Legal Affairs and Community Safety Committee

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## Abbreviations

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<td>ACC</td>
<td>Australian Crime Commission</td>
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<td>Bill</td>
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<td>Committee</td>
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<td>COMPPS</td>
<td>The Coalition of Major Professional and Participation Sports Inc.</td>
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Chair’s foreword

This Report presents a summary of the Legal Affairs and Community Safety Committee’s examination of the Criminal Code (Cheating at Gambling) Amendment Bill 2013.

The Committee’s task was to consider the policy outcomes to be achieved by the legislation, as well as the application of fundamental legislative principles – that is, to consider whether the Bill had sufficient regard to the rights and liberties of individuals, and to the institution of Parliament.

On behalf of the Committee, I thank those individuals and organisations who lodged written submissions on this Bill and the Committee’s Secretariat.

I commend this Report to the House.

Ian Berry MP
Chair
Recommendations

Recommendation 1

The Committee recommends the Criminal Code (Cheating at Gambling) Amendment Bill 2013 not be passed.
1. Introduction

1.1 Role of the Committee

The Legal Affairs and Community Safety Committee (Committee) is a portfolio committee of the Legislative Assembly which commenced on 18 March 2012 under the Parliament of Queensland Act 2001 and the Standing Rules and Orders of the Legislative Assembly.1

The Committee’s primary areas of responsibility include:

- Justice and Attorney-General;
- Police Service; and
- Fire and Emergency Services.

Section 93(1) of the Parliament of Queensland Act 2001 provides that a portfolio committee is responsible for examining each bill and item of subordinate legislation in its portfolio areas to consider:

- the policy to be given effect by the legislation;
- the application of fundamental legislative principles; and
- for subordinate legislation – its lawfulness.

1.2 Referral

The Criminal Code (Cheating at Gambling) Amendment Bill 2013 (Bill) is a Private Member’s Bill introduced into the Legislative Assembly by the Member for Yeerongpilly, Mr Carl Judge MP and referred to the Committee on 31 October 2013.

As no reporting date was fixed by the Legislative Assembly or Committee of the Legislative Assembly, in accordance with the Standing Order 136(1), the Committee was required to report back to the Legislative Assembly by 1 May 2014.

1.3 Inquiry process

To assist with its examination of the Bill, the Committee wrote to Mr Judge MP inviting further comments from him on the Bill. No advice was received from Mr Judge MP.

The Committee also identified and consulted with likely stakeholders on the Bill and wrote to the Premier seeking his assistance in coordinating a whole of Government submission on the Bill. The Premier advised the Committee the Government would not be providing a submission on the Bill.2

The Committee received four submissions from stakeholders (see Appendix A).

The Committee invited Mr Judge MP to provide the Committee with a response to the submissions. Mr Judge MP provided a response to submissions in an email to the Committee dated 28 March 2014.

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1.4 Policy objectives of the Criminal Code (Cheating at Gambling) Amendment Bill 2013

In his Introductory Speech, Mr Judge MP referred to examples of cheating at gambling in sport as having prompted the development of a national policy intended to protect integrity in sport:

Following concerns about incidents of match fixing in Australian sport and overseas in recent years, Commonwealth, state and territory sports ministers met and considered what options they could take.3

The main policy objective of the Bill is to implement the agreed national policy by amending the Criminal Code to protect integrity in sport by prohibiting cheating at gambling in sport.4 In his Introductory Speech, Mr Judge MP referred to the policy objective of the Bill as follows:

The policy objective of the Criminal Code (Cheating at Gambling) Amendment Bill 2013 is to amend the Criminal Code 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.5

This objective aligns with the Commonwealth and State and Territory governments’ agreement on a national policy to protect integrity in sport by developing offences related to cheating at gambling in sport, such as inappropriate and fraudulent sports betting and match-fixing activities.6

1.5 Should the Bill be passed?

Standing Order 132(1) requires the Committee to determine whether to recommend the Bill should be passed.

The Committee has considered the form and policy intent of the Bill and notes the Bill, especially when considered together with the proposed additional amendments foreshadowed by Mr Judge MP to be included in the Bill during the Consideration-in-Detail, appears to be consistent with Government policy proposed to be implemented as indicated in the joint media release issued by the Attorney-General and Minister for Justice, the Honourable Jarrod Bleijie MP and the Minister for National Parks, Recreation, Sport and Racing, the Honourable Steve Dickson MP on 16 March 2014.7

As the Government is yet to introduce its proposed laws on this topic, the Committee considers the House should be afforded the opportunity to review the Government position prior to determining whether to pass this Bill, as amended, and therefore recommends the Bill not be passed at this point in time. When the Government’s Bill is introduced, the House will be able to determine which of the two Bills it considers is preferable to deal with the policy objectives being pursued.

Recommendation 1

The Committee recommends the Criminal Code (Cheating at Gambling) Amendment Bill 2013 not be passed.

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3 Record of Proceedings (Hansard), 31 October 2013, page 3816.
5 Record of Proceedings (Hansard), 31 October 2013, page 3816.
7 See Media Release, Joint Statement issued on 16 March 2014 by the Attorney-General and Minister for Justice, the Honourable Jarrod Bleijie MP, the Minister for National Parks, Recreation, Sport and Racing, the Honourable Steve Dickson MP, titled ‘Game over for match fixing cheats in Queensland’.
2. Examination of the Criminal Code (Cheating at Gambling) Amendment Bill 2013

2.1 Overview and background

In 2010, the Coalition of Major Professional and Participation Sports (COMPPS), a group of Australian sports governing bodies representing sports in respect of which betting takes place, formed an Anti-Corruption Working Party to conduct an analysis of betting-related corruption in sport. The Anti-Corruption Working Party released its Working Party Paper in June 2011. This paper advocated the enactment of a nationally consistent criminal legislation creating the offence of ‘cheating in connection with sports wagering’.

