



Criminal Code Amendment (High Risk Terrorist Offenders) Regulations 2017

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 regulations.

Dated 16 November 2017

Peter Cosgrove
Governor-General

By His Excellency's Command

George Brandis QC
Attorney-General

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1 Name

This instrument is the *Criminal Code Amendment (High Risk Terrorist Offenders) Regulations 2017*.

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.	18 November 2017

Note: This table relates only to the provisions of this instrument as originally made.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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.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 At the end of Part 2

Add:

4A Continuing detention order proceedings—matters court may take into account in determining whether circumstances beyond offender’s control

For the purposes of paragraph 105A.15A(3)(a) of the Code, the following matters are prescribed as matters that a Supreme Court of a State or Territory may take into account in determining whether circumstances are beyond an offender’s control in relation to a continuing detention order proceeding:

- (a) an offender’s financial circumstances;
- (b) whether an offender has engaged in unreasonable conduct during the proceeding that has contributed to the offender’s inability to afford any or all of the costs and expenses of obtaining legal representation for the proceeding;
- (c) both of the following:
 - (i) whether an offender has made any efforts to obtain legal aid or legal assistance;
 - (ii) the outcomes of any such efforts;
- (d) any other matter that the Court considers relevant.

4B Continuing detention orders—sharing information

The following persons are prescribed for the purposes of subsections 105A.19(1) and (3) of the Code:

- (a) a senior executive AFP employee or an AFP employee who is acting as, or performing the duties of, a senior executive AFP employee (all within the meaning of the *Australian Federal Police Act 1979*);
- (b) a member of the police force or police service of a State or Territory;
- (c) an officer or employee of a State or Territory, or of an authority of a State or Territory, whose duties relate to corrective services (including prison medical, psychological and psychiatric services), justice or parole;
- (d) a person who provides services for, or on behalf of:
 - (i) a State or Territory; or
 - (ii) an authority of a State or Territory;in relation to corrective services (including prison medical, psychological and psychiatric services), justice or parole;
- (e) the Director of Public Prosecutions or a person performing a similar function under a law of a State or Territory;
- (f) a member of the staff of the Office of the Director of Public Prosecutions (within the meaning of the *Director of Public Prosecutions Act 1983*) or of a similar body established under a law of a State or Territory;
- (g) the Director-General of the Australian Security Intelligence Organisation, a Deputy Director-General of the Australian Security Intelligence

- Organisation, an ASIO employee or an ASIO affiliate (all within the meaning of the *Australian Security Intelligence Organisation Act 1979*);
- (h) an employee of a Department administered by the Minister responsible for administering:
- (i) the *Migration Act 1958*; or
 - (ii) the *Australian Citizenship Act 2007*.