

# Criminal Code (Cheating at Gambling) Amendment Bill 2013

## Explanatory Notes

### Short Title

The short title of the Bill is the Criminal Code (Cheating at Gambling) Amendment Bill 2013.

### Objectives of the Bill

The policy objective of the Criminal Code (Cheating at Gambling) Amendment Bill 2013 (the Bill) is to amend the Criminal Code to protect integrity in sport by prohibiting cheating at gambling in sport. To this end, the Bill:

1. Amends the Criminal Code (Qld) to:
  - insert new offences in relation to corrupting the betting outcomes of events or event contingencies on which it is lawful to place bets and for other purposes.

### Reasons for the Bill

The *Coalition of Major Professional and Participation Sports* (COMPPS) consists of a number of football code, cricket, and other sports organisations (governing bodies). Each of these sports holds events on which betting takes place.

COMPPS is committed to ensuring these sports remain free from betting-related integrity issues. In 2010, COMPPS formed an Anti-Corruption Working Party with the sole purpose of providing the sports industry with a comprehensive analysis of betting related corruption in sport and an effective approach to deterring potential corruptors and maintaining the integrity of their sports. One of the recommendations made by the Working Party was that nationally consistent criminal legislation be enacted creating an offence of “cheating in connection with sports wagering”.<sup>1</sup>

Following concerns about incidents of match fixing in Australian sport and overseas in recent years, Commonwealth and state and territory sports ministers met and considered options to take. They worked on developing a policy to address the issue and, on 10 June 2011, endorsed a National Policy on Match Fixing in Sport aimed at protecting the integrity of Australian sport. The National Policy set the scene for the introduction of nationally consistent legislation across the states in a timely fashion:

*This National Policy on Match Fixing in Sport represents a commitment by the Commonwealth and state and territory governments to work together to address the issue of inappropriate and fraudulent sports betting and match fixing activities with the aim of protecting the integrity of sport.*

*This Policy provides the platform for collaboration, and will be underpinned by legislation, regulation, codes of conduct and industry standards.<sup>2</sup>*

In November 2011, following agreement on the national policy, Australian Attorneys-General at the Standing Council on Law and Justice supported a national approach to developing match fixing offences with a maximum penalty of 10 years imprisonment for some offences:

3

*At that time, all Australian governments agreed to pursue, through Attorneys General, a consistent approach to criminal offences, including legislation by relevant jurisdictions, in relation to match fixing that provides an effective deterrent and sufficient penalties to reflect the seriousness of offences.<sup>4</sup>*

To make illegal match fixing, race fixing and other forms of corruption in sport, new laws on *cheating at gambling* needed to be introduced. New South Wales was the first Australian jurisdiction to enact such laws. It has since been followed by new jurisdictions.

### **Achievement of the Objectives**

The Bill achieves the stated policy objective by way of the proposed amendments.

### **Alternative ways of achieving policy objectives**

There are no alternative ways of achieving the criminal law reform.

### **Estimated Cost for Government Implementation**

Any costs in relation to the amendments will be met from existing agency resources.

## **Consistency with Fundamental Legislative Principles**

It is recognised that legislation should have sufficient regard to the rights and liberties of individuals. Overall the Bill is consistent with Fundamental Legislative Principles.

The Bill introduces new offences into the Criminal Code and creates a suite of crimes under which an offender will be liable to imprisonment for 10 years if convicted. It is considered timely and appropriate that specific criminal offences be available to prosecute those who seek to fix a betting outcome, to profit from such a fix or to use inside information. Accordingly, the Bill may impact on the rights and liberties of individuals by subjecting an offender to serve a period of actual incarceration. However the penalties are consistent in comparison with other jurisdictions' penalties and proportionate due to the nature and seriousness of the offences to be inserted into the Criminal Code.

In general, sanctions that restrict rights and liberties of individuals including through incarceration are applied to those who engage in socially harmful or disruptive behaviour. This serves to protect other citizens whose rights and liberties would be significantly and unjustifiably restricted or impacted by a person's anti-social and/or offending behaviour and to prevent the continuation of such behaviour as required.

Despite the justification for the use of sanctions based on deterrence, punishment or the reduction of the opportunity to re-offend, it is also recognised that offenders fundamentally remain citizens in our society with rights and liberties which should not be curtailed more than is necessary.

