

**2015**

**THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA**

**HOUSE OF REPRESENTATIVES**

**Foreign Death Penalty Offences  
(Preventing Information Disclosure) Bill 2015**

**EXPLANATORY MEMORANDUM  
and  
STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS**

Circulated by authority of  
Clive Frederick Palmer MP

## **Foreign Death Penalty Offences (Preventing Information Disclosure) Bill 2015**

### **OUTLINE**

The purpose of this bill is to prevent the disclosure of information by public officials in circumstances that may lead to the imposition of the death penalty in foreign countries.

### **FINANCIAL IMPACT**

The bill will have no financial impact.

### **NOTES ON CLAUSES**

**Clause 1** - provides for the Act to be called the *Foreign Death Penalty Offences (Preventing Information Disclosure) Act 2015*

**Clause 2** - provides for the Act to commence on the day after it receives the Royal Assent

**Clause 3** – this act binds the Crown in each of its capacities and does not make the crown liable to be prosecuted for an offence

**Clause 4** – this act extends to every external territory

**Clause 5** – this act extends to acts, omissions, matters and things outside of Australia

**Clause 6** – provides definitions for this act

**Clause 7** – provides an offence for public officials and former public officials who disclose information resulting in a person being tried, investigated, prosecuted or punished for an offence that carries the death penalty in a foreign country. The exception is if the foreign death penalty offence is constituted by conduct that involves a terrorist act or act of violence that causes death or endangers life.

**Clause 8** – makes allowance for a person to be tried for an offence regardless of whether the conduct constituting the offence was committed inside or outside of Australia.

**Clause 9** – introduces a mandatory minimum one year term of imprisonment for offences committed against section 7.

**Clause 10** – deals with this act's relationship with other laws

## **Statement of Compatibility with Human Rights**

*Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011*

### **Foreign Death Penalty Offences (Preventing Information Disclosure) Bill 2015**

This Bill is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

#### **Overview of the Bill**

The purpose of this bill is to prevent the disclosure of information by public officials in circumstances that may lead to the imposition of the death penalty in foreign countries, and for related purposes.

#### **Human rights implications**

The inclusion of a mandatory penalty of one year imprisonment for an offence committed in accordance with this act is aimed at the legitimate objective of ensuring offenders receive sentences that reflect the seriousness of their offending.

The death penalty clearly infringes human rights and does not exist for persons committing an offence in Australia. Consequently the act of disclosing information to foreign authorities that may result in citizens being tried or convicted of the death penalty is unacceptable to the Australian community and a clear violation of human rights.

The mandatory minimum term of imprisonment will only apply if a person is convicted of an offence as a result of a fair trial in accordance with such procedures as are established by law. Moreover, the penalties do not impose a minimum non-parole period on offenders. This will preserve a court's discretion in sentencing, and will help ensure that custodial sentences imposed by courts are proportionate and able to take into account the particular circumstances of the offence and the offender.

#### **Conclusion**

The Bill is compatible with human rights because human rights are preserved.

**Clive Frederick Palmer MP**  
**Member for Fairfax**