



Parliamentary Crime and Misconduct Committee

Parliament House
George Street
Brisbane Qld 4000
Ph: 07 3406 7207 Fax: 07 3210 6011
pcmc@parliament.qld.gov.au
www.parliament.qld.gov.au/pcmc

Criminal Law (Criminal
Organisations Disruption)
Submission 010

Our Ref: 11.9.2

20 November 2013

Mr Ian Berry MP
Chair
Legal Affairs and Community Safety Committee
Parliament House
BRISBANE QLD 4000

Dear Mr Berry

Criminal Law (Criminal Organisations Disruption) and Other Legislation Amendment Bill 2013

I refer to the Criminal Law (Criminal Organisations Disruption) and Other Legislation Amendment Bill 2013 (the bill) referred to your Committee for consideration. Thank you for the opportunity to make a submission.

The Committee limits its submission to clause 42 of the bill which would insert section 237A into the *Crime and Misconduct Act 2001* (the CM Act) to allow the Governor in Council to appoint acting part-time Commissioners to the Crime and Misconduct Commission (CMC).

Presently, the Governor in Council can only appoint a Chairperson or a part-time Commissioner under sections 227 to 229 of the CM Act following national advertisement of the vacancy, and then consultation with the Committee. Any such appointment of a Chairperson or a part-time commissioner can only be made with the bi-partisan support of the Committee. The CM Act defines 'bi-partisan support' in Schedule 2 to the CM Act:

bipartisan support, of the parliamentary committee, means—

- (a) support of the members of the parliamentary committee unanimously; or
- (b) support of a majority of the members, other than a majority consisting wholly of members of the political party or parties in government in the Legislative Assembly.

In considering a nominated person for appointment as a Chairperson or part-time commissioner, the Committee has previously held a meeting to interview the proposed appointee.

Section 237 of the CM Act currently allows for the appointment of an Acting Chairperson of the CMC. Dr Ken Levy is the Acting Chairperson of the CMC, appointed in May 2013 for six months and re-appointed until 24 May 2013. The Committee was not consulted on Dr Levy's acting appointments.

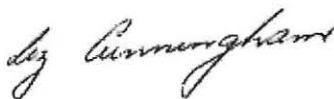
The CM Act does not provide a limit on the number of Acting Chairperson appointments or the length of the Acting Chairperson appointments. The Committee notes that the proposed section 237A similarly considers no limit to the length of time for an acting part-time commissioner appointment. However, the Committee notes in this regard that section 24B(5) of the *Acts Interpretation Act 1954* limits an acting appointment to 1 year.

Currently, the CMC has an Acting Chairperson and only two, of a possible four, part-time Commissioners. Mrs Judith Bell's term as a part-time commissioner expired in May 2013 and Mr Philip Nase's term expired in early November 2013. The CM Act requires a quorum of three commissioners, including the Chairperson, to conduct an ordinary commission meeting and four commissioners including the Chairperson to consider a CMC report. The CMC is unable to consider a CMC report at this time as it lacks the required number of commissioners to constitute a quorum. In this regard the Committee brings your attention to recommendation 36 of the former Parliamentary Crime and Misconduct Committee in its Report 86, *Three Yearly Review of the Crime and Misconduct Commission*.

The Committee understands that in some cases, the urgency of a situation requires immediate action to appoint an Acting Chairperson. The Committee welcomes the flexibility of the legislation in this regard. However, the Committee considers it is appropriate that the Attorney-General consult with the Committee on the proposed appointment of Acting Chairpersons and acting part-time commissioners.

The Committee recommends that the CM Act, section 237 and that clause 42 be amended to require consultation with the Committee prior to appointment of a person as Acting Chairperson of the CMC or as a part-time commissioner of the CMC.

Yours sincerely



Mrs Liz Cunningham MP
Chair