

**1999**

**THE LEGISLATIVE ASSEMBLY OF THE  
AUSTRALIAN CAPITAL TERRITORY**

**CRIMES AMENDMENT BILL (NO 3) 1999  
EXPLANATORY MEMORANDUM**

**Circulated by the authority of the Attorney General**

**Gary Humphries MLA**



# **Crimes Amendment Bill (No 3) 1999**

## **Explanatory Memorandum**

### **Outline**

The Crimes Amendment Bill (No 3) 1999 (the bill) inserts Division 3C into Part 4 of the *Crimes Act 1900*. Part 4 of the Act contains offences relating to property, including:

- Theft and related offences (Division 2);
- Criminal damage to property (Division 3);
- Forgery and the use of forged instruments (Division 3A);
- Offences relating to computers (Division 3B); and
- Miscellaneous offences (Division 4)

The bill inserts into this Part of the Act a new division which establishes three offences dealing with product contamination:

- contaminating goods with intent to cause public alarm or economic loss;
- threatening contamination of goods for such purposes; and
- making a false claim to have contaminated goods with the intent to cause public alarm or economic loss.

The offences introduced by the bill, are consistent with those recommended by the Model Criminal Code Officers' Committee in 1998. These offences were deemed necessary, as the existing statutory and common law offences of blackmail, extortion, public nuisance and endangerment are insufficient to protect society from the threat of product contamination and the injury and loss that it can cause.

### **Financial Implications**

There are no financial implications arising from the bill.

## **FORMAL PROVISIONS**

### **Clause 1     Short title**

This clause explains that when the Bill becomes an Act, it will be known as the *Crimes Amendment Act (No 3) 1999*.

### **Clause 2     Commencement**

The Bill, once enacted, will commence when a notice of the enactment is published in the Gazette.

### **Clause 3     Act Amended**

This clause sets out that the Bill, once enacted, will amend the *Crimes Act 1900*.

## **KEY AMENDMENTS**

### **Clause 4     Insertion**

This clause inserts Division 3C after Division 3B in Part 4 of the *Crimes Act 1900*. Division 3C, consists of sections 135M, 135N, 135O, 135P, 135Q and 135R, and establishes new product contamination offences. These offences are modeled on those recommended by the Model Criminal Code Officers' Committee in 1998.

**New section 135M** inserts broad definitions of "contaminate" and "goods". The definitions are identical to those recommended by the Model Criminal Code Officers' Committee. The definition of "contaminate" includes making goods

appear to be contaminated or interfered with. The definition of "goods" includes goods that are not for human consumption, such as toiletries and cleaning products, includes natural products such as fruit and vegetables and includes goods irrespective of whether they have been mixed with other goods.

**New section 135N** defines the term "economic loss". "Economic loss" includes loss caused by the public not buying or using the goods or as a result of steps taken to avoid public alarm or anxiety or to avoid harm to the public. The latter type of economic harm was included to encompass cases where a manufacturer or supplier elects to remove goods from sale or destroy goods and as a result sustains a loss.

**New section 135O** makes it an offence to "contaminate goods with intent to cause public alarm or economic loss" and provides a maximum penalty of 10 years imprisonment.

**New section 135P** makes it an offence to "threaten to contaminate goods with an intent to cause public alarm or economic loss" and provides a maximum penalty of 10 years imprisonment.

**New section 135Q** makes it an offence to "make false statements about contamination of goods" and provides a maximum penalty of 10 years imprisonment.

**New section 135R** provides that one of the new offences will be committed, regardless of whether the conduct of the person occurred in the Territory, providing the person intended to cause public alarm or anxiety in the Territory or to cause economic loss in the Territory. The broad nexus for the offences was deemed necessary due to the cross-border consequences of contamination. This was demonstrated in the Arnotts biscuits case. There the conduct of a person in one jurisdiction caused public alarm and economic loss in all other Australian jurisdictions. It is possible that a

single act of product contamination or threatened product contamination may be performed with the intention of causing public alarm, anxiety or economic loss in a number of jurisdictions, and would, therefore, be liable to prosecution in a number of jurisdictions.