

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *Crimes Act 1900* so as:

- (a) to create a new summary offence of spiking a person's drink or food with an intoxicating substance with intent to harm the person (maximum penalty 2 years imprisonment or \$11,000 fine, or both), and
- (b) to ensure that other more serious related offences apply to the use of intoxicating substances (namely, using intoxicating substances to commit indictable offences, to endanger life, to inflict grievous bodily harm or to injure or cause distress or pain).

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day to be appointed by proclamation.

Clause 3 is a formal provision giving effect to the amendments to the *Crimes Act 1900* (the **Principal Act**) set out in Schedule 1.

Clause 4 provides for the repeal of the proposed Act after all the amendments made by the proposed Act have commenced. Once the amendments have commenced the proposed Act will be spent and section 30 of the *Interpretation Act 1987* provides that the repeal of an amending Act does not affect the amendments made by that Act.

Schedule 1 Amendments

Schedule 1 [1] inserts a definition of **intoxicating substance** into the Principal Act.

The expression is defined to include alcohol or a narcotic drug or any other substance that affects a person's senses or understanding.

Schedule 1 [2] ensures that a reference in the Principal Act to causing an intoxicating substance to be administered to or taken by a person includes a reference to causing a person to inhale, take or be exposed to the intoxicating substance in the person's environment.

Schedule 1 [3] substitutes section 38 of the Principal Act (which makes it an offence to use chloroform laudanum, or other stupefying or over-powering drug, to commit or assist in the commission of an indictable offence) to apply the offence instead to the use of any "intoxicating substance" (as proposed to be defined in Schedule 1 [1]).

Schedule 1 [4] inserts proposed section 38A into the Principal Act to create the proposed summary offence of spiking drink or food (punishable by imprisonment not exceeding 2 years or a fine of not more than 100 penalty units, or both). The offence is committed if the offender causes another person to be given or to consume drink or food containing an intoxicating substance (or more of any such substance than the other person would expect it to contain) in circumstances where:

- (a) the other person is not aware the drink or food contains the substance (or that quantity of the substance), and
- (b) the accused intends the other person to be harmed by the consumption of the drink or food (including any impairment of the senses or understanding that the other person might reasonably be expected to object to in the circumstances).

The proposed section provides defences for proceedings for any such offence, namely:

- (a) the accused has reasonable cause to believe that each person who was likely to consume the drink or food would not have objected to consuming the drink or food if the person had been aware of the presence and quantity of the intoxicating substance in the drink or food, or
- (b) the accused uses the intoxicating substance in the course of any medical, dental or other health professional practice.

Schedule 1 [5] amends section 39 of the Principal Act (which makes it an offence to

administer etc any poison or other destructive or noxious thing to endanger a person's life or to inflict grievous bodily harm on a person) to extend the offence to the use of any "intoxicating substance" (as proposed to be defined in Schedule 1 [1]).

Schedule 1 [6] amends section 41 of the Principal Act (which makes it an offence to administer etc any poison or other destructive or noxious thing to injure or to cause distress or pain to a person) to extend the offence to the use of any "intoxicating substance" (as proposed to be defined in Schedule 1 [1]).