

1998

LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

Crimes (Amendment) Bill (No.8) 1998

Explanatory Memorandum

Circulated by Authority of
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Minister for Health and Community Care

Crimes (Amendment) Bill (No.8) 1998

Summary

This sole purpose of this Bill is to extend the operation of Part XIA of the *Crimes Act 1900* ("the Act") until 30 June 1998.

At present, Part XIA of the Act expires on 4 February 1999

Part XIA of the Crimes Act deals with:

- accused persons who are not fit to plead;
- acquittal on the grounds of mental illness;
- convicted persons who are mentally dysfunctional, and
- summary proceedings against mentally dysfunctional persons.

Part XIA of the Act was passed as interim legislation in 1994 (with the *Mental Health Treatment and Care Act 1994*) and commenced in February 1995. Section 428A of the Act provides for Part XIA of the Act to expire 24 months following its commencement, with the capacity for a further 24 month extension where determined by the Minister. In November 1996, the Attorney General agreed to extend Part XIA of the Act to February 1999

A review of Part XIA of the Act was commenced in March 1997 (in concert with the review of the mental health Act) which began an extensive consultation period. A Report on the review was released in January 1998.

The Government tabled some of the proposed amendments in the Assembly on 26 November 1998. These amendments include the repeal of the 'sunset clause' and other matters which are affected by the proposed amendments to the Mental Health Act. The Government sought to have these amendments considered by the Assembly prior to the end of the 1998 sitting period so that Part XIA of the Act would continue to have effect from February 1999

However, the Assembly has delayed consideration of the amendments to the Act until 1999. Without an amendment to the sunset clause, Part XIA the Act will cease to have effect from 5 February 1999

Further amendments to Part XIA of the Crimes Act, which were developed during the consultation process, will be presented in the Assembly in 1999. These amendments, which do not impact on the Mental Health Act, have not been able to be drafted in time for consideration in 1998.

This Bill will extend the operation of Part XIA of the Act to 30 June 1999 to provide sufficient time for the Assembly to consider the substantive amendments proposed in the *Crimes (Amendment) Bill (No.7) 1998* and the *Mental Health (Treatment and Care) (Amendment) Bill 1998*.

Detail of the Bill

Clause 1 - Short Title

This clause provides that the short title of the Act will be the *Crimes (Amendment) Bill (No.8) 1998* ("the Bill")

Clause 2 - Commencement

This clause details the commencement provisions of the Bill. The provisions of the Bill will commence on the day in which the Bill is notified as an Act in the *Gazette*.

Clause 3 - Principal Act

This clause provides details of the principal Act which the Bill seeks to amend. The principal Act is the *Crimes Act 1900*

Clause 4 - Substitution

This clause replaces the current Section 428A of the Act, which currently provides that Part XIA of the Act will cease a maximum of 4 years from its commencement date, with a provision that provides that Part XIA of the Act ceases to have effect on 30 June 1999.

Under the current provision Part XIA of the Act would cease to have effect from 5 February 1999. This clause enables the extension of the expiration date of Part XIA of the Act to enable the Assembly to consider the substantive amendments to the *Crimes Act 1900* and the *Mental Health (Treatment and Care) (Amendment) Act 1994* (The amending Bills were presented in the Assembly on 26 November 1998).