Following the recommendations of the COMPPS’ Working Party Paper, Commonwealth and State and Territory Sports Ministers endorsed a National Policy on Match Fixing in Sport at the Sports Ministers’ Council held on 10 June 2011. The National Policy on Match Fixing in Sport as agreed by the Commonwealth, State and Territory Governments is underpinned by the following agreed principles:

- a nationally-consistent approach to deterring and dealing with match-fixing in Australia;
- information sharing and highly efficient networks between governments, major sports, betting operators and law enforcers;
- consistent national code of conduct principles for sport; and
- active participation in international efforts to combat corruption in sport including an international code of conduct and an international body.

As a commitment to developing a national approach in dealing with the issue of corruption in sports, this ‘historic agreement’ paved the way for the introduction of nationally consistent legislation.

The agreement on a National Policy on Match-Fixing in Sport was also supported by the Australian Attorneys-General who met at the Standing Council on Law and Justice on 18 November 2011. The Australian Attorneys-General proposed a maximum penalty of 10 years imprisonment for some offences:

As part of the commitment under the National Policy on Match-Fixing and Sport to pursue a comprehensive approach to criminal offences in relation to match fixing, Attorneys-General have agreed to a set of match-fixing behaviours that legislative arrangements in each State and Territory should cover. These behaviours describe, for example, the scope of match-fixing conduct to be covered and the extent to which the use of inside information is criminalised. Ministers discussed a proposal to introduce specific match-fixing offences to

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8 The Coalition of Major Professional and Participation Sports (COMPPS) is composed of the governing bodies of seven major sports in Australia, being: (1) the Australian Football League (AFL); (2) the Australian Rugby Union (ARU); (3) Cricket Australia (CA); (4) Football Federation Australia (FFA); (5) the National Rugby League (NRL); (6) Netball Australia (NA); and (7) Tennis Australia (TA). The primary role of COMPPS is to ensure integrity in Australian sport by providing submissions on behalf of its member sports to prevent betting-related issues.

9 Seven major professional sports have called for up to 10 years' in jail for sports corruption, The Australian, 8 June 2011.

10 National Policy on Match-Fixing in Sport, as agreed by Australian Governments on 10 June 2011, page 2.

11 Queensland Government Media Release, Queensland Government backs a national strategy on match fixing, Child Safety and Sport, (formerly) the Honourable Phil Reeves MP, 10 June 2011.
cover the agreed behaviours, and the maximum penalties that should apply, including a maximum of 10 years imprisonment, where offences are already not in place.\textsuperscript{12}

Subsequently, a number of Australian jurisdictions, namely New South Wales, South Australia, Victoria, the Australian Capital Territory and the Northern Territory, enacted laws related to match-fixing issues.\textsuperscript{13} However, Queensland is yet to implement legislation in accordance with the national policy, and accordingly has been described as ‘the weak link in Australia’s defensive line against match-fixing and a ‘soft target’ for organised crime gangs looking to capitalise on international sports events’.\textsuperscript{14}

In response to this, it was reported that the Department of Justice and Attorney-General advised that:

\begin{quote}
The Newman government is currently looking at laws in other states and territories as we consider whether to introduce specific match-fixing offences in Queensland.\textsuperscript{15}
\end{quote}

The Bill seeks to rectify the situation in Queensland by introducing specific provisions in line with the agreed national strategy by making match-fixing illegal and punishable by penalty of up to 10 years jail.

\subsection*{2.2 Existing legal framework in Queensland}

In his Introductory Speech, Mr Judge MP noted that:

\begin{quote}
At present, the Criminal Code does not specifically deal with offences relating to cheating at gambling; accordingly, this Bill addresses the legislative gap and effectively fulfils Queensland’s obligation to the achievement of a national policy initiative.\textsuperscript{16}
\end{quote}

While there may be no laws in Queensland which specifically covers the situation of match-fixing or cheating in connection with a sport or lawful game, there are, however, a number of laws which could be interpreted to deal with aspects of such behaviour.

For example:

- The \textbf{general fraud provisions} in the Criminal Code might apply depending on the circumstances (see section 408C). This provision has a penalty of up to 12 years’ jail.

- \textbf{Chapter 23 of the Criminal Code} also includes sections relating to gambling and betting but this provision applies to unlawful games and does not specifically address offences related to corruption in sport, such as cheating at gambling and match fixing.

- \textbf{Section 217(1) of the Wagering Act 1998 (Qld)} provides for the offence of cheating in the context of approved wagering. Individuals who wager to dishonestly obtain a ‘benefit’ for themselves or another person face a maximum penalty of 2 years imprisonment.

\textsuperscript{12} Australian Attorneys-General’s Communiqué, Standing Council on Law and Justice, 18 November 2011, page 3.

\textsuperscript{13} \textit{Explanatory Notes}, Criminal Code (Cheating at Gambling) Amendment Bill 2013, pages 4-5.

\textsuperscript{14} Queensland weakest link in nation’s gang laws, soft target for criminals, The Australian, 12 October 2013.

\textsuperscript{15} Queensland weakest link in nation’s gang laws, soft target for criminals, The Australian, 12 October 2013.

