



New South Wales

Crimes (High Risk Offenders) Amendment Bill 2014

Explanatory note

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

Overview of Bill

The object of this Bill is to amend the scheme for the supervision and detention of high risk sex offenders and high risk violent offenders that is set out in the *Crimes (High Risk Offenders) Act 2006* as follows:

- (a) by providing for the Supreme Court to make, on an ex parte basis, emergency detention orders in relation to a high risk offender the subject of an extended supervision order or an interim supervision order who, because of altered circumstances, cannot be provided with adequate supervision under the extended supervision order or interim supervision order,
- (b) by clarifying that an interim supervision order is suspended during any period that the offender is in lawful custody,
- (c) by supplementing the list of conditions that may be imposed on an extended supervision order (which is not exhaustive) to add conditions requiring the offender to report to police, to provide information about association with children, to comply with requirements relating to internet access and use and to provide employment and financial information to a corrective services officer,
- (d) by increasing the penalty for failing to comply with an extended supervision order or interim supervision order,
- (e) by establishing a High Risk Offenders Assessment Committee, the functions of which include reviewing the risk assessments of sex offenders and violent offenders for the purposes of making recommendations about the taking of action under the Act,
- (f) by requiring agencies involved in the supervision and management of offenders to co-operate with, and provide assistance to, the Assessment Committee and each other.

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 on a day or days to be appointed by proclamation.

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

Term of interim supervision order

Schedule 1 [3] clarifies that an interim supervision order is suspended during any period that the offender is in custody.

Schedule 1 [4] clarifies that, when calculating the maximum 3-month period during which an offender can be supervised under an interim supervision order, any day or part of a day on which the order is suspended is not to be counted.

Additional conditions on supervision orders

Schedule 1 [5] adds to the existing list of specific conditions that may be imposed on an extended supervision order (which extends the period during which a high risk sex offender or a high risk violent offender may be supervised) or an interim supervision order. The additional conditions include conditions requiring the offender to:

- (a) report to police and provide information about the conditions to which the extended supervision order or interim supervision order is subject and the residential address of the offender, or
- (b) provide information about association with children that replicates that required by the *Child Protection (Offenders Registration) Act 2000* (the operation of that Act is suspended while an extended supervision order is in force), or
- (c) comply with restrictions on internet access or use, or
- (d) provide information about employment and financial affairs to a corrective services officer.

Increase in maximum penalty for failure to comply with supervision order

Schedule 1 [6] increases the maximum penalty for failing to comply with an extended supervision order or interim supervision order from 100 penalty units or 2 years' imprisonment (or both) to 500 penalty units or 5 years' imprisonment (or both).

Schedule 1 [16] makes a consequential amendment to a provision about proceedings for offences, so as to provide that the offence of failing to comply with an extended supervision order or interim supervision order will be an indictable offence triable summarily unless the prosecutor elects otherwise.

Making of emergency detention orders

Schedule 1 [9] inserts new provisions establishing emergency detention orders as follows:

- (a) proposed section 18CA enables the State to apply to the Supreme Court for an emergency detention order in relation to a high risk sex offender or high risk violent offender who is the subject of an extended supervision order or an interim supervision order and who, because of altered circumstances, cannot be provided with adequate supervision under an extended supervision order or interim supervision order, and provides for the Supreme Court to hear an application in the absence of the offender,
- (b) proposed section 18CB provides that the Supreme Court may make an emergency detention order if it appears to the Court that, because of altered circumstances, the offender cannot be provided with adequate supervision under the extended supervision order or interim

supervision order and, without adequate supervision, the offender poses an imminent risk of committing a serious offence,

- (c) proposed section 18CC identifies the matters that must be dealt with in documentation supporting the making of an application for an emergency detention order,
- (d) proposed section 18CD provides that an emergency detention order is not to be made to have effect for longer than is reasonably necessary to enable action to be taken under the Act to ensure that the offender is provided with adequate supervision, and that the term of an emergency detention order cannot exceed 120 hours.

Schedule 1 [7] and [8] are consequential amendments, to reflect that persons who are the subject of applications for continuing detention orders may be detained under emergency detention orders.

Schedule 1 [10] provides that, on the making of an emergency detention order in respect of an offender, any interim supervision order or extended supervision order in respect of the offender is suspended and ceases to have effect until such time as the emergency detention order expires.

Schedule 1 [11] provides for the Supreme Court to vary or revoke an emergency detention order at any time on the application of the State or the offender, including on the ground that the circumstances have changed sufficiently to render the order unnecessary.

Schedule 1 [12] provides that, as soon as practicable after making an emergency detention order, the Supreme Court must issue a warrant for the committal of the offender to a correctional centre for the period specified in the order.

Schedule 1 [13] and [14] provide for the making of appeals against emergency detention orders.

Establishment of High Risk Offenders Assessment Committee and provision for inter-agency co-operation

Schedule 1 [15] establishes a High Risk Offenders Assessment Committee and provides for its membership and functions, which include the following:

- (a) to review the risk assessments of sex offenders and violent offenders,
- (b) to recommend to the Commissioner of Corrective Services NSW whether or not action should be taken by the State under the Act in respect of offenders.

Schedule 1 [15] also makes provision for the relevant agencies responsible for offenders (Corrective Services NSW, the Department of Family and Community Services, the Justice Health and Forensic Mental Health Network, the Department of Justice, the NSW Police Force, the Ministry of Health and prescribed bodies) to co-operate with the Assessment Committee and each other, in the assessment and management of offenders, including by sharing information.

Other amendments

Schedule 1 [1] inserts definitions of terms used in the proposed provisions.

Schedule 1 [2] simplifies references to the State.

Schedule 1 [17] inserts savings and transitional provisions consequent on the enactment of the proposed Act.

Schedule 2 Amendment of other Acts

Schedule 2.1 amends the *Crimes (Administration of Sentences) Act 1999* as a consequence of the creation of emergency detention orders. The amendments will mean that:

- (a) Part 2 of that Act (which deals with imprisonment by way of full-time detention) will apply to a person subject to an emergency detention order (in the same way as it currently applies to a person subject to a continuing detention order or interim detention order), and
- (b) an offender is not eligible for release on parole if the offender is the subject of an emergency detention order (in the same way as a person subject to a continuing detention order or an interim detention order is currently ineligible), and

- (c) regulations may be made providing for the preparation and implementation of plans of management in respect of persons who are subject to emergency detention orders (in the same way the regulations can currently apply to offenders subject to extended supervision orders, continuing detention orders, interim supervision orders and interim detention orders).

Schedule 2.2 amends the *Criminal Procedure Act 1986* to provide that an offence of failing to comply with an extended supervision order or interim supervision order is an indictable offence triable summarily unless the prosecutor elects otherwise.

Schedule 2.3 amends the *Jury Act 1977* as a consequence of the creation of the category of emergency detention orders. The amendment will mean that a person subject to an emergency detention order will be excluded from jury service (in the same way as a person subject to a continuing detention order or an interim detention order currently is).