

CRIMINAL CODE AMENDMENT (BORDER CONTROLLED DRUGS AND PRECURSORS) REGULATIONS 2024

EXPLANATORY STATEMENT

Issued by authority of the Attorney-General

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

PURPOSE AND OPERATION OF THE INSTRUMENT

The purpose of the *Criminal Code Amendment (Border Controlled Drugs and Precursors) Regulations 2024* (the Regulations) is to amend the *Criminal Code Regulations 2019* (the Principal Regulations) to create restricted listings of substances as border controlled drugs and precursors.

Regulation-making power in the Criminal Code Act 1995

The *Criminal Code Act 1995* (the Code) codifies the general principles of criminal responsibility under laws of the Commonwealth, including for serious drug offences in Part 9.1. Section 5 of the Code provides that the Governor-General may make regulations prescribing matters required or permitted by the Code to be prescribed; or necessary or convenient to be prescribed for carrying out or giving effect to the Code.

The Code provides the following definitions and regulation-making powers for border controlled drugs and precursors in Part 9.1:

- Border controlled drug has the meaning given by section 301.4 of the Code, that a border controlled drug is a substance that is listed by a regulation as a border controlled drug (section 301.4(1)(a)), and
- Border controlled precursor has the meaning given by section 301.6 of the Code, that a border controlled precursor is a substance (including a growing plant) that is listed by a regulation as a border controlled precursor (section 301.6(1)(a)).

The Principal Regulations lists border controlled drugs in a table in clause 1 of Schedule 2, and border controlled precursors in a table in section 16.

Restricted listings of border controlled drugs and precursors may also be made under subsections 301.4(2) and 301.6(1A) of the Code respectively. This permits the restricted listing of substances by regulation against offences in Part 9.1, or elements of those offences, rather than Part 9.1 as a whole.

The conditions for listing substances by a regulation must be satisfied before a regulation can be made. The Code provides the relevant conditions for listing substances in the Principal Regulations:

- Section 301.7 of the Code prescribes the matters the Minister administering the *Australian Federal Police Act 1979* (the AFP Minister) must be satisfied of to list a serious drug (including a border controlled drug) by regulation.
- Section 301.8 of the Code also provides that the AFP Minister must be satisfied that there is a risk that the substance will be used to unlawfully manufacture a controlled drug (other than a determined controlled drug).

Restricted listings of ‘dual-use’ substances

The restricted listing regulation-making powers in the Code address the threats posed by known and emerging ‘dual-use substances’. These are substances that are commonly used as illicit drugs and precursors but also have legitimate uses in industry. Existing import controls have proven insufficient to deter and prevent criminal groups from importing dual-use substances that contribute to Australia’s illicit drug market. Law enforcement reports escalating harms to Australian communities from dual-use substances, particularly 1,4 Butanediol (1,4-BD), which is increasingly linked to overdoses and used to facilitate sexual assault.

Currently dual-use substances, for example 1,4-BD, can be legally imported into Australia for legitimate industrial use by importers that are registered with the Australian Industrial Chemicals Introduction Scheme (AICIS). However, unregistered entities that import these substances into Australia only face maximum penalties of up to 500 penalty units under the *Industrial Chemicals Act 2019* (IC Act) and the Australian Border Force is not empowered to seize these substances from unregistered importers.

The purpose and effect of the restricted listing regulation-making powers in the Code is to permit dual-use substances to be listed against offences in Part 9.1, or elements of those offences, rather than the Part 9.1 as a whole. Substances with restricted listings in the Principal Regulations will be subject to the appropriate penalties in Part 9.1 where they are imported by unregistered entities, and be subject to seizure powers under the *Customs Act 1901*. This will better enable law enforcement to address the threat of serious and organised crime by disrupting the supply and manufacture of illicit drugs and precursors in Australia.

Interaction with Australian Industrial Chemicals Introduction Scheme

The intended operation of the restricted listing regulation-making powers in the Code is that where a substance imported is listed in relation to particular offences against Part 9.1, or particular elements of those offences, entities registered with AICIS who undertake import activities licenced under the IC Act will have lawful authority to do so under section 10.5 of the Code. This ensures registered entities can continue importing substances for legitimate industry uses even where a substance imported is a restricted listing of a border controlled drug or precursor in the Principal Regulations.

