

FACT SHEET

Justice and Related Legislation (Miscellaneous Amendments) Bill (No. 2) 2023

- The purpose of this Bill is to address emerging issues, and correct errors or deficiencies that have become apparent.
- The Justice and Related Legislation (Miscellaneous Amendments) Bill (No. 2) 2023 amends the following:
 - The *Coroners Act 1995* to:
 - amend section 24 to require a coroner to hold an inquest if the coroner suspects that family violence has materially contributed to the death of the deceased.
 - to insert a new section 24B and amend section 25 to provide consistent provisions for inquests that follow criminal proceedings, including clarification that inquests must not contain findings inconsistent with facts determined in criminal proceedings.
 - To insert a new s.26B to specifically outline when a Coroner may determine that an inquest need not be held in relation to a death where family violence was a contributing factor.
 - The Coronial amendments will only apply to deaths occurring, and inquests commencing, after the amendments commence. They will not apply to persons who die, or inquests that commence, before the amendments take effect.
 - the *Criminal Code Act 1924* to:
 - clarify the Governor's power to appoint Crown Law Officers. The term 'Crown Law Officer' is a defined term in the Code, meaning the Attorney-General or Solicitor-General, or any person appointed by the Governor to institute or prosecute criminal proceedings in the Supreme Court. Currently the power of the Governor to appoint derives from the *Australian Courts Act 1828 (Imp) 9 Geo IV*. The proposed amendment will transfer the power of appointment to the Code. This will have no effect on existing appointments.
 - repeal the crime of blasphemy. This reflects that the last successful prosecution for blasphemy was in 1871, no longer exists in some Australian jurisdictions, and law reform processes have recommended blasphemy offences be abolished.
 - Create two indictable offences to mirror summary offences in section 72 and 74 of the *Classification (Publications, Films and Computer Games) Enforcement Act 1995*. The indictable offences relate to the production or possession of bestiality products.
 - to include a crime relating to family violence, and the crime of persistent family violence, within section 371A of the Code. Section 371A currently only applies to sexual crimes, and rape, abduction, stalking and bullying. The amendment adds

these family violence crimes. Under the section, a judge gives a warning to the jury that absence of complaint or delay in complaining does not necessarily indicate the allegation is false; and informs the jury there may be good reasons why such a person may hesitate in making, or may refrain from making, a complaint. This ensures the jury is aware that a complainant's evidence should not necessarily be discredited due to a delay. The amendment is consistent with the Government's commitment to improving the law for victims of family violence.

- the *Legal Profession Act 2007* to clarify that the current provisions for the Attorney-General to approve an amount to be paid from the Solicitors' Guarantee Fund to meet the costs of the Legal Profession Board can be exercised if the Fund is reduced below the maintenance amount. The maintenance amount is determined by the Attorney-General and the Trust which administers the fund (currently \$11m). This is consistent with the purposes for which the Fund is to be applied under section 358.
- the *Police Offences Act 1935* to ensure there is no time limit for commencing prosecutions of 'indecent assault' under section 35, with retrospective effect to historical offending and validation of any proceedings commenced since 20 April 2023, consistent with the intention of amendments to that section that commenced on 20 April 2023. An amendment also omits 'blasphemous language' from the prohibited behaviour offence in section 12, for consistency with the amendment to the Code.
- the *Variation of Trusts Act 1994* to amend the definition of 'original purposes' of a charitable trust. This ensures applications can be made under the Act to vary charitable trusts established prior to the introduction of the Act, and regardless of whether the purposes of the trust have previously been varied or regulated.

The Bill commences on Royal Assent, other than Part 2 in relation to the coronial amendments which commences on proclamation.