



New South Wales

High Risk Offenders Legislation Amendment Bill 2023

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The objects of this Bill are to—

- (a) amend the *Crimes (High Risk Offenders) Act 2006* (the **CHRO Act**) to—
 - (i) prescribe a strangulation offence under the *Crimes Act 1900* (the **Crimes Act**), section 37(2) that has been committed with intent to commit an offence under the Crimes Act, Part 3, Division 10 (Sexual offences against adults and children) (the **intended offence**) as a **serious sex offence** for the purposes of the CHRO Act if the intended offence is punishable by imprisonment for 7 years or more, and
 - (ii) prescribe a strangulation offence under the Crimes Act, section 37(2) that has been committed with intent to commit an offence under the Crimes Act, Part 3, Division 10 (Sexual offences against adults and children) as an **offence of a sexual nature** for the purposes of the CHRO Act, and
 - (iii) prescribe a strangulation offence under the Crimes Act, section 37(1) and (2) as a **serious violence offence** for the purposes of the CHRO Act, and
 - (iv) provide that if a federal recognizance release order is imposed on an offender under the *Crimes Act 1914* of the Commonwealth (the **Commonwealth Crimes Act**), sections 19AC and 20(1)(b) in combination with a federal prison sentence, the order is taken to be part of the offender's sentence of imprisonment for the purposes of the CHRO Act, section 51(2), definition of **supervised offender**, and
 - (v) provide that an application for orders under the CHRO Act may be made in relation to an offender in the last 9 months of the offender's overall term of imprisonment if the overall term contains at least 1 prison sentence for—

- (A) a serious offence, or
 - (B) an offence of a sexual nature, or
 - (C) an offence under the CHRO Act, section 12, and
- (b) amend the *Terrorism (High Risk Offenders) Act 2017* (the **THRO Act**) to provide that applications for orders under the THRO Act may be made in relation to an offender in the last 12 months of the offender's overall term of imprisonment if the overall term of imprisonment contains at least 1 prison sentence for a NSW indictable offence.

Outline of provisions

Clause 1 sets out the name, also called the short title, of the proposed Act.

Clause 2 provides for the commencement of the proposed Act.

Schedule 1 Amendment of Crimes (High Risk Offenders) Act 2006 No 7

Schedule 1[1] inserts a new definition of *aggregate sentence of imprisonment* and *cumulative sentence of imprisonment*.

Schedule 1[2] and [3] amend the CHRO Act, section 5 to prescribe a strangulation offence under the Crimes Act, section 37(2) that has been committed with intent to commit an offence under the Crimes Act, Part 3, Division 10 (Sexual offences against adults and children) (the *intended offence*) as both—

- (a) a *serious sex offence* if the intended offence is punishable by imprisonment for 7 years or more, and
- (b) an *offence of a sexual nature*.

Schedule 1[4] and [5] amend the CHRO Act, section 5 to prescribe a strangulation offence or attempting to commit, or conspiring with or inciting another person to commit, a strangulation offence under the Crimes Act, section 37(1) and (2) as a *serious violence offence*.

Schedule 1[6] amends the CHRO Act, section 5I to provide that an application for an extended supervision order may be made in relation to an offender in the last 9 months of the offender's sentence of imprisonment if the sentence is an aggregate or cumulative sentence of imprisonment of which at least 1 of the offences to which the sentence relates is a serious offence, offence of a sexual nature or an offence under the CHRO Act, section 12.

Schedule 1[7] amends the CHRO Act, section 5I to provide that if a federal recognizance release order is imposed on an offender under the Commonwealth Crimes Act in respect of a federal prison sentence, the order is taken to be part of the offender's sentence of imprisonment.

Schedule 1[8] amends the CHRO Act, section 13B to provide that an application for a continuing detention order may be made in relation to an offender in the last 9 months of the offender's sentence of imprisonment if the sentence is an aggregate or cumulative sentence of imprisonment of which at least 1 of the offences to which the sentence relates is a serious offence, an offence of a sexual nature or an offence under the CHRO Act, section 12.

