

1986

THE PARLIAMENT OF THE COMMONWEALTH  
OF AUSTRALIA

HOUSE OF REPRESENTATIVES

CRIMINOLOGY RESEARCH AMENDMENT BILL 1986

EXPLANATORY MEMORANDUM

(Circulated by authority of the Honourable Lionel Bowen,  
Deputy Prime Minister and Attorney-General)



Criminology Research Amendment Bill 1985

General Outline

The principal proposed amendments to the Criminology Research Act 1971 contained in this Bill are as follows:

- (a) the addition of the Northern Territory as a participant in the scheme under the Criminology Research Act, resulting in an increase in the size of the Criminology Research Council (the Council) from 7 to 8;
- (b) an increase in the size of the Board of Management (the Board) of the Australian Institute of Criminology (the Institute) from 6 to 8, to be comprised of the Director of the Institute, 3 members appointed by the Attorney-General and 4 members (instead of 3) appointed by the Council;
- (c) the granting of specific authority to the Institute to collect information and statistics (without detracting from the role of the Australian Bureau of Statistics), to provide information and advice to Commonwealth, State and Northern Territory Departments, agencies and authorities dealing with the administration of criminal justice, and to collaborate with bodies in Australia and overseas;
- (d) the granting of power to the Attorney-General to request the conduct of particular matters of research or training by the Institute with a requirement that the Board of Management is to give such priority as the Attorney-General specifies; and
- (e) the inclusion of miscellaneous amendments on financial matters.

Financial impact statement

Financial considerations arising from the proposed amendments are minimal. The cost to the Commonwealth would be about \$800 p.a. for remuneration of the non-public servant member of the Board. The cost to the NT would be about \$700 p.a. (in respect of its contribution to the Criminology Research Fund) plus the cost of sending a representative to meetings 4 times a year. The NT could minimize the latter costs by appointing a local deputy.

Notes on Clauses

Clause 1 - Short Title &c

Formal

Clause 2 - Interpretation

This clause amends the definition section (section 4) of the Principal Act by:

- . bringing the definition of "approved bank" into line with that contained in sub-section 63J(3) of the Audit Act 1901
- . substituting a new definition of "the appropriate Minister" to take account of the proposed inclusion of the Northern Territory.

Clause 3 - Establishment of Institute

This clause updates the provision of the Principal Act establishing the Institute. The power of the Institute to acquire, hold and dispose of real and personal property is properly relocated to Section 7 of the Act dealing with the Institute's powers.

Clause 4 - Functions of Institute

This clause amends Section 6 of the Principal Act by

- . inserting a new paragraph (a) to give authority to the Institute to conduct or "arrange for the conduct of" such research as is approved by the Board or "requested by the Attorney-General".

- . adding the Northern Territory to paragraph 6(b)
- . inserting a new paragraph (c) to give authority to the Institute to conduct or "arrange for the conduct of" such seminars or training courses as are approved by the Board or "requested by the Attorney-General".
- . inserting new provisions (paragraphs (ha), (hb) and (hc)) to give specific authority to the Institute -
  - (i) to collect information and statistics (without detracting from, and in the context of, the overall collecting and co-ordinating role of the Australian Bureau of Statistics);
  - (ii) to provide information and advice to Departments, agencies and authorities of the Commonwealth, of the States, and of the Northern Territory dealing with the administration of criminal justice;
  - (iii) to collaborate, in and outside Australia, with governments, institutions and authorities, and with bodies and persons, in relation to research, or the training of persons, in or in connection with the administration of criminal justice.

Clause 5 - Power of Attorney-General to request Institute to perform certain functions

This clause inserts a new Section 6A in the Principal Act. This new section provides that the Attorney-General may request the Institute to conduct, or arrange for the conduct

of, criminological research or conduct seminars or training on matters specified by the Attorney-General. The clause also requires the Institute's Board to ensure that the research or training project is given such priority as the Attorney-General specifies.

#### Clause 6 - Powers of Institute

This clause amends Section 7 of the Principal Act by adding the following to the powers of the Institute -

- . the power to acquire, hold and dispose of real and personal property (relocated from Section 5)
- . a specific power to enter into contracts.

#### Clause 7 - Constitution of Board

This clause amends Section 9 of the Principal Act by

- . increasing the membership of the Board, principally to take account of the NT's admission to the scheme and also admitting the Director of the Institute to membership of the Board in line with the practice in similar Commonwealth legislation
- . removing sub-section 9 (4) of the Principal Act (which provided that the Director and Acting Director were not eligible for appointment to the Board)

#### Clause 8 - Deputies of members of Board

Clause 8 amends Section 10 of the Principal Act to make provision for the Director to appoint a deputy.