It is intended that entities not registered with AICIS, which import substances listed by a regulation in relation to offences against Part 9.1, or elements of those offences, will not be able to rely on the lawful authority defence in section 10.5 of the Code. This is because the unregistered entity would not have complied with the requirement for registration in section 13 of the IC Act and are therefore not covered by the regulatory framework of AICIS.

Conditions met for restricted listing of border controlled drug

The Regulations include a restricted listing of 1,4-BD as a border controlled drug in a restricted listing table in section 16 of the Principal Regulations, including commercial and marketable quantities. 1,4-BD has known legitimate industrial uses as a solvent by a limited number of registered, legitimate importers. However, 1,4-BD poses a substantial risk to the health or safety of the public due to its substantially similar physical or mental effects of controlled drugs, 4-Hydroxybutanoic acid (GHB) and gamma butyrolactone (GBL). The restricted listing of 1,4-BD as a border controlled drug recognises its increasing abuse potential and threat to the Australian community. It also ensures that Commonwealth controls are better aligned with state and territory controls and better enables law enforcement to disrupt the supply and manufacture of illicit drugs in Australia.

The AFP Minister is satisfied that the criteria for listing border controlled drugs by regulation in sections 301.7 of the Code have been met to create a restricted listing of 1,4-BD in the Regulations.

Conditions met for restricted listing of border controlled precursors

The Regulations include restricted listings of the following substances as a border controlled precursors in a restricted listing table in subclause 1(2) of Schedule 2 of the Principal Regulations, including commercial and marketable quantities:

- Alpha-Methyl-1,3-benzodioxole-5-propanal (Helional)
- Benzaldehyde
- Hypophosphorous acid (Phosphinic acid), and
- Iodine.

These four substances also have known legitimate industrial uses in Australia, however pose risks of being used to unlawfully manufacture controlled drugs, including 3,4-methylenedioxyamphetamine (MDA) and methamphetamine. These additions keep pace with new drug manufacturing methodologies that are constantly evolving to use new chemicals in the manufacture of illicit drugs. Similarly to 1,4-BD, the above four restricted listings recognise the increasing threat these substances pose to the Australian community. It also balances the need to better enable law enforcement to disrupt the supply and manufacture of illicit drugs and precursors in Australia, while still allowing registered importers to continue importing the substances for legitimate industrial uses.

The AFP Minister is satisfied that the criteria for listing border controlled precursors by regulation in sections 301.8 of the Code has been met to create restricted listings of the above four substances in the Regulations.

Details of the Regulations are set out in the [Attachment A](#).

CONSULTATION

These substances were identified in close consultation with state and territory law enforcement and industry representatives, who endorsed the listing of the substances as a high priority to their significant community harm. The Department of Home Affairs (including the Australian Border Force), Department of Health and Aged Care (including the Australian Industrial Chemicals Introduction Scheme and the Office of Drug Control), Australian Federal Police, Australian Criminal Intelligence Commission, the Department of Prime Minister and Cabinet, Commonwealth Director of Public Prosecutions, and Australian Government Solicitor were also consulted to develop the proposed Regulations.

POLICY IMPACT ANALYSIS

The Office of Impact Analysis (OIA) was consulted and advised that no Impact Analysis is required. This is because the proposal is unlikely to have a more than minor regulatory impact, as it focuses on non-compliance and enforcement of unregistered importers that are already subject to criminal penalties under the IC Act. The OIA consultation reference number is OIA23-04648.

STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

A Statement of Compatibility with Human Rights has been prepared in accordance with the *Human Rights (Parliamentary Scrutiny) Act 2011*, and is at [Attachment B](#).

NOTES ON SECTIONS

Section 1 - Name of Regulations

1. This section provides that the title of the Regulations is the *Criminal Code Amendment (Border Controlled Drugs and Precursors) Regulations 2024*.

Section 2 - Commencement

2. This section provides for the whole of the Regulations to commence on the day after this instrument is registered.

Section 3 - Authority

3. This section provides that the *Criminal Code Amendment (Border Controlled Drugs and Precursors) Regulations 2024* is made under the *Criminal Code Act 1995* (the Code).

Section 4 - Schedule

4. This section provides that 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

Item [1] – Section 14

5. This item omits “Each item of the table in clause 1” and substitutes “(1) Each item of the table in subclause 1(1)”.
6. This is a technical and consequential amendment required to provide for an additional subsection included as part of the amendments in item 3, and additional subclause included as part of the amendments in item 9, below.

