

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

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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.

| Commencement information |
| --- |
| Column 1 | Column 2 | Column 3 |
| Provisions | Commencement | Date/Details |
| 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Note: This table relates only to the provisions of this instrument as originally made.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 Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.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)(l) 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*.