Clause 9 - Remuneration and allowances

Clause 9 substitutes a new Section 11 which provides that members of the Board or their deputies are to be paid such remuneration as is determined by the Remuneration Tribunal and such allowances as are prescribed. This clause specifically excludes Commonwealth, State or Territory public servants, or employees of Commonwealth, State or Territory corporations and authorities.

Clause 10 - Tenure of office of Director

This clause updates sub-section 17(4) of the Principal Act dealing with the resignation of office by the Director.

Clause 11 - Remuneration and allowances of Director

This clause updates section 18 and provides that the Director shall be paid such remuneration as is determined by the Remuneration Tribunal and such allowances as are prescribed.

Clause 12 - Leave of absence of Director

This clause substitutes the word "remuneration" for the word "salary" in Section 19 of the Principal Act.

Clause 13 - Acting Director

This clause repeals existing Section 22 of the Principal Act and substitutes a new Section 22 which contains revised and updated provision for the appointment of an Acting Director



during any vacancy in the office of Director or during an absence from duty or from Australia of the Director. This provision is in line with comparable provisions in other Commonwealth legislation.

Clause 14 - Repeal of sections 26 and 27

This clause repeals sections 26 and 27 of the Principal Act which deal with the application of various Acts. The sections are now unnecessary because the question of application is now dealt with in the Acts concerned.

Clause 15 - Moneys payable to Institute

This clause amends Section 28 of the Principal Act by repealing sub-sections (3) and (4) which deal with estimates of expenditure. Estimates are now dealt with in new section 28A (see clause 16).

Clause 16 - Estimates

This clause inserts a new updated provision - Section 28A - into the Principal Act. This new section requires the Director to prepare estimates of the expenditure of the Institute for each financial year, and for any other period specified by the Attorney-General. The form of the estimates, and the date on which they are to be submitted, is to be subject to the direction of the Attorney-General. New sub-section 28A(2) will provide that the obligation on the Institute to expend moneys in accordance with the estimates of expenditure applies only in respect of moneys paid to the Institute out of Parliamentary appropriation as provided for in section 28.

Clause 17 - Contracts

This clause amends Section 29 of the Principal Act by increasing from \$50,000 to \$100,000 the limit on amounts payable to the Institute under contract which do not require the approval of the Attorney-General.

Clause 18 - Application of moneys

This clause updates Section 31 to provide that the moneys of the Institute may be applied in payment or discharge of the expenses, charges, obligations and liabilities incurred or undertaken by the Institute in the performance of its functions and the exercise of its powers and in the payment of remuneration and allowances.

Clause 19 - Trust moneys

This clause inserts a new section - Section 32A - into the Principal Act. This new section will

- . provide that moneys received or held by the Institute on trust must be paid into a bank account which does not contain any moneys not held on trust (sub-section 32A(1)); and
- . provide that moneys or property held by the Institute on trust must be dealt with in accordance with the Institute's powers and duties as trustee and specify the manner in which moneys held by the Institute as trustee may be invested (sub-section 32A(2)).

Clause 20 - Establishment of Council

This clause updates sub-section 34 (4) of the Principal Act relating to judicial notice of the Council's common seal.

Clause 21 - Constitution of Council

This clause amends Section 35 of the Principal Act to take account of the inclusion of the NT in the scheme.

Clause 22 - Deputies of members of Council

This clause amends Section 36 of the Principal Act to take account of the participation of the NT.

Clause 23 - Resignation of members of Council and deputies of members

This clause inserts a new sub-section - 38 (3) - into the Principal Act dealing with the resignation from the Council of the NT representative or his or her deputy.

Clause 24 - Meetings of Council

This clause repeals existing paragraph 39 (7) (b) of the Principal Act and inserts a new paragraph on the question of voting. This has been necessitated by the proposed increase in the size of the Council from 7 to 8 members (see clause 21). Accordingly, it is provided that, at a meeting of the Council, the presiding member has a deliberative vote, and, if there is an equality of votes, also has the casting vote.

Clause 25 - Annual reports by Council

This clause amends Section 43 of the Principal Act to take account of the participation of the NT in the scheme.

Clause 26 - Moneys payable to Fund

This clause makes amendments to Section 46 of the Principal Act to

- . remove sub-section 46(1) which is now outdated; and
- . amend paragraph 46(2)(b) to include the NT.

Clause 27 - Investment of moneys in Fund

This clause amends sub-paragraph 48(a)(ii) of the Principal Act to include a reference to the NT.

Clause 28 - Audit

This clause amends sub-section 49(4) of the Principal Act to include a reference to the NT.

Clause 29 - Minor amendments

This clause contains a Schedule of minor amendments to the Principal Act which reflect current drafting practice and which remove gender specific terms and replace them with gender neutral terms in accordance with Government policy.