Item [2] – Paragraph 14(a)

7. This item omits “301.4(a)” and substitutes “301.4(1)(a)”. This is a technical amendment required to refer to the meaning of border controlled drug in paragraph 301.4(1)(a) of the Code.

Item [3] – At the end of section 14

8. This item inserts new subsection 14(2) at the end of subsection 14(1). Subsection 14(2) provides details of the restricted listings in subclause 1(2) of Schedule 2 of the *Criminal Code Regulations 2019* (the Principal Regulations) as part of the amendments in item 9, below.
9. This item also inserts a new subheading before new subsection 14(2), “Restricted listing”.
10. Section 14 of the Principal Regulations refers to the table of border controlled drugs in clause 1 of Schedule 2 as follows:
 - for the purposes of paragraph 301.4(a) of the Code, a substance that is a border controlled drug (paragraph 14(a)); and
 - for the purposes of paragraph (a) of item 1 of the table in section 301.10 of the Code, the quantity that is the commercial quantity of the border controlled drug (paragraph 14(b)); and
 - for the purposes of paragraph (a) of item 1 of the table in section 301.11 of the Code, the quantity that is the marketable quantity of the border controlled drug (paragraph 14(c)).

Subsection 14(2)

11. New paragraph 14(2)(a) refers to the restricted listing table of border controlled drugs in new subclause 1(2) of Schedule 2 of the Principal Regulations.
12. New paragraph 14(2)(a) provides that for the purposes of paragraph 301.4(1)(a) and subsection 301.4(2) of the Code, a substance that is taken to be a border controlled drug only in relation to the following:
 - an offence against subsection 307.1(1), 307.2(1), 307.3(1) or 307.4(1) of the Code, if the offence relates to importing a substance; (subparagraph 14(2)(a)(i)); and
 - an offence against subsection 307.5(1), 307.6(1), 307.7(1), 307.8(1), 307.9(1) or 307.10(1) of the Code (subparagraph 14(2)(a)(ii)); and
 - an offence against subsection 309.12(1) or 309.13(1) of the Code, if the offence relates to procuring an individual to import a substance (subparagraph 14(2)(a)(iii)).
13. This amendment clarifies the offences against Part 9.1 of the Code that a restricted listing of a border controlled drug may be made. This amendment also makes it clear that any substance in the restricted listing table is only a border controlled drug in relation to the specified offences against Part 9.1 of the Code.

14. New paragraph 14(2)(b) provides that for the purposes of paragraph (a) of item 1 of the table in section 301.10 of the Code, the quantity that is the commercial quantity of the border controlled drug. This amendment clarifies that the commercial quantity of a restricted listing border controlled drug is as provided in the restricted listing table in subclause 1(2) of Schedule 2 of the Regulations.
15. New paragraph 14(2)(c) provides that for the purposes of paragraph (a) of item 1 of the table in section 301.11 of the Code, the quantity that is the marketable quantity of the border controlled drug. This amendment clarifies that the marketable quantity of a restricted listing border controlled drug is as provided in the restricted listing table in subclause 1(2) of Schedule 2 of the Regulations.

Item [4] – Paragraph 15(a)

16. This item omits “301.5(a)” and substitutes “301.5(1)(a)”. This is a technical amendment to refer to the meaning of border controlled plant in subsection 301.5(1)(a) of the Code.

Item [5] – Section 16

17. This item inserts “(1)” before “Each item” in section 16 of the Principal Regulations. This is a technical and consequential amendment required to provide for an additional subsection included as part of the amendments in item 6, below.

Item [6] – At the end of section 16

18. This item inserts new subsection 16(2) at the end of subsection 16(1). Subsection 16(2) provides details of the restricted listing of border controlled precursors, including commercial and marketable quantities.
19. This item also inserts a new subheading before new subsection 16(2), “Restricted listing”.
20. Section 16 of the Principal Regulations provides a table of border controlled precursors as follows:
 - for the purposes of paragraph 301.6(1)(a) of the Code, a substance that is a border controlled precursor (paragraph 16(a)); and
 - for the purposes of paragraph (a) of item 1 of the table in section 301.10 of the Code, the quantity that is the commercial quantity of the border controlled precursor (paragraph 16(b)); and

- for the purposes of paragraph (a) of item 1 of the table in section 301.11 of the Code, the quantity that is the marketable quantity of the border controlled precursor (paragraph 16(c)).