\textsuperscript{16} Record of Proceedings (Hansard), 31 October 2013, page 3816.
2.3 Need for legislation contemplated by the Bill in Queensland?

In drafting the National Policy on Match-Fixing in Sport, Commonwealth and State and Territory governments acknowledged the legitimacy of developing criminal offences to permit the prosecution of those fixing or using information about a betting outcome. As stated in the National Policy on Match-Fixing in Sport:

*Fraudulent betting on sport and the associated match-fixing is an emerging and critical issue globally, for sport, the betting industry and governments alike. It has the potential to undermine public confidence in the integrity of sport, sporting events and the products offered by betting agencies. Left unchecked, this corruption will devalue the integrity of sport and diminish the acceptability and effectiveness of sport as a tool to develop and support many aspects of our society.*\(^{17}\)

Additionally, the timely implementation of the National policy on match-fixing is of the utmost importance given the prominence of the gambling industry in Australia. This was highlighted by the former Government’s Minister for Child Safety and Minister for Sport, who during the development phase of a nationally consistent approach to criminal offences relating to match-fixing, endorsed it as ‘a unified 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’,\(^{18}\) and had previously described it as ‘a top priority for all Australian Governments’.\(^{19}\)

The Australian Wagering Council reports that the online wagering and sports betting industry in Australia had more than two million Australian customers in 2009.\(^{20}\) The total gambling expenditure for 2008-2009 was $19 billion,\(^{21}\) and the estimated illegal offshore online gambling market was estimated to be nearing $800 million in 2009.\(^{22}\)

In addition to the above factors, the Australian Crime Commission (ACC) Report into Organised Crime and Drugs in Sport identified the emerging issue of an increasing level of association between professional athletes and organised criminal identities in Australia, leaving athletes vulnerable to corrupt practices such as match-fixing.\(^{23}\) As the report further explains:

*Relationships between athletes and organised crime identities can be exploited by criminals to corrupt the athlete and give a form of social status to the criminal... The ACC has identified an increasing number of associations of concern between professional athletes and organised criminal identities in Australia. The ACC’s 2011 assessment of Threats to the Integrity of Professional Sport in Australia, noted that as the amount of money wagered on sport increases, associations with athletes or other*

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17 Australian Sport Ministers, National Policy on Match-Fixing in Sport, page 2.
20 Australian Wagering Council, Submission No. 4, page 3; and the Australian Wagering Council’s website.
individuals with the ability to influence a sporting contest, or provide inside information, will be increasingly sought after.\textsuperscript{24}

New Victorian legislation, similar to that contemplated by the Bill, had only been enacted for less than six months before it was relied upon to charge individuals allegedly involved in match-fixing. In September 2013, six individuals were the first to be charged in Victoria under new legislation.\textsuperscript{25} Four players, the coach of the Southern Stars Football Club, a Victorian Premier League football club, and the ringleader that had been the liaison between the team and match fixers, were arrested and charged with being involved in match fixing activities perpetrated both in Australia and overseas.\textsuperscript{26} It was also reported that this match-fixing scandal had spread to Queensland with a semi-professional soccer team based in Albany Creek in Brisbane becoming embroiled in the match-fixing scandal.\textsuperscript{27}

\textbf{Committee Comment}

It is apparent that there has been significant and concerted efforts directed at this issue for over four years. Much attention, firstly by industry bodies but then at the Governmental level, has been focussed on the implementation of consistent legislation across the nation. The recent examples of match-fixing, which have also involved Queensland, also highlight the relevance to Queensland of specific legislation dealing with these types of activities.

\textbf{2.4 Proposals under the Bill}

The Bill proposes to introduce crimes relating to corrupt betting conduct for which offenders will be liable to a maximum of 10 years imprisonment. The Bill introduces a new chapter 43, titled ‘Cheating at gambling’, to be inserted in the Criminal Code. This proposed new chapter, as originally drafted, introduces key definitions and four new offences.

The key definitions introduced in the Bill are:

- betting;
- causing financial advantage;
- corrupt betting conduct;
- encourage;
- event;
- event contingency; and
- obtaining financial advantage.

The Bill also introduces the following four new offences:

- Engaging in conduct that corrupts a betting outcome (section 443A);
- Facilitating corrupt betting conduct (section 443B);
- Concealing corrupt betting conduct, agreements or arrangements (section 443C); and
- Use of corrupt information for betting purposes (section 443D).


\textsuperscript{25} Six charged over soccer match fixing scandal, The Australian, 16 September 2013.

\textsuperscript{26} Police raids end Australia’s ‘biggest’ match-fixing scandal, The Australian, 15 September 2013.

\textsuperscript{27} Match-fixing scandal spreads to Queensland, Sydney Morning Herald, 17 September 2013.
The Bill provides a maximum penalty of 10 years imprisonment for each of the new offences.

A summary of a number of the key definitions and each of the offences is set out in the first column of the table attached in Appendix B.

2.5 Similar legislation in other Australian jurisdictions

Since all of the Australian Sports Ministers committed to address the issue of match-fixing with a national policy at the Sports Ministers’ Council meeting in June 2011, the following five jurisdictions in Australia have enacted legislation in this area:

- New South Wales;
- Victoria;
- South Australia;
- Northern Territory; and
- Australian Capital Territory.

The Explanatory Notes provide the following summary of the introduction of cheating at gambling legislation enacted in these jurisdictions since the June 2011 Australian Sports Ministers’ meeting:

- 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.\(^28\)

Queensland, Western Australia and Tasmania are the only jurisdictions that are yet to implement specific legislation following the June 2011 meeting.