Schedule 2 Amendment of Terrorism (High Risk Offenders) Act 2017 No 68

Schedule 2[1] inserts the new definitions of *aggregate sentence of imprisonment* and *cumulative sentence of imprisonment*.

Schedule 2[2] amends the THRO Act, section 7 to provide that an *eligible offender* includes an offender who is serving a cumulative or aggregate sentence of imprisonment of which at least 1 of the offences to which the sentence relates is a NSW indictable offence.

Schedule 2[3] amends the THRO Act, section 20 to provide that the Supreme Court may make an extended supervision order may be made in relation to an eligible offender serving a cumulative or aggregate sentence of imprisonment of which at least 1 of the offences to which the sentence relates is a NSW indictable offence.

Schedule 2[4] amends the THRO Act, section 23 to provide that an application for an extended supervision order may be made in relation to an eligible offender in the last 12 months of the offender's imprisonment if the sentence is an aggregate or cumulative sentence of imprisonment of which at least 1 of the offences to which the sentence relates is a a NSW indictable offence.

Schedule 2[5] amends the THRO Act, section 33, definition of *detained offender* to provide that an offender who is serving an aggregate or cumulative sentence of imprisonment of which at least 1 of the offences to which the sentence relates is a NSW indictable offence is also a detained offender for the purposes of the THRO Act.



New South Wales

High Risk Offenders Legislation Amendment Bill 2023

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New South Wales

High Risk Offenders Legislation Amendment Bill 2023

No. , 2023

A Bill for

An Act to amend the *Crimes (High Risk Offenders) Act 2006* and the *Terrorism (High Risk Offenders) Act 2017* for particular purposes.

The Legislature of New South Wales enacts—

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1 Name of Act

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This Act is the *High Risk Offenders Legislation Amendment Act 2023*.

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2 Commencement

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This Act commences on a day or days to be appointed by proclamation.

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Schedule 1	Amendment of Crimes (High Risk Offenders) Act 2006 No 7	1
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[1] Section 4 Definitions		3
	Insert in alphabetical order in section 4(1)—	4
	<i>aggregate sentence of imprisonment</i> has the same meaning as in the <i>Crimes (Sentencing Procedure) Act 1999</i> .	5
	<i>cumulative sentence of imprisonment</i> means 2 or more sentences of imprisonment in which each sentence of imprisonment is served concurrently or consecutively, or partly concurrently and partly consecutively, with 1 or more of the other sentences of imprisonment.	6
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[2] Section 5 Definitions of “serious sex offence” and “offence of a sexual nature”		11
	Insert “37(2),” after “section” in section 5(1)(b).	12
[3] Section 5(2)(b)		13
	Insert “37(2),” after “section”.	14
[4] Section 5A Definition of “serious violence offence”		15
	Insert after section 5A(1)(a)—	16
	(a1) an offence under the <i>Crimes Act 1900</i> , section 37(1) or (2), or	17
[5] Section 5A(1)(b)		18
	Insert after “or (a1)” after “paragraph (a)”.	19
[6] Section 5I Application for extended supervision order		20
	Omit section 5I(2)(a)(iv). Insert instead—	21
	(iv) that is an aggregate sentence of imprisonment in relation to which at least 1 of the offences to which the aggregate sentence relates is an offence referred to in subparagraph (i), (ii) or (iii), or	22
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	(v) for an offence, whether under a law of this State or another Australian jurisdiction, that is part of a cumulative sentence of imprisonment in relation to which at least 1 of the sentences of imprisonment comprising the cumulative sentence of imprisonment is a sentence of imprisonment referred to in subparagraph (i), (ii), (iii) or (iv), or	25
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[7] Section 5I(4) and (5)		31
	Insert after section 5I(3)—	32
	(4) For the purposes of this section, if a court makes a federal recognizance release order in relation to a person in respect of a federal sentence imposed on the person by the court—	33
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	(a) the order is taken to be part of the person’s federal sentence, and	36
	(b) the person is taken to be serving a sentence of imprisonment for the period the order is in force.	37
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	(5) In this section—	39
	<i>Crimes Act 1914</i> means the <i>Crimes Act 1914</i> of the Commonwealth.	40
	<i>federal recognizance release order</i> means an order under the <i>Crimes Act 1914</i> , section 20(1)(b).	41
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federal sentence has the same meaning as in the Crimes Act 1914.