Subsection 16(2)

21. New paragraph 16(2)(a) refers to the restricted listing table of border controlled precursors.
22. New paragraph 16(2)(a) provides that for the purposes of paragraph 301.6(1)(a) and subsection 301.6(1A) of the Code, a substance is taken to be a border controlled precursor only in relation to:
 - an offence against subsection 307.11(1), 307.12(1) or 307.13(1) of the Code, if the offence relates to importing a substance (subparagraph 16(2)(a)(i)); and
 - an offence against subsection 309.14(1) or 309.15(1) of the Code, if the offence relates to procuring an individual to import a substance (subparagraph 16(2)(a)(ii)).
23. This amendment clarifies the offences against Part 9.1 of the Code that a restricted listing of a border controlled precursor may be made. This amendment also makes it clear that any substance in the restricted listing table is only a border controlled precursor in relation to the specified offences against Part 9.1 of the Code.
24. New paragraph 16(2)(b) provides that for the purposes of paragraph (a) of item 1 of the table in section 301.10 of the Code, the quantity is the commercial quantity of the border controlled precursor.
25. This amendment clarifies that the commercial quantity of a restricted listing border controlled precursor is as provided in the restricted listing table in subsection 16(2) of the Regulations.
26. New paragraph 16(2)(c) provides for the purposes of paragraph (a) of item 1 of the table in section 301.11 of the Code, the quantity is the marketable quantity of the border controlled precursor.
27. This amendment clarifies that the marketable quantity of a restricted listing border controlled precursor is as provided in the restricted listing table in subsection 16(2) of the Regulations.

Note

28. This item also inserts a note at the end of new subparagraph 16(2)(c) of the Regulations.
29. The note to new subsection 16(2) provides that for a salt, ester or immediate precursor of a substance listed in the table, see paragraphs 301.6(1)(b) and (c) and subsection 301.6(1B) of the Code.

30. The note makes it clear that existing paragraphs 301.6(1)(b) and (c) and subsection 301.6(1B) of the Code (for salt, esters or immediate precursors of a listed precursor) continue to apply to restricted listing border controlled precursors.

Restricted listing table

31. The restricted listing table at the end of subsection 16(2) lists the following substances as border controlled precursors with commercial and marketable quantities:

- Alpha-Methyl-1,3-benzodioxole-5-propanal (Helional) (Item 1)
- Benzaldehyde (Item 2)
- Hypophosphorous acid (Phosphinic acid) (Item 3), and
- Iodine (Item 4).

Item [7] – Clause 1 of Schedule 2

32. This item inserts “(1)” before “The following table” in clause 1 of Schedule 2 of the Principal Regulations. This is a technical and consequential amendment required to provide for an additional subclause included as part of the amendments in item 9, below.

Item [8] – Clause 1 of Schedule 2 (note)

33. This item omits “301.4(b)” and substitutes “301.4(1)(b)” in the note to Schedule 2 of the Principal Regulations. This is a technical amendment required to refer to paragraph 301.4(1)(b) of the Code for drug analogues of a listed border controlled drug.

34. Analogues are substances that may be structurally or functionally similar to a parent compound which is a prohibited or scheduled drug. For example, 1,4-butanediol (1,4-BD) is an analogue and precursor of gamma-hydroxybutyrate (GHB) which, upon ingestion, metabolises into GHB in the body, producing identical effects.

Item [9] – At the end of clause 1 of Schedule 2

35. This item inserts new subclause 1(2) at the end of subclause 1(1) of Schedule 2 in the Principal Regulations.

36. This item also inserts a new subheading before new subclause 1(2), “Restricted listing”.

New subclause 1(2)

37. New subclause 1(2) of Schedule 2 in the Principal Regulations provides details of the restricted listing of border controlled precursors, including commercial and marketable quantities.
38. New paragraph 1(2)(a) provides that the restricted listing table lists substances that are taken to be border controlled drugs only in relation to:
- an offence against subsection 307.1(1), 307.2(1), 307.3(1) or 307.4(1) of the Code, if the offence relates to importing a substance; (subparagraph 14(2)(a)(i)); and
 - an offence against subsection 307.5(1), 307.6(1), 307.7(1), 307.8(1), 307.9(1) or 307.10(1) of the Code (subparagraph 14(2)(a)(ii)); and
 - an offence against subsection 309.12(1) or 309.13(1) of the Code, if the offence relates to procuring an individual to import a substance (subparagraph 14(2)(a)(iii)).
39. This amendment clarifies the offences against Part 9.1 of the Code that a restricted listing of a border controlled drug may be made. This amendment also makes it clear that any substance in the restricted listing table is only a border controlled drug in relation to the specified offences against Part 9.1 of the Code.
40. New paragraph 1(2)(b) provides that the restricted listing table also lists the quantities of those drugs that are commercial quantities and marketable quantities. This makes it clear the commercial and marketable quantities of a restricted listing of a border controlled drug are provided in the table.

