 The Hon Robert McClelland MP, Attorney-General, *House Hansard (Proof)*, 16 September 2009, p. 11.

4 Ms Sarah Chidgey, *Committee Hansard*, 29 October 2009, p. 1.

- (i) to allow material seized or produced under Part IAA of the Act to be shared between, Commonwealth, state, territory and foreign law enforcement agencies; and
- (ii) to access data stored on, or accessible from, electronic equipment that is seized under a search warrant (Schedule 2);
- (c) to increase protection for current and former participants in, and officers involved in the operation of, the National Witness Protection Program (NWPP) (Schedule 3);
- (d) to create criminal organisation and association offences (Schedule 4);
- (e) to alter existing money laundering (Part 1 of Schedule 5), bribery (Schedule 8) and drug importation (Schedule 9) offences; and
- (f) to amend the *Australian Crime Commission Act 2002* (the ACC Act) (Schedule 7).<sup>5</sup>

1.5 The Bill also makes urgent amendments to preserve the right of Victorian defendants, charged with Commonwealth offences, to challenge a finding that they are unfit to plead (Schedule 6) as well as various minor and consequential amendments (Part 2 of Schedule 5 and Schedules 10 and 11).<sup>6</sup>

### **Conduct of the inquiry**

1.6 The committee advertised the inquiry in *The Australian* newspaper on 23 September 2009, and invited submissions by 9 October 2009. Details of the inquiry, the Bill, and associated documents were placed on the committee's website. The committee also wrote to 80 organisations and individuals inviting submissions.

1.7 The committee received 14 submissions which are listed at Appendix 1. Submissions were placed on the committee's website for ease of access by the public.

1.8 The committee held a public hearing in Canberra on 29 October 2009. A list of witnesses who appeared at the hearing is at Appendix 2 and copies of the Hansard transcript are available through the Internet at <http://www.aph.gov.au/hansard>.

### **Acknowledgement**

1.9 The committee thanks the organisations and individuals who made submissions and gave evidence at the public hearing.

### **Structure of the report**

1.10 The structure of the report is as follows:

- Chapter 2 reviews the provisions amending the *Criminal Code Act 1995* (the Criminal Code) to create new organised crime offences and to alter the existing offences relating to money laundering, bribery and drug importation;
- Chapter 3 considers the proposed changes to the Crimes Act;

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5 Explanatory Memorandum, pp 1-4.

6 Explanatory Memorandum, pp 157-164 and 190-205.

- Chapter 4 looks at the amendments relating to the Australian Crime Commission (ACC);
- Chapter 5 examines the proposed amendments to the POC Act
- Chapter 6 outlines the provisions related to the NWPP; and
- Chapter 7 contains a summary of the views of the committee and its recommendations.

### **Note on references**

1.11 References in this report are to individual submissions as received by the committee, not to a bound volume. References to the committee Hansard are to the proof Hansard: page numbers may vary between the proof and the official Hansard transcript.

