

31 May 2013

Legal Affairs and Community Safety Committee  
Parliament House  
George Street  
BRISBANE QLD 4000

**Response to Submissions**  
**Re**  
**Criminal Code (Looting in Declared Areas) Amendment Bill**

**Background**

Queensland and South Australia are the only jurisdictions in Australia that have specifically passed legislation covering the criminal offence of looting in the aftermath of natural and manmade disasters. Significantly, South Australia passed legislation in 2012 providing for the offence of looting in areas that have been subject to declarations under that State's *Emergency Management Act*. In the Queensland legislation a disaster declaration is not an element of the offence.

In Queensland the maximum penalty for stealing by looting is 10 years imprisonment. This level of imprisonment is commensurate with those applying to other stealing provisions. The fact that the theft occurs in the aftermath of a natural or manmade disaster does not provide a circumstance of aggravation that attracts a stronger penalty.

In South Australia, the situation is somewhat different in that the commission of various offences in an area that is the subject of an emergency declaration is a circumstance of aggravation that attracts a higher penalty. For instance:

- For theft and receiving the basic offence provides for a maximum penalty of 10 years imprisonment but where the offences occurs in an area subject to a disaster declaration the maximum penalty is 15 years imprisonment.
- Serious criminal trespass on a non-residential building normally attracts a maximum penalty of 10 years imprisonment but where the offence is committed in an area subject to a disaster declaration the maximum penalty is 20 years imprisonment.
- Criminal trespass in residential dwellings where a person is present in the dwelling normally attracts a maximum penalty of three years imprisonment but where the offence occurs in a dwelling located in an area that is subject to an emergency declaration the maximum penalty is five years imprisonment.

Whilst the Queensland provision is not linked to an emergency declaration as in South Australia, the South Australian provision carries a maximum longer term of imprisonment due to the area of the declaration being regarded as a circumstance of aggravation.

### **Submissions**

A total of five submissions have been received in relation to the Criminal Code (Looting in Declared Areas) Amendment Bill. These are from:

1. Ms Liz Sharp;
2. Mr Gary Lobley;
3. Queensland Police Union of Employees;
4. Queensland Law Society; and
5. ARC Centre of Excellence in Policing and Security.

The private submissions by Ms Liz Sharp and Mr Gary Lobley support the proposed amendments and endorse strengthening the existing laws to help protect residents. Their positions arguably reflect community sentiment, succinctly articulate personal hardships experienced and are generally representative of situations endured by persons impacted by major floods (e.g. 2011 and 2013).

The Queensland Police Union of Employees (QPUE) is also generally supportive of the intention of Bill. Very significantly, the QPUE believes the proposed amendment would make the prosecution of 'stealing by looting in a declared disaster area' easier to prove. By and large there is no opposition to the QPUE recommendation that reference to "natural disaster" in the existing special circumstance no. 13 be repealed should the Bill be enacted.

Fundamentally it is acknowledged that "natural disaster events" will typically result in the declaration of disaster area under the provisions of the *Disaster Management Act 2003* (Qld). It is held however that the offence of 'stealing by looting in a declared disaster area' should attract the maximum 14 year punishment for stealing as outlined in the explanatory notes accompanying the Bill.

With regard to the final two submissions tendered by the Queensland Law Society and ARC Centre of Excellence in Policing and Security, it is respectfully suggested that the weight given to the contents of each report are for the consideration of the Legal Affairs and Community Safety Committee.

Overall the intention and justification of the Bill is comprehensively articulated in the Bill and accompanying explanatory notes. It is submitted that the Bill is consistent with the Newman Government's "tough on crime" approach to protecting the community and it is acknowledged that further offences may ultimately be added to the scope crimes subject to tougher penalties for being committed in declared disaster areas. In general however, it is believed that the Bill is proportionate and consistent with community expectations, as mentioned, and it is deliberately and critically intended to underpin the *Disaster Management Act 2003* (Qld).

I thank the committee for their consideration of the Criminal Code (Looting in Declared Areas) Amendment Bill.

Yours sincerely,



**Carl Judge MP**  
Member for Yeerongpilly