Note

41. This item also inserts a note at the end of new subclause 1(2).
42. The note to subclause 1(2) provides that for a drug analogue of a substance listed in the table, see paragraph 301.4(1)(b) and subsection 301.4(3) of the Code.
43. The note makes it clear that existing paragraph 301.4(1)(b) and subsection 301.4(3) of the Code (for a drug analogue of a listed border controlled drug) continue to apply to restricted listing border controlled drugs.

Restricted listing table

44. Item 1 of the restricted listing table at the end of subclause 1(2) lists 1,4-Butanediol (1,4-BD) as a border controlled drug with commercial and marketable quantities.

Item [10] – Application provision

45. This item provides that the amendments made by this Schedule apply in relation to conduct engaged in on or after the commencement of this Schedule.

STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

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

Criminal Code Amendment (Border Controlled Drugs and Precursors) Regulations 2024

1. 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 Legislative Instrument

2. The *Criminal Code Amendment (Border Controlled Drugs and Precursors) Regulations 2024* (the Regulations) amends the *Criminal Code Regulations 2019* (the Principal Regulations) to create restricted listings of substances as border controlled drugs and precursors.

Conditions met for restricted listing of border controlled drugs

3. Section 301.4 of the *Criminal Code Act 1995* (the Code) provides that a border controlled drug is a substance that is listed by a regulation as a border controlled drug (section 301.4(1)(a)). The Principal Regulations lists border controlled drugs in a table in clause 1 of Schedule 2.
4. A substance may also be a restricted listing of a border controlled drug under section 301.4(2) of the Code, meaning a substance is only listed by regulation against import offences in Part 9.1, or elements of those offences, rather than Part 9.1 as a whole.
5. Section 301.7 of the Code also prescribes the matters the Minister administering the *Australian Federal Police Act 1979* (the AFP Minister) must be satisfied to list a serious drug (including a border controlled drug) by regulation.
6. The Regulations include a restricted listing of 1,4-Butanediol (1,4-BD) as a border controlled drug in a restricted listing table in section 16 of the Principal Regulations, including its commercial and marketable quantities. 1,4-BD has legitimate industrial uses in the production of plastic and polymers by a limited number of registered, legitimate importers. However, 1,4-BD poses a substantial risk to the health or safety of the public due to its substantially similar physical or mental effects of the controlled drugs, 4-Hydroxybutanoic acid (GHB) and gamma butyrolactone (GBL). The restricted listing of 1,4-BD as a border controlled drug recognises its increasing abuse potential and threat to the Australian community. It also ensures that Commonwealth controls are better aligned with state and territory controls and better enable law enforcement to disrupt the supply and manufacture of illicit drugs in Australia.

Conditions met for restricted listing of border controlled precursors

7. Section 301.6 of the Code provides that a border controlled precursor is a substance (including a growing plant) that is listed by a regulation as a border controlled precursor (section 301.6(1)(a)). The Principal Regulations lists border controlled precursors in a table in section 16.
8. A substance may also be a restricted listing of a border controlled precursor under section 301.6(1A) of the Code, meaning a substance is only listed by regulation against offences in Part 9.1, or elements of those offences, rather than Part 9.1 as a whole.
9. Section 301.8 of the Code also provides that the AFP Minister must be satisfied that there is a risk that the substance will be used to unlawfully manufacture a controlled drug (other than a determined controlled drug).
10. The Regulations include restricted listings of the following substances as a border controlled precursors in a restricted listing table in subclause 1(2) of Schedule 2 of the Principal Regulations, including commercial and marketable quantities:
 - Alpha-Methyl-1,3-benzodioxole-5-propanal (Helional)
 - Benzaldehyde
 - Hypophosphorous acid (Phosphinic acid), and
 - Iodine.
11. These four substances also have legitimate industrial uses in Australia, however pose risks of being used to unlawfully manufacture controlled drugs, including 3,4-methylenedioxyamphetamine (MDA) and methamphetamine. These additions keep pace with new drug manufacturing methodologies that are constantly evolving to use new chemicals in the manufacture of illicit drugs. Similarly to 1,4-BD, the above four restricted listings recognise the increasing threat these substances pose to the Australian community. It also balances the need to better enable law enforcement to disrupt the supply and manufacture of illicit drugs and precursors in Australia, while still allowing registered importers to continue importing the substances for legitimate industrial uses.

