

**THE LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

EXPLANATORY MEMORANDUM

**CRIMES AMENDMENT BILL 2001 (NO. 3)
*A BILL TO AMEND THE CRIMES ACT 1900***

**Distributed by
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Crimes Amendment Bill 2001 (No. 3)

Outline

The purpose of this Bill is to address the issue of contamination hoaxes and real threats arising out of the terrorist attacks which commenced in September 2001. Current law places severe punishment on contamination or threats of contamination on foodstuffs and other commodities. However, threats such as those which arose out of the anthrax attacks which have occurred overseas, and the hoax attacks which occurred in October 2001 in the ACT and other parts of Australia are not adequately addressed in current legislation.

On 17 October 2001 announcements were made that new legislation would be introduced providing for penalties of up to 10 years imprisonment and/or \$100,000 fines for real or hoax attacks through the use or threat of use of a biological or chemical agent which could lead to economic loss. It was also announced that these matters would have a date of effect of 17 October 2001.

This Bill amends the Crimes Act 1900 to provide for a commencement on 17 October 2001, and includes the use, threat of use, making of false statements about the use to cause public alarm or economic loss. It also provides that it is immaterial that persons causing alarm or making threats are outside the ACT when making such threats.

Financial implications

There are no financial implications arising from the Bill

Detail of clauses

Clauses 1,2 and 3 – formal provisions

Clauses 1,2 and 3 are formal provisions which set out the name of the Bill once enacted, the commencement arrangements applying to the Bill and the name of the Act being amended.

Clause 4 – New Division 4.3D

Clause 4 inserts new Division 4.3D, comprising new sections 135S, 135T 135U, 135V, 135W and 135X into the Act.

New section 135S defines the meaning of **economic** loss arising from the use or possible use of a biological or chemical agent which results in:

- (a) members of the public not buying or using particular goods or services; or
- (b) actions taken to avoid public alarm or anxiety or to avoid harm to the public.

New section 135T defines the term **use** in relation to biological substance or chemical agent to include:

- (a) giving or sending a substance or agent to someone; or
- (b) putting or sending it where the public is likely to be exposed to it.

New section 135U prohibits the use of a biological substance or chemical agent with the intention of:

- (a) causing public alarm or anxiety; or
- (b) causing economic loss through public awareness of the use of the substance or agent.
- (c)

A maximum penalty of 1000 penalty units, imprisonment for 10 years, or both is provided for these offences.

New subsection 135V(1) makes it an offence to threaten the use of a biological substance or chemical agent with the intention of:

- (a) causing public alarm or anxiety; or
- (b) causing economic loss through public awareness of the possibility of the use of the substance or agent.

A maximum penalty of 1000 penalty units, imprisonment for 10 years, or both is provided for these offences.

Subsection 135V(2) defines a threat under this section as being any conduct which may be explicit or implicit and conditional or unconditional.

Section 135W(1) makes it an offence to make a statement that the person believes to be false with the intention of:

- (a) inducing the person to whom the statement has been made or others to believe that a biological substance or chemical agent has been used; and
- (b) by so doing, either-
 - (1) causing public alarm or anxiety; or
 - (2) causing economic loss through public awareness of the use or possible use of the substance or agent.

A maximum penalty of 1000 penalty units, imprisonment of 10 years or both is provided for these offences.

New section 135X is a provision which makes it clear that acts committed outside the ACT can be offences under **new Division 4.3D** if a person intended by that conduct:

- (a) to cause public alarm or anxiety in the ACT; or
- (b) to cause economic loss in the ACT through public awareness of the use or possible use of the biological substance or chemical agent.