The Bill is an attempt to remedy the situation in Queensland and has been modelled on legislation enacted in other Australian jurisdictions. Relevantly, the Explanatory Notes provide:

\[*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.*\(^29\)

\(^28\) Explanatory Notes, Criminal Code (Cheating at Gambling) Amendment Bill 2013, pages 4-5.

\(^29\) Explanatory Notes, Criminal Code (Cheating at Gambling) Amendment Bill 2013, page 4.
In examining the Bill, the Committee has also compared it to the legislation already enacted in the five other Australian jurisdictions. The results of the Committee’s comparative analysis are set out in the table attached as Appendix B. Overall, the definitions and offences are very similar across all of the jurisdictions with the main differences highlighted in bold in the table.

It is clear that the Queensland Bill has been modelled more closely on the Victorian legislation enacted in the Crimes Amendment (Integrity in Sports) Act 2013 (Vic). Accordingly, the offence of using ‘inside information’ for betting purposes and the associated definition of ‘inside information’ are not included in the Bill, as these provisions were also not included in the Victorian legislation.

However, as noted above, Mr Judge MP has indicated that amendments to the Bill will be introduced in the Consideration-in-Detail stage of the Bill. The proposed additional amendments to the Bill include adding the fifth offence of ‘using inside information for betting purposes’ with a maximum penalty of two years imprisonment. These amendments will make the Bill more consistent with the legislation already enacted in New South Wales, South Australia, the Australian Capital Territory and Northern Territory.

### 2.6 Issues raised in submissions

**Submissions received**

There were four submissions which discussed the Bill. These submissions were received from:

- Tabcorp Holdings Limited;
- Bar Association of Queensland;
- The Coalition of Major Professional and Participation Sports Inc.; and
- Australian Wagering Council (AWC).

**Submissions supportive of the Bill**

Essentially, all of these submissions supported the Bill. For example, Tabcorp made the following comments:

> Tabcorp supports the introduction of nationally consistent criminality provisions for people who corrupt sporting events and therefore supports the provisions enshrined in the Bill.³⁰

Similarly, the AWC concluded:

> The Criminal Code (Cheating at Gambling) Amendment Bill 2013 is strongly supported by the AWC and its members whose business objectives are closely aligned with those of government regulators, sports controlling bodies and law enforcements agencies to ensure sport is free of corruption and cheating at gambling in sport is prohibited.

> The Bill will instil greater public confidence in the integrity of sporting outcomes and the integrity of the Australian sports betting market.³¹

The Bar Association of Queensland also agreed:

> The Bill as drafted is, in the view of the Association, an appropriate response to the key objective of protecting integrity in sport by prohibiting cheating at gambling.³²

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³⁰ Tabcorp, Submission No. 1, page 1.
³¹ Australian Wagering Council, Submission No. 4, page 9.
³² Bar Association of Queensland, Submission No. 2, page 2.
Discrepancies with similar legislation enacted in other jurisdictions

Two of the submissions, being from the Bar Association of Queensland and the AWC, however, raised the following additional points in relation to the content of the Bill and noted discrepancies with similar legislation enacted in other jurisdictions:

- **Inclusion of ‘Territory’ in the definition section**
  
The submission from the Bar Association of Queensland drew attention to the omission of a reference to ‘territory’ in the relevant definitions of the Bill. In his response to the submissions on this Bill, Mr Judge MP, highlighted that the Acts Interpretation Act 1955, section 36 and schedule 1 defines the term ‘State’ to include the Australian Capital Territory and the Northern Territory. Accordingly, it is not necessary to include the reference to ‘territory’ in the proposed draft legislation.

- **Omission of ‘Inside Information’ offence**
  
  Both the submission from the Bar Association of Queensland and the submission from the AWC noted the apparent omission of a fifth offence relating to using information which is ‘inside information’ (rather than corrupt information) for betting purposes. The ‘inside information’ offence, with a maximum penalty of two years, was included in the equivalent legislation in New South Wales, South Australia, Northern Territory, and Australian Capital Territory. However, this offence was not included in the equivalent legislation in Victoria.

  In his response to the submissions on this Bill, Mr Judge MP, noted that the Bill is essentially modelled on the Victorian legislation and, accordingly, the ‘inside information’ offence had not been included in the original version of the Bill. However, in light of the comments made in the submissions from the Bar Association of Queensland and the AWC, Mr Judge MP further noted that he had prepared amendments to be moved during Consideration-in-Detail. These amendments include a fifth offence, ‘Using inside information in relation to event’ (s443DA) which has a maximum penalty of two years imprisonment. This proposed amendment would bring the Bill in line with the equivalent legislation in New South Wales, South Australia, Northern Territory, and Australian Capital Territory, as well as in Victoria.

- **Clarification of definition of ‘corrupt betting conduct’**
  
  The new Victorian amendments were recently tested in a recent case involving charges of alleged ‘courtsiding’ which were dropped due to there being no reasonable prospect of conviction. In light of these developments, the AWC commented in its submission that:

  [T]he AWC would support the clarification by the Queensland Parliament that the meaning of “corrupt betting conduct” in the Bill refers only to conduct that affects the ultimate result of determination of a betting contingency, with that conduct being linked to the outcome of some element of the sporting event in question (for example, the winner of the first set in a tennis match, the last try scorer in a game of rugby…}

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33 Bar Association of Queensland, Submission No. 2, pages 2-3.
34 Email from Mr Carl Judge MP, 28 March 2014, Response to submissions, page 2.
35 Section 193Q(2) of the Crimes Act 1900 (NSW).
36 Section 144K(2) of the Criminal Law Consolidation Act 1935 (SA).
37 Section 237M(1) of the Criminal Code Amendment (Cheating at Gambling) Act 2013 (NT).
38 Section 363H of the Criminal Code Amendment (Cheating at Gambling) Act 2013 (ACT).
39 Crimes Amendment (Integrity in Sports) Act 2013 (Vic).
40 Email from Mr Carl Judge MP, 28 March 2014, Response to submissions, page 2.
41 Courtsiding tennis betting charge dropped against British man, The Australian, 6 March 2014.
A betting outcome is only corrupted where conduct occurs that distorts the result of the betting market upon which a wagering operator pays out.