Human rights implications

12. The Regulations engage, directly or indirectly, with the following human rights:
 - The right to life in Article 6(1) of the International Covenant on Civil and Political Rights (ICCPR).
 - The right to the enjoyment of the highest attainable standard of physical and mental health in Article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR).

The right to life

13. The Regulations promote the right to life in Article 6(1) of the ICCPR. Article 6(1) provides, ‘Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.’
14. The United National Human Rights Committee notes the right to life should not be interpreted narrowly, and that it concerns the entitlement of individuals to be free from acts and omissions that are intended or may be expected to cause their unnatural or premature death, as well as to enjoy a life with dignity.
15. The restricted listing of the five substances in the Principal Regulations promotes this right as the substances cause significant community harms in Australia when used or manufactured into illicit drugs, including overdoses and the facilitation of sexual assault, that limit individuals’ right to life and enjoyment of a life with dignity.
16. The harms associated with 1,4-BD consumption demonstrate the limitations the substances impose on the right to life when used or manufactured into illicit drugs. 1,4-BD is a colourless liquid that metabolises as the body’s naturally occurring 4-Hydroxybutanoic acid (GHB) when ingested. 1,4-BD is consumed in small doses and has been implicated with GHB and gamma butyrolactone (GBL) in a series of fatal and non-fatal overdoses since 2001. The risk of overdose from 1,4-BD is heightened due to the small dosage required and the delay in the onset of its effects, and where 1,4-BD and alcohol are consumed together as alcohol is metabolised faster than 1,4-BD. Failure to seek emergency department treatment for an overdose in a timely manner can also have fatal consequences. Furthermore, 1,4-BD is known to be used to facilitate sexual assault, likely through food and drink spiking, and is reportedly sold at nightclubs and music festivals as GHB. The consumption of substances, including 1,4-BD, may therefore be expected to cause death, as well as limit individuals’ entitlement to enjoy a life with dignity.
17. To combat these harms, the Regulations will better support law enforcement to disrupt the supply and manufacture of illicit drugs, enable the Australian Border Force will be able to seize the substances from unregistered importers at Australia’s border, and prevent the distribution of the substances across Australia.
18. Overall, the Regulations are necessary and reasonable to promote the right to life in Australia.

The right to the enjoyment of the highest attainable standard of physical and mental health

19. The Regulations promote the right to the enjoyment of the highest attainable standard of physical and mental health in Article 12(1) of the ICESCR. Article 12(2) notes the full realisation of this right includes steps necessary for the improvement of all aspects of environmental and industrial hygiene (Article 12(2)(b)), such as discouraging the use of drugs and other harmful substances.
20. The restricted listing of the five substances in the Principal Regulations promotes this right by supporting law enforcement to prevent criminal groups from importing these substances that contribute to Australia's illicit drug market. This will reduce the health risks to Australian

communities that the misuse of these substances may cause if used or manufactured into illicit drugs. This is also consistent with the AFP Minister being satisfied of the matters prescribed for listing border controlled drugs and precursors in sections 301.7 and 301.8 respectively in the Code. Furthermore, the restricted listing of the substances against offences in Part 9.1 of the Code, or elements of those offences, means registered importers with legitimate industrial uses for the substances can continue importing them as licenced under the *Industrial Chemicals Act 2019* (IC Act).

21. Overall, the Regulations are necessary and reasonable to promote the right to the enjoyment of the highest attainable standard of physical and mental health, and to protect the Australian community by discouraging the use of drugs and other harmful substances.

Conclusion

22. The Legislative Instrument is compatible with human rights because it promotes Article 12 of the ICESCR and Article 6(1) of the ICCPR by protecting the general health, welfare, and the enjoyment of life with dignity of the Australian community by discouraging the use of drugs and other harmful substances.