

Criminal Law (False Evidence Before Parliament) Amendment Bill 2012

Explanatory Notes

Objectives of the Bill

The objective of the Criminal Law (False Evidence Before Parliament) Amendment Bill 2012 (the Bill) is to amend the Criminal Code to re-introduce the repealed section 57 (False evidence before Parliament), with amendment, to make it an offence to knowingly give false evidence to Parliament or its committees.

Reasons for the Bill

The Bill implements the Liberal National Party's pre-election commitments to introduce amendments to make it illegal to lie to Parliament.

The Bill re-introduces section 57 (False evidence before Parliament), with amendment, into the Criminal Code. This will serve to enhance the reputation of Parliament. The Queensland community expects its Parliamentarians to act responsibly and with the highest of integrity.

The amendments expressly reflect the intention that the parliamentary privilege of freedom of speech and debate is abrogated to the extent required by the offence and clarify that the offence applies to Members of Parliament as well as non-members.

The Legislative Assembly will retain the right to decide whether particular conduct should be dealt with as a contempt of Parliament or whether it should be prosecuted under the new offence.

Achievement of the Objectives

The Bill achieves the objectives by way of the creation of a new offence in the Criminal Code as described below.

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

While the creation of a new criminal offence affects the rights and liberties of individuals, this offence criminalises conduct that is currently prohibited and punished by the rules of Parliament and the *Parliament of Queensland Act 2001*. Further, the amendment re-introduces an offence that existed in the Criminal Code from 1899 until 2006.

The creation of the new offence is justified to give effect to the community's expectation that Parliamentarians, and others giving evidence before Parliament and its committees, act honestly and responsibly and will serve to enhance the reputation of Parliament.

In considering whether the Bill has sufficient regard to the institution of Parliament, the amendments ensure that the Legislative Assembly will retain the right to decide whether particular conduct should be dealt with as contempt of Parliament or whether it should be prosecuted under the new offence.

Consultation

Consultation with the following government departments and agencies occurred: the Department of the Premier and Cabinet; Queensland Treasury and Trade; the Department of Community Safety; and the Queensland Police Service.

Notes on Provisions

Part 1 Preliminary

Clause 1 establishes the short title to the Act as the *Criminal Law (False Evidence Before Parliament) Amendment Act 2012*.

Part 2 Amendment of Criminal Code

Clause 2 provides that part 2 amends the Criminal Code.

Clause 3 inserts new section 57 (False evidence before Parliament) into the Criminal Code which makes it an offence to knowingly give false evidence to Parliament or its committees.

New section 57 in effect re-inserts former section 57, which was repealed in 2006 by the *Criminal Code Amendment Act 2006*, but with minor changes to the language of the original section to reflect modern drafting practices.

The offence applies where the false evidence is given during an examination before the Legislative Assembly or a committee. The term “examination” is not defined and is a matter for the tribunal of fact to determine having regard to all of the evidence before it. It is acknowledged that examination under oath or affirmation before the Legislative Assembly or a committee is not mandatorily required by the *Parliament of Queensland Act 2001*. As such, the concept of examination is not restricted to evidence given on oath or affirmation.

Subsection (3) expressly provides that despite the operation of section 8 of the *Parliament of Queensland Act 2001*, evidence of anything said or done during proceedings in the Legislative Assembly may be given in a proceeding against a person for an offence under new section 57 to the extent necessary to prosecute the person for the offence.

Subsection (4) provides that subsection (3) does not limit the *Parliament of Queensland Act 2001*, section 36 (Inadmissibility of particular events before ‘the Assembly or’ a committee).

Subsection (6) contains definitions relevant to new section 57. The terms “committee” and “proceedings in the Assembly” are as per the definition in the *Parliament of Queensland Act 2001*. The term “person” is defined to include a member of the Legislative Assembly, making it clear that new section 57 applies to both Members of Parliament and non-members.

Part 3 Amendment of Parliament of Queensland Act 2001

Clause 4 provides that part 3 amends the *Parliament of Queensland Act 2001*.

Clause 5 amends section 36 (Inadmissibility of particular events before a committee).

Sub clause (1) amends the heading of section 36 to insert “the Assembly or” after ‘events before’.

Sub clause (2) amends subsection 36(1) by inserting “Without limiting sections 8 and 9, evidence” to clarify the relationship between sections 8, 9 and 36 of the Parliament of Queensland Act.

Sub clause (3) amends subsection 36(1) by inserting “the Assembly or” before “a committee” where it appears.

These amendments are made to ensure consistency of operation within the *Parliament of Queensland Act 2001* by making it plain that answers given before the Legislative Assembly are treated in the same way as answers given before a committee in terms of their admissibility in a criminal proceeding or a proceeding before the Assembly or its committees.