While this aspect was not specifically referred to by Mr Judge MP in his response to the submissions on this Bill, it is noted that Mr Judge MP has included language to cover a situation, like ‘courtsiding’, in the amendments proposed to be moved during Consideration-in-Detail. The proposed new amendment to the Bill is that the words ‘whether or not the act of omission distorts the result of the betting market’ be added after the words ‘on the event’ on the two occasions where they appear in the definition of ‘corrupt betting conduct’.

The addition of this wording would appear to have the intention of capturing the ‘courtsiding’ circumstances which occurred in Victoria so that if the same circumstances were to occur in Queensland, then there would be a stronger case to prosecute the individuals concerned in the ‘courtsiding’ activity.

Committee Comment

Despite the existing general legislative provisions in Queensland, it is clear to the Committee after reviewing all the relevant information, including recent examples of match-fixing activities in Queensland, that Queensland would benefit from specific laws designed to tackle the issues of match-fixing and other illegal betting activities relating to sport.42

The Committee also notes that the Bill, especially when considered together with the proposed additional amendments foreshadowed by Mr Judge MP to be included in the Bill during the Consideration-in-Detail, is consistent with Government policy proposed to be implemented as indicated in the joint media release issued by the Attorney-General and Minister for Justice, the Honourable Jarrod Bleijie MP and the Minister for National Parks, Recreation, Sport and Racing, the Honourable Steve Dickson MP on 16 March 2014.43

The Committee further notes the Government is yet to introduce its proposed laws to address this topic. As the Government has announced its intention, to introduce its own Bill on this matter, the Committee considers the House should be afforded the opportunity to review the Government position, prior to this Bill (and the proposed amendments) progressing further through the legislative process.

The Committee therefore recommends that until the House has had such opportunity, the Bill should not be passed.

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42 Queensland weakest link in nation’s gang laws, soft target for criminals, The Australian, 12 October 2013.
43 Media Release, Joint Statement issued on 16 March 2014 by the Attorney-General and Minister for Justice, the Honourable Jarrod Bleijie MP, the Minister for National Parks, Recreation, Sport and Racing, the Honourable Steve Dickson MP, titled ‘Game over for match fixing cheats in Queensland’.
3. Fundamental legislative principles

Section 4 of the Legislative Standards Act 1992 states that ‘fundamental legislative principles’ are the ‘principles relating to legislation that underlie a parliamentary democracy based on the rule of law’. The principles include that legislation has sufficient regard to:

- the rights and liberties of individuals, and
- the institution of Parliament.

The Committee has examined the application of the fundamental legislative principles to the Bill. The Committee brings the following to the attention of the House.

3.1 Rights and liberties of individuals and power to enter premises

Section 4(2)(a) of the Legislative Standards Act 1992 requires that legislation has sufficient regard to the rights and liberties of individuals.

Potential fundamental legislative principle issues

As a matter of fundamental legislative principles (FLPs), a penalty should be proportionate to the offence. In other words, legislation should provide a higher penalty for an offence of greater seriousness than a lesser offence. Penalties within legislation should also be consistent with each other.44

The Explanatory Notes acknowledge that the Bill may impact on the rights and liberties of individuals by subjecting an offender to serve a period of incarceration. Incarceration implies a restriction of the rights and liberties of individuals. However, the penalties created by the Bill are proportionate with the nature and seriousness of the offences introduced by the Bill.

Additionally, the Explanatory Notes provide the following justifications for the impacts on the rights and liberties of offenders:

- the penalties are consistent with penalties in other jurisdictions for similar offences;
- the penalties are proportionate to the nature and seriousness of the offences; and
- the penalties are proportionate and consistent with other offences in the Criminal Code.

The Explanatory Notes consider these sanctions are justified as they aim at protecting other citizens from damaging consequences caused by ‘a person’s anti-social and/or offending behaviour’.45

As explained above, the Bill is proportionate with the legislation enacted in other Australian jurisdictions, both in terms of offences and penalties. Consequently the Bill meets the requirement of consistency that enables the development of a national legal framework to deal with cheating at gambling issues.

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45 Explanatory Notes, Criminal Code (Cheating at Gambling) Amendment Bill 2013, pages 4-5.
Committee Comment

It is considered that, on balance, the offences and associated penalties at clause 3 of the Bill have sufficient regard to the rights and liberties of offenders. In reaching this view, regard was had to the fact that the maximum penalty of ten year’s imprisonment is consistent with the maximum penalty in New South Wales, South Australia, Victoria and the Australian Capital Territory. The Northern Territory currently has a maximum penalty of seven year’s imprisonment.

3.2 Explanatory Notes

Part 4 of the Legislative Standards Act 1992 relates to Explanatory Notes. It requires that an Explanatory Note be circulated when a bill is introduced into the Legislative Assembly, and sets out the information an Explanatory Note should contain.

