

SUSPENSION OF STANDING ORDERS**Take bills together**

Mr BURKE (Attorney-General): Mr Speaker, I move that so much of standing orders be suspended as would prevent bills entitled the *Crimes at Sea Bill* (Serial 267) and the *Off-Shore Waters (Application of Territory Laws) Amendment Bill* (Serial 268): (a) being presented and read a first time together and one motion being put in regard to, respectively, the second readings, the committee's report stage and the third readings of the bills together; and (b) the consideration of the bills separately in the committee of the whole.

Motion agreed to.

**CRIMES AT SEA BILL
(Serial 267)
OFF-SHORE WATERS
(APPLICATION OF TERRITORY LAWS)
AMENDMENT BILL
(Serial 268)**

Bills presented and read a first time.

Mr BURKE (Attorney-General): Mr Speaker, I move that the bills be now read a second time.

The purpose of the *Crimes at Sea Bill* is to rationalise and simplify the application of criminal law in offshore areas around Australia. The scheme was developed by the Special Committee of Solicitors-General and has the support of the Standing Committee of Attorneys-General and the Australasian Police Ministers' Council.

The bill is based upon model legislation which is being progressively introduced in all Australian jurisdictions. The new scheme will replace existing Commonwealth and state/territory legislation dealing with the application of the general criminal law in Australian waters.

The current scheme is found in a number of acts including the Commonwealth *Crimes at Sea Act 1979* and the Northern Territory *Criminal Law Offences at Sea Act*. Jurisdiction over crimes committed at sea has been subject to many influences over the years, including those arising from constitutional law decisions of the High Court of Australia and developments under international law, including in particular the ratification by Australia of the Law of the Sea Convention.

The present scheme provides for the imposition of state/territory criminal laws by reference to the destination of a vessel and the state/territory in which the vessel is registered. This approach has given rise to practical difficulties and it is complex in its

operation. In particular, the existing scheme contemplates the possibility that a state/territory authority investigating a crime at sea that was an offence against the law of another Australian jurisdiction would be bound to follow the investigative procedures of that other jurisdiction. The new scheme is designed to overcome these confusing procedures.

Under the new scheme each jurisdiction will enact legislation containing a uniform schedule that allows for the extraterritorial application of state/territory criminal laws in the sea surrounding Australia. This area is described as the adjacent area. The adjacent area extends 200 nautical miles from the baseline of the state/territory or to the outer limit of the continental shelf, whichever is the greater distance. The criminal law of the Northern Territory is to apply of its own force to a distance of 12 nautical miles from the baseline of the Northern Territory. Beyond the 12 nautical miles, the criminal law of the Northern Territory is applied by force of Commonwealth law. The boundaries and baselines of the states and the Northern Territory and the boundaries of the adjacent area are described in Part 6 of the schedule to the *Crimes at Sea Bill* and are reflected in the map attached in the appendix.

The scheme does not apply to Northern Territory and Commonwealth laws excluded by regulation from the ambit of the scheme. This will allow for presently-operating schemes relating to subjects such as fisheries.

Under the new scheme, the authority that is investigating an offence does so in accordance with its own procedures. For example, Northern Territory police investigating an offence which occurred within the adjacent area of Western Australia contrary to Western Australian law will follow Northern Territory investigative procedures. In a Commonwealth judicial proceeding the law of the Commonwealth applies, and in a Northern Territory judicial proceeding the law of the Northern Territory applies. When a Northern Territory offence and a Commonwealth offence are being investigated simultaneously, the investigative authority will follow the more stringent procedural requirements, as is the case currently.

The consent of the Commonwealth Attorney-General will be required before a prosecution can proceed in cases where the alleged offence also falls within another country's jurisdiction under international law. This is designed to ensure that no conflicts occur in respect of Australia's obligations under international law. The Commonwealth act also deals with the application of Australian criminal law outside the adjacent area and makes special provision for the application of criminal laws in area