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[8] Section 13B Application for continuing detention order

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Omit section 13B(2)(a)(iv). Insert instead—

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- (iv) that is an aggregate sentence of imprisonment in relation to which at least 1 of the offences to which the aggregate sentence relates is an offence referred to in subparagraph (i), (ii) or (iii), or
- (v) for an offence, whether under a law of this State or another Australian jurisdiction, that is part of a cumulative sentence of imprisonment in relation to which at least 1 of the sentences of imprisonment comprising the cumulative sentence of imprisonment is a sentence of imprisonment referred to in subparagraph (i), (ii), (iii) or (iv), or

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Schedule 2	Amendment of Terrorism (High Risk Offenders) Act 2017 No 68	1
		2
[1] Section 4 Definitions		3
	Insert in alphabetical order in section 4(1)—	4
	<i>aggregate sentence of imprisonment</i> has the same meaning as in the <i>Crimes (Sentencing Procedure) Act 1999</i> .	5
	<i>cumulative sentence of imprisonment</i> means 2 or more sentences of imprisonment in which each sentence of imprisonment is served concurrently or consecutively, or partly concurrently and partly consecutively, with 1 or more of the other sentences of imprisonment.	6
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[2] Section 7 Eligible offender		11
	Omit section 7(b). Insert instead—	12
	(b) serving, or is continuing to be supervised or detained under this Act after serving, a sentence of imprisonment—	13
	(i) for a NSW indictable offence, or	14
	(ii) that is an aggregate sentence of imprisonment in relation to which at least 1 of the offences to which the aggregate sentence relates is a NSW indictable offence, or	15
	(iii) for an offence, whether under a law of this State or another Australian jurisdiction, that is part of a cumulative sentence of imprisonment in relation to which at least 1 of the sentences of imprisonment comprising the cumulative sentence of imprisonment is a sentence of imprisonment referred to in subparagraph (i) or (ii).	16
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[3] Section 20 Supreme Court may make extended supervision orders against eligible offenders if unacceptable risk		25
	Omit section 20(a)(ii). Insert instead—	26
	(ii) while serving a sentence of imprisonment that is an aggregate sentence of imprisonment in relation to which at least 1 of the offences to which the aggregate sentence relates is a NSW indictable offence, or	27
	(iii) while serving a sentence of imprisonment for an offence, whether under a law of this State or another Australian jurisdiction, that is part of a cumulative sentence of imprisonment in relation to which at least 1 of the sentences of imprisonment comprising the cumulative sentence of imprisonment is a sentence of imprisonment referred to in subparagraph (i) or (ii), or	28
	(iv) under an existing interim supervision order, extended supervision order, interim detention order or continuing detention order, and	29
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[4] Section 23 Requirements with respect to application		40
	Omit section 23(1)(a). Insert instead—	41
	(a) while serving a sentence of imprisonment—	42
	(i) for a NSW indictable offence, or	43
	(ii) that is an aggregate sentence of imprisonment in relation to which at least 1 of the offences to which the aggregate sentence relates is a NSW indictable offence, or	44
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- (iii) for an offence, whether under a law of this State or another Australian jurisdiction, that is part of a cumulative sentence of imprisonment in relation to which at least 1 of the sentences of imprisonment comprising the cumulative sentence of imprisonment is a sentence of imprisonment referred to in subparagraph (i) or (ii), or

[5] Section 33 Definitions

Omit definition of *detained offender*, paragraph (a). Insert instead—

- (a) while serving a sentence of imprisonment—
 - (i) for a NSW indictable offence, or
 - (ii) that is an aggregate sentence of imprisonment in relation to which at least 1 of the other offences to which the aggregate sentence relates is a NSW indictable offence, or
 - (iii) for an offence, whether under a law of this State or another Australian jurisdiction, that is part of a cumulative sentence of imprisonment in relation to which at least 1 of the sentences of imprisonment comprising the cumulative sentence of imprisonment is a sentence of imprisonment referred to in subparagraph (i) or (ii), or