Explanatory Notes were tabled with the introduction of the Bill. The notes are fairly detailed and contain the information required by Part 4 of the Legislative Standards Act 1992 and a reasonable level of background information and commentary to facilitate understanding of the Bill’s aims and origins.

46 Criminal Code (Cheating at Gambling) Amendment Act 2013 (ACT); Crimes Amendment (Integrity in Sports) Act 2013 (VIC); Criminal Law Consolidation (Cheating at Gambling) Amendment Act 2013 (SA); and Crimes Amendment (Cheating at Gambling) Act 2012 (NSW).

47 Criminal Code (Cheating at Gambling) Amendment Act 2013 (NT).
## Appendix A – List of Submissions

<table>
<thead>
<tr>
<th>Sub #</th>
<th>Submitter</th>
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<tbody>
<tr>
<td>001</td>
<td>Tabcorp Holdings Limited</td>
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<tr>
<td>002</td>
<td>Bar Association of Queensland</td>
</tr>
<tr>
<td>003</td>
<td>The Coalition of Major Professional and Participation Sports Inc.</td>
</tr>
<tr>
<td>004</td>
<td>Australian Wagering Council</td>
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</tbody>
</table>
Appendix B – Comparison between Queensland and other Australian jurisdictions

**Note:** Differences with the Criminal Code (Cheating at Gambling) Amendment Bill 2013 appear in bold letters

<table>
<thead>
<tr>
<th>Queensland</th>
<th>New South Wales</th>
<th>South Australia</th>
<th>Victoria</th>
<th>Australian Capital Territory</th>
<th>Northern Territory</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>DEFINITION of ‘encourage’</strong></td>
<td>443 Incite, induce, persuade, pressure, threaten or urge</td>
<td>193M Command, request, propose, advise, incite, induce, persuade, authorise, urge, threaten or place pressure on</td>
<td>144G (1) Command, request, propose, advise, incite, induce, persuade, authorise, urge, pressure or threaten</td>
<td>195B (1) Incite, induce, persuade, urge, threaten or pressure</td>
<td>363A (1) Command, request, propose, advise, incite, induce, persuade, authorise, urge, threaten or place pressure on</td>
</tr>
<tr>
<td><strong>DEFINITION of ‘event’</strong></td>
<td>443 Event on which it is lawful to bet under a law of the Commonwealth or a State</td>
<td>1931 (1) Event on which it is lawful to bet under a law of this State, another State, a Territory or the Commonwealth</td>
<td>144G (1) Event on which it is lawful to bet under a law of this State, another State, a Territory or the Commonwealth</td>
<td>195B (1) Event on which it is lawful to bet under a law of this State, another State, a Territory or the Commonwealth</td>
<td>273D (1) Event on which it is lawful to bet under a law of this Territory, another State, a Territory or the Commonwealth</td>
</tr>
<tr>
<td><strong>DEFINITION of ‘event contingency’</strong></td>
<td>443 Contingency on which it is lawful to bet under a law of the Commonwealth or a State</td>
<td>1931 (2) Contingency on which it is lawful to bet under a law of this State, another State, a Territory or the Commonwealth</td>
<td>144G (1) Contingency on which it is lawful to bet under a law of this State, another State, a Territory or the Commonwealth</td>
<td>195B (1) Contingency on which it is lawful to bet under a law of this State, another State, a Territory or the Commonwealth</td>
<td>273D (2) Event on which it is lawful to bet under a law of this Territory, another State, a Territory or the Commonwealth</td>
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<tr>
<td><strong>DEFINITION of ‘obtaining financial advantage’</strong></td>
<td>443 For oneself or another person Includes inducing a person to obtain a financial advantage for another person Whether the advantage is permanent or temporary</td>
<td>193X (1) For oneself or another person Includes inducing a person to obtain a financial advantage for another person, or keeping a financial advantage Whether the advantage is permanent or temporary</td>
<td>144G (5) For oneself or another person Includes inducing a person to obtain a financial advantage for another person, or keeping a financial advantage Whether the advantage is permanent or temporary</td>
<td>195B (1) For oneself or another person Includes inducing a person to obtain a financial advantage for another person, or keeping a financial advantage Whether the advantage is permanent or temporary</td>
<td>363D Get or keep a financial advantage for oneself or another person, directly or indirectly 363A Whether the advantage is permanent or temporary 273E (1) For oneself or another person Includes inducing a person to obtain a financial advantage for another person, or keeping a financial advantage Whether the advantage is permanent or temporary</td>
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<td>QUEENSLAND</td>
<td>NEW SOUTH WALES</td>
<td>SOUTH AUSTRALIA</td>
<td>VICTORIA</td>
<td>AUSTRALIAN CAPITAL TERRITORY</td>
<td>NORTHERN TERRITORY</td>
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<td><strong>Criminal Code (Cheating at Gambling) Amendment Bill 2013</strong></td>
<td><strong>Crimes Amendment (Cheating at Gambling) Act 2012</strong></td>
<td><strong>Criminal Law Consolidation (Cheating at Gambling) Amendment Act 2013</strong></td>
<td><strong>Crimes Amendment (Integrity in Sports) Act 2013</strong></td>
<td><strong>Criminal Code (Cheating at Gambling) Amendment Act 2013</strong></td>
<td><strong>Criminal Code Amendment (Cheating at Gambling) Act 2013</strong></td>
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<tr>
<td><strong>OFFENCE of engaging in corrupt betting conduct</strong></td>
<td><strong>443A Engaging in conduct that corrupts a betting outcome</strong> Engaging knowingly or recklessly With the intention of obtaining financial advantage/causing financial disadvantage Maximum penalty of 10 years imprisonment</td>
<td><strong>193N Engaging in conduct that corrupts a betting outcome</strong> Engaging knowingly or recklessly With the intention of obtaining financial advantage/causing financial disadvantage Maximum penalty of 10 years imprisonment</td>
<td><strong>144H Engaging in conduct that corrupts a betting outcome</strong> Engaging knowingly or recklessly With the intention of obtaining financial advantage/causing financial disadvantage Maximum penalty of 10 years imprisonment</td>
<td><strong>195C Engaging in conduct that corrupts, or would corrupt, a betting outcome</strong> Engaging knowingly or recklessly With the intention of obtaining financial advantage/causing financial disadvantage Maximum penalty of 10 years imprisonment</td>
<td><strong>363F Engaging in conduct that corrupts a betting outcome</strong> Engaging recklessly With the intention of obtaining financial advantage/causing financial disadvantage Maximum penalty of 10 years imprisonment</td>
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<tr>
<td><strong>OFFENCE of facilitating corrupt betting conduct</strong></td>
<td><strong>443B Offering to engage in, encouraging another person to engage in, or entering into corrupt betting conduct, agreement or arrangement</strong> Facilitating knowingly or recklessly With the intention of obtaining financial advantage/causing financial disadvantage Maximum penalty of 10 years imprisonment</td>
<td><strong>193O Offering to engage in, encouraging another person to engage in, or entering into corrupt betting conduct or agreement</strong> No provision about corrupt betting arrangement Facilitating knowingly or recklessly With the intention of obtaining financial advantage/causing financial disadvantage Maximum penalty of 10 years imprisonment</td>
<td><strong>144I Offering to engage in, encouraging another person to engage in, or entering into corrupt betting conduct or agreement</strong> No provision about corrupt betting arrangement Facilitating knowingly or recklessly With the intention of obtaining financial advantage/causing financial disadvantage Maximum penalty of 10 years imprisonment</td>
<td><strong>195D Offering to engage in, encouraging another person to engage in, or entering into corrupt betting conduct, agreement or arrangement</strong> Facilitating knowingly or recklessly With the intention of obtaining financial advantage/causing financial disadvantage Maximum penalty of 10 years imprisonment</td>
<td><strong>237H Engaging in conduct that corrupts a betting outcome</strong> No provision about engaging knowingly or recklessly With the intention of obtaining financial advantage/causing financial disadvantage Maximum penalty of 7 years imprisonment</td>
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<td>Queensland Criminal Code</td>
<td>(Cheating at Gambling) Amendment Bill 2013</td>
<td><strong>OFFENCE of concealing corrupt betting conduct</strong></td>
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<td>443C (1) Encouraging another person to conceal corrupt betting conduct, agreement from a relevant authority Encouraging knowingly or recklessly With the intention of obtaining financial advantage/causing financial disadvantage Maximum penalty of 10 years imprisonment</td>
