

**Statement by the Judicial Conference of Australia on the
*Criminal Law Amendment (Public Interest Declarations) Amendment Act 2013***

Concerns about this new law are understandable. The power to imprison an offender, in this country at least, has usually been exercised by the courts. Their task is to decide, independently and impartially, the case between the government and the offender, according to the relevant laws as made by the legislature.

This new law empowers the executive government to imprison a person whom a court, in a case between the government and that person, has ordered to be released. In this country such a power is apparently unprecedented.

There are legal questions about the validity and extent of the powers which are given to the government under this Act. In particular, there is a question of whether the Act affects the independence, impartiality or integrity of those courts, including the High Court, in deciding whether to order the detention or release of a relevant offender.

It is likely that these questions will be litigated and if so, it will be for the judges in those cases to answer these questions. It is not for serving judges, through the Judicial Conference of Australia, to express an opinion about these questions now. Nor is it for serving judges to comment on the policy merits of this law.

Justice Philip McMurdo
President
Judicial Conference of Australia