In consideration and respect of these principles though, it is believed that the new offences introduced through this Bill and punishment of imprisonment for 10 years is justified. The legislation intends to outlaw four key types of offences:

- Engaging in conduct that corrupts or would corrupt a betting outcome;
- Facilitating conduct that corrupts or would corrupt a betting outcome;

- Concealing such conduct, agreements or arrangements; and
- Use of corrupt information for betting purposes.

In terms of proportionality and consistency of penalties for offences of 'Cheating at Gambling', it is submitted that Victoria, New South Wales, Australian Capital Territory and South Australian Governments have all recently enacted legislation imposing penalties of imprisonment. From this perspective, the Bill is proportionate and consistent with the other jurisdictions including in terms of penalties. The Bill is also proportionate and consistent with other offences in the (Queensland) Criminal Code.

The Bill provides a nationally consistent approach to criminal offences in relation to match fixing and cheating at gambling.

### **Consultation**

There has been no formal consultation.

### **Consistency with Legislation with other Jurisdictions**

The Bill is modelled on legislation enacted in other jurisdictions in accordance with the key objective of the National Policy on Match Fixing in Sport, as agreed to by all Australian Governments on 10 June 2011. Specifically it was agreed to pursue a nationally consistent approach to criminal offences in relation to match fixing and cheating at gambling.

Legislation has progressively been enacted in other jurisdictions since 2012 as follows:

- The Crimes Amendment (Cheating at Gambling) Bill 2012 (NSW) was introduced into the NSW Legislative Assembly on 22 August 2012 and passed without amendment on 4 September 2012. It was also passed without amendment in the Legislative Council on 11 September 2012 and returned to the Assembly. It was assented to 13 September 2012 and commenced on that date.
- The Criminal Law Consolidation (Cheating at Gambling) Amendment Bill 2012 (SA) was introduced into Parliament on 29 November 2012 by Hon J Rau, the South

Australian Attorney-General. The Bill sought to establish a range of offences directed at determined match fixing behaviour and is modelled on the NSW legislation.

- The Crimes Amendment (Integrity in Sports) Bill 2013 (Vic) was introduced into Parliament by Mr Robert Clark (the Victorian Attorney-General) on 7 March 2013. The laws seek to be consistent with recent legislation enacted in NSW.
- In August 2013 both the Australian Capital Territory (ACT) and Northern Territory (NT) passed legislation to amend their respective Criminal Codes to include new offences of *cheating at gambling*.

The Criminal Code (Cheating at Gambling) Amendment Bill 2013 is consistent with the abovementioned legislation and effectively fulfils Queensland's obligation to the achievement of the National Policy initiative.

---

<sup>1</sup> Coalition of Major Professional and Participation Sports (COMPPS), Submission: Crimes Amendment (Cheating at Gambling) Bill 2011 (NSW) 17 February 2012.

<sup>2</sup> Australian Sports Ministers, National Policy on match fixing in sport, accessed 30/9/13

<sup>3</sup> Australia. Department of Infrastructure and Regional Development, National Policy on Match fixing in Sport - criminal legislation accessed 30/9/13

<sup>4</sup> Australian Sports Ministers, National Policy on match fixing in sport, accessed 30/9/13

## Notes on Provisions

### Part 1 Preliminary

*Clause 1* establishes the short title to the Act as the *Criminal Code (Cheating at Gambling) Amendment Act 2013*.

### Part 2 Amendment of Criminal Code

*Clause 2* provides the Act amends the Criminal Code.

*Clause 3* inserts- new Chapter 43 Cheating at gambling and sections 443, 443A, 443B, 443C, 443D and 443E-

- Section 443 provides definitions for 'betting', 'causing financial disadvantage', 'corrupt betting conduct', 'encourage', 'event', 'event contingency' and 'obtaining financial advantage'.
- Section 443A creates an offence classified as a crime and provides penalty of imprisonment for 10 years for 'engaging in corrupt betting conduct'.
- Section 443B creates an offence classified as a crime and provides penalty of imprisonment for 10 years for 'facilitating corrupt betting conduct'.
- Section 443C creates an offence classified as a crime and provides penalty of imprisonment for 10 years for (1) 'concealing corrupt betting conduct, agreement or arrangement'; and (2) the meaning of the term 'relevant authority'.
- Section 443D creates an offence classified as a crime and provides penalty of imprisonment for 10 years for 'using information in relation to event'.
- Section 443E provides evidentiary provisions as applicable to the offences in the Act.