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<td>193P (1) Encouraging another person to conceal corrupt betting conduct, agreement from an appropriate authority No provision about corrupt betting arrangement Encouraging knowingly or recklessly With the intention of obtaining financial advantage/causing financial disadvantage Maximum penalty of 10 years imprisonment</td>
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<td>144J (1) Encouraging another person to conceal corrupt betting conduct, agreement from an relevant authority No provision about corrupt betting arrangement Encouraging knowingly or recklessly With the intention of obtaining financial advantage/causing financial disadvantage Maximum penalty of 10 years imprisonment</td>
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<td>195E (1) Encouraging another person to conceal corrupt betting conduct, agreement from a relevant authority Encouraging knowingly or recklessly With the intention of obtaining financial advantage/causing financial disadvantage Maximum penalty of 10 years imprisonment</td>
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<td>443C (2) A police officer or a body having the official function of controlling, regulating or supervising the event or the betting In case of event contingency, ‘relevant authority’ means a police officer</td>
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<td>193P (2) An ‘appropriate authority’ means a police officer or a body having the official function of controlling, regulating or supervising the event or the betting No provision about event contingency</td>
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<td>144J (2) A police officer or, a body having the official function of controlling, regulating or supervising the event or the betting, or any authority of a kind prescribed by regulation No provision about event contingency</td>
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<td>195E (2) A police officer, or a body having the official function of controlling, regulating or supervising the event or the betting, or any authority of a kind prescribed by regulation No provision about event contingency</td>
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<td>237K (1) Encouraging another person to conceal corrupt betting conduct, agreement from an appropriate authority No provision about corrupt betting arrangement No provision about encouraging knowingly or recklessly With the intention of obtaining financial advantage/causing financial disadvantage Maximum penalty of 7 years imprisonment</td>
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<td>237K (2) An ‘appropriate authority’ means a police officer or a body having the official function of controlling, regulating or supervising the event or the betting No provision about event contingency</td>
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<td>No definition of ‘relevant authority’</td>
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<td>237L Possessing corrupt conduct information and betting, encouraging another person to bet, or communicating/causing to</td>
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<td>363G Possessing corrupt conduct information and betting, encouraging another person to bet, or communicating/causing to</td>
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<td>195F Possessing corrupt conduct information and betting, encouraging another person to bet, or communicating/causing to</td>
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<td>193Q (1) Possessing corrupt conduct information and betting, encouraging another person to bet, or communicating/causing to</td>
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<td>144K (1) Possessing corrupt conduct information and betting, encouraging another person to bet, or communicating/causing to</td>
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<td>195F Possessing corrupt conduct information and betting, encouraging another person to bet, or communicating/causing to</td>
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<td>195F Possessing corrupt conduct information and betting, encouraging another person to bet, or communicating/causing to</td>
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<td>OFFENCE of using inside information for betting purposes</td>
<td>QUEENSLAND</td>
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<td>SOUTH AUSTRALIA</td>
<td>VICTORIA</td>
<td>AUSTRALIAN CAPITAL TERRITORY</td>
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<td>No offence related to the use of inside information</td>
<td>be communicated, information to a person that would bet/be likely to bet Information is used knowingly and recklessly Not necessary to prove that the other person bet Maximum penalty of 10 years imprisonment</td>
<td>be communicated, information to a person that would bet/be likely to bet Information is used knowingly and recklessly Not necessary to prove that the other person bet Maximum penalty of 10 years imprisonment</td>
<td>be communicated, information to a person that would bet/be likely to bet Information is used knowingly and recklessly Information must be relevant to the bet Not necessary to prove that the other person bet Maximum penalty of 10 years imprisonment</td>
<td>information to a person that would bet/be likely to bet No provision about causing information to be communicated Information is used recklessly Information must be relevant to the bet Not necessary to prove that the other person bet Maximum penalty of 10 years imprisonment</td>
<td>be communicated, information to a person that would bet/be likely to bet Information is used knowingly and recklessly Not necessary to prove that the other person bet Maximum penalty of 7 years</td>
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<tr>
<td>193Q (2) Possessing inside information and betting, encouraging another person to bet, or communicating/causing to be communicated, information to a person that would bet/be likely to bet Information is used knowingly and recklessly Not necessary to prove that the other person bet Maximum penalty of 2 years imprisonment</td>
<td>144K (2) Possessing inside information and betting, encouraging another person to bet, or communicating/causing to be communicated, information to a person that would bet/be likely to bet Information is used recklessly Information must be relevant to the bet Not necessary to prove that the other person bet Maximum penalty of 2 years imprisonment</td>
<td>363H (1) Possessing inside information and betting, encouraging another person to bet, or communicating/causing to be communicated, information to a person that would bet/be likely to bet Information is used recklessly Not necessary to prove that the other person bet Maximum penalty of 2 years imprisonment</td>
<td>237M (1) Possessing inside information and betting, encouraging another person to bet, or communicating/causing to be communicated, information to a person that would bet/be likely to bet Not necessary to prove that the other person bet Maximum penalty of 2 years imprisonment</td>
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<td>State</td>
<td>Legislation</td>
<td>Definition of 'inside information'</td>
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<td>QUEENSLAND</td>
<td>Criminal Code (Cheating at Gambling) Amendment Bill 2013</td>
<td>No definition of 'inside information'</td>
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<td>NEW SOUTH WALES</td>
<td>Crimes Amendment (Cheating at Gambling) Act 2012</td>
<td>193Q (4) ‘Inside information’ is not generally available if generally available, it would, or would be likely to, influence betting decisions</td>
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<td>SOUTH AUSTRALIA</td>
<td>Criminal Law Consolidation (Cheating at Gambling) Amendment Act 2013</td>
<td>144K (3) (b) ‘Inside information’ is not generally available if generally available, it would, or would be likely to, influence betting decisions</td>
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<td>VICTORIA</td>
<td>Crimes Amendment (Integrity in Sports) Act 2013</td>
<td>No definition of ‘inside information’</td>
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<tr>
<td>AUSTRALIAN CAPITAL TERRITORY</td>
<td>Criminal Code Amendment (Cheating at Gambling) Act 2013</td>
<td>363H (2) ‘Inside information’ is not generally available if generally available, it would, or would be likely to, influence betting decisions</td>
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<td>NORTHERN TERRITORY</td>
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<td>237M (1) ‘Inside information’ is not generally available if generally available, it would, or would be likely to, influence betting decisions</td>
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</table>
Dissenting Report
28th April 2014

