

**CRIMES LEGISLATION AMENDMENT (2019 MEASURES NO. 1) REGULATIONS**  
**2019**

**REPLACEMENT EXPLANATORY STATEMENT**

Issued by authority of the Attorney-General

in compliance with section 15J of the *Legislation Act 2003*

The *Crimes Act 1914* (the Crimes Act) provides a procedural framework for the investigation and prosecution of Commonwealth criminal offences, along with a number of offences against the Commonwealth. The *Crimes Legislation Amendment (Serious and Organised Crime) Act 2010* (the Amendment Act) made amendments to strengthen the Commonwealth response to organised crime. The *Aviation Transport Security Act 2004* (the Aviation Act) provides a regulatory framework to safeguard against unlawful interference with aviation. The *Maritime Transport and Offshore Facilities Security Act 2003* (the Maritime Act) safeguards against unlawful interference with maritime transport or offshore facilities.

Section 91 of the Crimes Act, Section 19 of the Amendment Act, section 133 of the Aviation Act and section 209 of the Maritime Act provide that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

The Attorney-General has administrative responsibility for the Crimes Act, with the exception of Parts IAA, IAAA, IAAB, IAB, IAC, IC, ID and IE, which are administered by the Minister for Home Affairs. The Minister for Home Affairs also has policy responsibility for Parts IACA, II, IIA, IV, VII and VIIA of the Crimes Act, and administrative and policy responsibility for *Crimes Legislation Amendment (Serious and Organised Crime) Act 2010*. Both the Attorney-General and the Minister for Home Affairs have approved the *Crimes Legislation Amendment (2019 Measures No. 1) Regulations 2019* (the Regulations).

The *Crimes Regulations 1990* (the 1990 Regulations) are due to sunset on 1 October 2019, and are remade with amendments by the *Crimes Regulations 2019*. The Regulations repeal the 1990 Regulations and make two consequential amendments concerning spent convictions to the regulations made under the Aviation Act and the Maritime Act.

The relevant Acts specify no conditions that need to be satisfied before the power to make regulations may be exercised.

The Office of Best Practice Regulation was consulted in the preparation of the Regulations and advised that a Regulatory Impact Statement was not required: OBPR ID 23356.

The Regulations were informed by consultation with the Department of Home Affairs. The Department of Home Affairs is the agency responsible for administering both the *Aviation Transport Security Regulations 2005* and the *Maritime Transport and Offshore Facilities Security Regulations 2003*, which are amended by the Regulations.

The amendments are of a minor nature and do not substantially alter existing arrangements. Further, the Regulations were progressed in conjunction with the *Crimes Regulations 2019*, which were subject to broad consultation as outlined in the Explanatory Statement to that instrument, including with the Office of the Australian Information Commissioner in relation to spent convictions matters.

Details of the Regulations are set out in Attachment A.

A Statement of Compatibility with Human Rights (the Statement) has been completed in accordance with the *Human Rights (Parliamentary Scrutiny) Act 2011*. The overall assessment is that the Regulations are compatible with human rights. A copy of the Statement is at Attachment B.

The Regulations are a legislative instrument for the purposes of the *Legislation Act 2003*.

The Regulations commence on the day after they are registered on the Federal Register of Legislation.

Authority: Section 91 of the *Crimes Act 1914*  
Section 19 of the *Crimes Legislation Amendment (Serious and Organised Crime) Act 2010*  
Section 133 of the *Aviation Transport Security Act 2004*  
Section 209 of the *Maritime Transport and Offshore Facilities Security Act 2003*

## **NOTES ON SECTIONS**

### **Section 1 – Name**

This section provides that the title of this instrument is the *Crimes Legislation Amendment (2019 Measures No. 1) Regulations 2019* (the Regulations).

### **Section 2 – Commencement**

This section provides that the whole of the instrument commences at the same time as the *Crimes Regulations 2019* commence.

### **Section 3 – Authority**

This section provides that this instrument is made under the *Aviation Transport Security Act 2004*, the *Crimes Act 1914*, the *Crimes Legislation Amendment (Serious and Organised Crime) Act 2010*, and the *Maritime Transport and Offshore Facilities Security Act 2003*.

### **Section 4 – Schedules**

This section provides that each instrument specified in a Schedule to the Amendment Regulations 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**

#### **Part 1 – Repeals**

This part provides that the whole of the *Crimes Regulations 1990* be repealed.

#### **Part 2 – Consequential amendments**

##### **Section 2 – Subregulation 6.01(1) (note 5 to the definition of *conviction*)**

This section repeals note 5 to subsection 6.01(1) of the *Aviation Transport Security Regulations 2005*, and substitute it with a note that substitutes reference to the *Crimes Regulations 1990* with reference to the *Crimes Regulations 2019*. The effect of this section is to ensure the continuing accuracy of the note.

##### **Section 3 – Subregulation 6.07B(1) (note 5 to the definition of *conviction*)**

This section repeals note 5 to subsection 6.07B(1) of the *Maritime Transport and Offshore Facilities Security Regulations 2003*, and substitute it with a note that substitutes reference to the *Crimes Regulations 1990* with reference to the *Crimes Regulations 2019*. The effect of this section is to ensure the continuing accuracy of the note.

**Statement of Compatibility with Human Rights**

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

***Crimes Legislation Amendment (2019 Measures No. 1) Regulations 2019***

This legislative instrument 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 Disallowable Legislative Instrument**

The *Crimes Legislation Amendment (2019 Measures No. 1) Regulations 2019* (the Amendment Regulations) provides for minor and technical amendments arising from the proposed *Crimes Regulations 2019*.

**Human rights implications**

This legislative instrument does not engage any of the applicable rights or freedoms.

**Conclusion**

This legislative instrument is compatible with human rights as it does not raise any human rights issues.