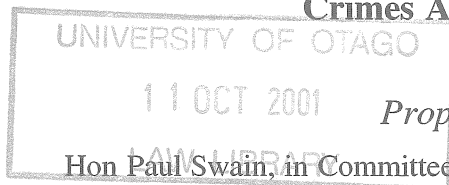


# House of Representatives

## Supplementary Order Paper

Tuesday, 2 October 2001

### Crimes Amendment Bill (No 6)



*Proposed amendments*

Hon Paul Swain, in Committee, to move the following amendments:

*Clause 1A*

To omit the words "**1 February 2002**" (line 12 on page 3), and substitute the words "**1 June 2002**".

*Clause 3(2)*

To omit from *new section 17A(2)* the expression "**305M**" in both places where it appears (lines 10 and 11 on page 5), and substitute in each case the expression "**231**".

*Clause 16A*

To omit from paragraph (b) of the definition of **intercept** in *new section 216A(1)* (lines 1 and 2 on page 8) the words "from the person sending the communication to the person intended to receive it".

*Clause 16B*

To insert, after subclause (1) (after line 33 on page 8), the following subclause:

- (1A) Section 216B(1) of the principal Act is amended by omitting the expression "(4)", and substituting the expression "(6)".

To omit subclause (3) (lines 1 to 4 on page 9), and substitute the following subclause:

- (3) Section 216(2)(b)(ii) of the principal Act is repealed.

To omit from subclause (5) *new subsections (6) and (7)* (line 21 on page 9 to line 5 on page 10), and substitute the following subsections:

- "(6) Subsection (1) does not apply to the interception of private communications by any interception device operated by a person engaged in providing an Internet or other communication service to the public if—

- “(a) the interception is carried out by an employee of the person providing that Internet or other communication service to the public in the course of that person’s duties; and
  - “(b) the interception is carried out for the purpose of maintaining that Internet or other communication service; and
  - “(c) the interception is necessary for the purpose of maintaining the Internet or other communication service; and
  - “(d) the interception is only used for the purpose of maintaining the Internet or other communication service.
- “(7) Information obtained under subsection (6) must be destroyed immediately if it is no longer needed for the purpose of maintaining the Internet or other communication service.

*Clause 16F*

To insert in *new section 216F(1)(a)*, after the words “interception warrant” (line 7 on page 11), the words “to be exercised by a member of the police if the disclosure would, or is likely to, prejudice an investigation”.

To insert in *new section 216F(2)*, after the word “has” (line 16 on page 11), the word “caused”.

*Clause 19*

To omit from paragraph (a) of the definition of **document** in *new section 217* the word “printing,” (line 15 on page 37), and substitute the words “printing that is”.

To add to the heading to *new section 240* (line 11 on page 48) the words “**or causing loss by deception**”.

To insert in *new section 240(1)*, after the words “obtaining by deception” (line 12 on page 48), the words “or causing loss by deception”.

To add to *new section 240(1)* the word “; or” (line 22 on page 48) and to add the following paragraph:

- “(d) causes loss to any other person.

To omit *new section 240(2)* (lines 23 to 29 on page 48), and substitute the following subsection:

- “(2) In this section, **deception** means—
  - “(a) a false representation, whether oral, documentary, or by conduct, where the person making the representation intends to deceive any other person and—
    - “(i) knows that it is false in a material particular; or
    - “(ii) is reckless as to whether it is false in a material particular; or
  - “(b) an omission to disclose a material particular, with intent to deceive any person, in circumstances where there is a duty to disclose it; or
  - “(c) a fraudulent device, trick, or stratagem used with intent to deceive any person.

To omit from *new section 242(2)* the word “false” in the second place where it appears (line 25 on page 49).

To omit *new section 243* (line 32 on page 49 to line 12 on page 50).

To omit from *new section 250(3)* the expression “**243(2)**” (line 17 on page 55), and substitute the expression “**240(2)**”.

To omit from *new section 252(1)(a)* the word “purpose” (line 11 on page 56), and substitute the word “use”.

To omit from *new section 252(1)(b)* the words “holds out” (line 13 on page 56), and substitute the word “promotes”.

To omit from *new section 252(1)(b)* the words “holds it out” (line 14 on page 56), and substitute the words “promotes it”.

*Clause 21(1)*

To omit from paragraph (b) of the definition of **intercept** in *new section 312A(1)* (lines 1 and 2 on page 69) the words “from the person sending the communication to the person intended to receive it”.

*Clause 21E(2)*

To omit from *new section 312D(1)(b)(i)* the word “where” (line 27 on page 71), and substitute the word “if”.

To omit from *new section 312D(1)(b)(ii)* the word “where” (line 35 on page 71), and substitute the word “if”.

*Heading above clause 27*

To insert in this heading, after the word “*repeals*” (line 14 on page 74), the word “, *revocation*,”.

*Clause 27*

To add to the heading to this clause (line 15 on page 74) the words “**and revocation**”.

*Schedule 3: International Terrorism (Emergency Powers) Act 1987*

To omit from paragraph (b) (lines 16 and 17 on page 89) of the definition of **intercept** the words “from the person sending the communication to the person intended to receive it”.

*Schedule 3: Misuse of Drugs Amendment Act 1978*

To omit from paragraph (b) (lines 2 and 3 on page 90) of the definition of **intercept** the words “from the person sending the communication to the person intended to receive it”.

To omit from *new section 16(1)(b)(i)* the word “where” (line 27 on page 91), and substitute the word “if”.

To omit from *new section 16(1)(b)(ii)* the word “where” (line 37 on page 91), and substitute the word “if”.

---

### Explanatory note

This Supplementary Order Paper refines the definitions of **intercept** and **deception**, and the requirements that must be met regarding the interception of private communications. It also makes several clerical and stylistic corrections.