Ian Berry MP, Chairperson
Legal Affairs and Community Safety Committee
Parliament House
George Street
BRISBANE QLD 4000

Dear Mr Berry,

**Dissenting Report to Criminal Code (Cheating at Gambling) Amendment Bill 2013.**

I support the Bill.

This Bill appears to be consistent with the current Government policy and I understand it aligns with “The Commonwealth and State Territory Governments Agreement on a national policy to protect integrity in sport by developing offences related to cheating at gambling in sport, such as inappropriate and fraudulent sports betting and match fixing.”

I refer members to the committee’s final comment on page 10 of the report ” Despite the existing general legislative provisions in Queensland, it is clear to the Committee after reviewing all the relevant information, including recent examples of match match-fixing activities in Queensland, that Queensland would benefit from specific laws designed to tackle the issues of match-fixing and other illegal betting activities relating to sport.

The Committee also notes that the Bill, especially when considered together with the proposed additional amendments foreshadowed by Mr Judge MP to be included in the Bill during the Consideration –in –Detail, is consistent with Government policy proposed to be implemented as indicated in the joint media
release issued by the Attorney-General and Minster for Justice, the Honourable Jarrod Bleijie and the Minister for National Parks, Recreation, Sport and Racing, the Honourable Steve Dickson on 16 March 2014.”

I believe the reasons given by the committee for not passing the Bill show how the current committee was not able to consider the Bill on its merits and instead relies on its factors external to the merits of the proposal before the committee for consideration.

Yours sincerely


Peter Wellington MP
Member for Nicklin