



# **Criminal Code Amendment (Psychoactive Substances) Regulation 2015**

## **Select Legislative Instrument No. 250, 2015**

---

I, General the Honourable Sir Peter Cosgrove AK MC (Ret'd),  
Governor-General of the Commonwealth of Australia, acting with the  
advice of the Federal Executive Council, make the following regulation.

Dated 10 December 2015

Peter Cosgrove  
Governor-General

By His Excellency's Command

Michael Keenan  
Minister for Justice

---

*OPC61575 - B*



---

## Contents

1	Name .....	1
2	Commencement .....	1
3	Authority .....	1
4	Schedules.....	1
<b>Schedule 1—Amendments</b>		<b>2</b>
<i>Criminal Code Regulations 2002</i>		<i>2</i>



---

## 1 Name

This is the *Criminal Code Amendment (Psychoactive Substances) Regulation 2015*.

## 2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provisions</b>	<b>Commencement</b>	<b>Date/Details</b>
1. The whole of this instrument	The day after this instrument is registered.	15 December 2015

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

## 3 Authority

This instrument is made under the *Criminal Code Act 1995*.

## 4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

## Schedule 1—Amendments

### *Criminal Code Regulations 2002*

#### 1 Regulation 3 (heading)

Repeal the heading, substitute:

#### 3 Definitions

#### 2 Regulation 3

Insert:

*authorised person* means a person authorised in writing by the Health Secretary to be an authorised person for the purposes of regulation 5 of the *Customs (Prohibited Imports) Regulations 1956*.

*Health Department* means the Department administered by the Health Minister.

*Health Minister* means the Minister administering the *Therapeutic Goods Act 1989*.

*Health Secretary* means the Secretary to the Health Department.

#### 3 At the end of Part 3

Add:

### Division 3.3—Psychoactive substances

#### 5G Importing psychoactive substances

- (1) For paragraph 320.2(2)(1) of the Code, a substance that is imported into Australia in accordance with the conditions set out in subregulation (2) is prescribed.
- (2) For the purpose of subregulation (1), the conditions are that:
  - (a) the person importing the substance (the *importer*) is the holder of a licence to import drugs granted by the Health Secretary or an authorised person under subregulation 5(5) of the *Customs (Prohibited Imports) Regulations 1956*; and

- 
- (b) the importer:
- (i) is, or is employed by, a forensic laboratory and is importing the substance for the purposes of forensic analysis; or
  - (ii) is the Australian Federal Police, or a police force of a State or Territory, and is importing the substance for the purposes of law enforcement; or
  - (iii) is the Commissioner or a Deputy Commissioner of the Australian Federal Police, or is the head or deputy head (however described) of a police force of a State or Territory, and is importing the substance for the purposes of law enforcement; or
  - (iv) is, or is employed by, a medical research facility and is importing the substance for the purposes of medical research; or
  - (v) is, or is employed by, a scientific research facility and is importing the substance for the purposes of scientific research; or
  - (vi) is, or is employed by, an entity that imports drugs on behalf of a person or body mentioned in subparagraph (i), (ii), (iii), (iv) or (v), being a person or body that also holds a licence of a kind mentioned in paragraph (a), and is importing the substance at the written request of the person or body; and
- (c) before the substance is imported, the importer gives the Health Secretary or an authorised person a written notice about the proposed importation that includes:
- (i) the identity and amount of the substance being imported; and
  - (ii) the purpose of the importation; and
  - (iii) a 30-day period during which the importation is likely to occur; and
  - (iv) the importer's name and import licence number; and
  - (v) if subparagraph (b)(i), (iv), (v) or (vi) applies and the importer is employed by the body mentioned in the applicable subparagraph—the name of the importer's employer; and
  - (vi) any other information required by the Health Secretary.
- (3) For the purpose of paragraph (2)(c), the Health Secretary may determine:

- (a) information to be included in a notice; and
  - (b) the way a notice may be given to the Health Secretary or an authorised person.
- (4) In this regulation:
- drug* has the same meaning as in subregulation 5(20) of the *Customs (Prohibited Imports) Regulations 1956*.

#### **5H Importing substances represented to be serious drug alternatives**

- (1) For paragraph 320.3(3)(f) of the Code, a substance that is imported into Australia in accordance with the conditions set out in subregulation (2) is prescribed.
- (2) For the purpose of subregulation (1), the conditions are that:
  - (a) the person importing the substance (the *importer*) is the holder of a licence to import drugs granted by the Health Secretary or an authorised person under subregulation 5(5) of the *Customs (Prohibited Imports) Regulations 1956*; and
  - (b) the importer:
    - (i) is, or is employed by, a forensic laboratory and is importing the substance for the purposes of forensic analysis; or
    - (ii) is the Australian Federal Police, or a police force of a State or Territory, and is importing the substance for the purposes of law enforcement; or
    - (iii) is the Commissioner or a Deputy Commissioner of the Australian Federal Police, or is the head or deputy head (however described) of a police force of a State or Territory, and is importing the substance for the purposes of law enforcement; or
    - (iv) is, or is employed by, a medical research facility and is importing the substance for the purposes of medical research; or
    - (v) is, or is employed by, a scientific research facility and is importing the substance for the purposes of scientific research; or
    - (vi) is, or is employed by, an entity that imports drugs on behalf of a person or body mentioned in subparagraph (i), (ii), (iii), (iv) or (v), being a person or body that also holds a licence of a kind mentioned in



- 
- paragraph (a), and is importing the substance at the written request of the person or body; and
- (c) before the substance is imported, the importer gives the Health Secretary or an authorised person a written notice about the proposed importation that includes:
- (i) the identity and amount of the substance being imported; and
  - (ii) the purpose of the importation; and
  - (iii) a 30-day period during which the importation is likely to occur; and
  - (iv) the importer's name and import licence number; and
  - (v) if subparagraph (b)(i), (iv), (v) or (vi) applies and the importer is employed by the body mentioned in the applicable subparagraph—the name of the importer's employer; and
  - (vi) any other information required by the Health Secretary.
- (3) For the purpose of paragraph (2)(c), the Health Secretary may determine:
- (a) information to be included in a notice; and
  - (b) the way a notice may be given to the Health Secretary or an authorised person.
- (4) In this regulation:
- drug** has the same meaning as in subregulation 5(20) of the *Customs (Prohibited Imports) Regulations 1956*.