



New South Wales

Terrorism (High Risk Offenders) Bill 2017

Explanatory note

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

Overview of Bill

The objects of this Bill are:

- (a) to enable the Supreme Court to make orders for the supervision or detention of certain offenders after they serve their sentences of imprisonment if satisfied that they pose an unacceptable risk of committing serious terrorism offences if not kept under supervision or in detention, and
- (b) to make consequential and related amendments to certain legislation.

Summary of the operation of this Bill

The provisions of this Bill are based (with modifications) on those of the *Crimes (High Risk Offenders) Act 2006* (as amended by the *Crimes (High Risk Offenders) Amendment Act 2017*).

The proposed Act will apply in respect of persons who are eligible offenders. An **eligible offender** will be defined to mean a person who is:

- (a) 18 years of age or older, and
- (b) serving (or is continuing to be supervised or detained under the proposed Act after serving) a sentence of imprisonment for a NSW indictable offence.

As eligible offenders are limited to persons who commit NSW indictable offences, a person will not be an eligible offender for the purposes of the proposed Act in respect of an offence against a law of the Commonwealth. Division 105A (Continuing detention orders) of Part 5.3 of the *Criminal Code* set out in the Schedule to the *Criminal Code Act 1995* of the Commonwealth (the **Commonwealth Criminal Code**) makes special provision for the continuing detention of certain offenders convicted of terrorism related offences against the laws of the Commonwealth.

The proposed Act will enable the Supreme Court to make certain supervision and detention orders in respect of eligible offenders after their sentences of imprisonment end, but only if the State can establish the offender falls into one of the following categories of offender:

- (a) convicted NSW terrorist offenders (generally speaking, these are offenders who have committed the offence under NSW law of being a member of a terrorist organisation),
- (b) convicted NSW underlying terrorism offenders (generally speaking, these are offenders who have committed certain serious offences under NSW law in a terrorism context),
- (c) convicted NSW terrorism activity offenders (generally speaking, these are offenders who have committed NSW indictable offences and have at any time been subject to control orders or been members of terrorist organisations or who have advocated support for engaging in terrorist acts or are associated or otherwise affiliated with persons or organisations advocating support for engaging in terrorist acts).

With the exception of certain interim or emergency orders of limited duration, the Supreme Court will not be able to make an order for the supervision or detention of any such offender unless the Supreme Court is satisfied to a high degree of probability that the offender poses an unacceptable risk of committing a serious terrorism offence if not kept under supervision or detained under the order.

Outline of provisions

Part 1 Preliminary

Division 1.1 Introduction

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.

Clause 3 sets out the objects of the proposed Act.

Division 1.2 Interpretation generally

Clause 4 defines certain words and expressions used in the proposed Act. In particular, the following expressions are defined:

- (a) ***NSW indictable offence*** is defined to mean an offence against a law of the State for which proceedings may be taken on indictment (whether or not proceedings for the offence may also be taken otherwise than on indictment),
- (b) ***terrorism activity*** is defined to mean:
 - (i) any statement or other conduct of any person or group of persons involving advocating support for engaging in any terrorist acts or violent extremism, or
 - (ii) any conduct or other activity of any person or group of persons involving planning or preparing for, or engaging in, any terrorist acts or violent extremism,
- (c) ***serious terrorism offence*** means an offence against Part 5.3 of the Commonwealth Criminal Code for which the maximum penalty is 7 or more years of imprisonment,
- (d) ***terrorist act*** is given the same meaning as in Part 5.3 of the Commonwealth Criminal Code.

Clause 5 provides for the expression ***eligible offender in lawful custody*** to include certain periods on remand.

Clause 6 provides that a person is ***serving a sentence of imprisonment*** for an offence for the purposes of the proposed Act if:

- (a) the person is serving a sentence of imprisonment for the offence by way of full-time detention, or
- (b) the person is on parole in respect of the offence.

Division 1.3 Key concepts

Clause 7 defines the expression *eligible offender* as explained in the Overview above.

Clause 8 provides that an eligible offender is a *convicted NSW terrorist offender* if:

- (a) the offender is serving (or is continuing to be supervised or detained under the proposed Act after serving) a sentence of imprisonment for an offence against section 310J of the *Crimes Act 1900*, or
- (b) the offender has previously served a sentence of imprisonment for an offence against section 310J of the *Crimes Act 1900* and is serving (or is continuing to be supervised or detained under the proposed Act after serving) a sentence of imprisonment for any other NSW indictable offence.

Clause 9 provides that an eligible offender is a *convicted NSW underlying terrorism offender* if:

- (a) the offender is serving (or is continuing to be supervised or detained under the proposed Act after serving) a sentence of imprisonment for a NSW indictable offence, and
- (b) the offender's offence is a serious offence, and
- (c) the offender's offence occurred in a terrorism context.

The expression *serious offence* is limited to certain kinds of offences of a serious nature (including offences against the *Firearms Act 1996* and *Weapons Prohibition Act 1998* and other offences involving the death of, or grievous bodily harm or other serious physical harm to, persons or serious harm to property or destruction or disruption of certain critical infrastructure).

An eligible offender's offence occurs in a *terrorism context* if:

- (a) the offender committed the offender's offence with:
 - (i) the intention of advancing a political, religious or ideological cause, and
 - (ii) the intention of coercing, or influencing by intimidation, the government of an Australian jurisdiction or foreign country (or of part of an Australian jurisdiction or foreign country) or of intimidating the public or a section of the public, or
- (b) the offender knew, or was reckless as to whether, the offender's offence would materially assist any other person to commit:
 - (i) an offence against section 310J of the *Crimes Act 1900*, or
 - (ii) a NSW indictable offence that is a serious offence committed by the other person with the intentions referred to in paragraph (a), or
 - (iii) a terrorism offence within the meaning of the *Crimes Act 1914* of the Commonwealth.

Clause 10 provides that an eligible offender is a *convicted NSW terrorism activity offender* if the offender is serving (or is continuing to be supervised or detained under the proposed Act after serving) a sentence of imprisonment for a NSW indictable offence and any of the following apply in respect of the offender:

- (a) the offender has at any time been subject to a control order within the meaning of Part 5.3 of the Commonwealth Criminal Code,
- (b) the offender has at any time been a member of a terrorist organisation,
- (c) the offender:
 - (i) has made statements or engaged in other conduct involving advocating support for engaging in any terrorist acts, or
 - (ii) is associated or otherwise affiliated with other persons or with organisations advocating support for engaging in any terrorist acts.

Clause 11 lists the kinds of considerations that the Supreme Court may take into account when determining whether an eligible offender is a convicted NSW underlying terrorism offender or convicted NSW terrorism activity offender.

Clause 12 enables the State to apply to the Supreme Court for a declaration that a person is a convicted NSW terrorist offender, convicted NSW underlying terrorism offender or convicted NSW terrorism activity offender for the purposes of the proposed Act.

The State may, as a preliminary matter, apply for a declaration before deciding whether to seek an order for supervision or detention under the proposed Act. An application for a declaration can also be made at any time after an application for an order is made.

If successful, the State will not be required (for a specified period) to establish again in proceedings for an order under the proposed Act that the eligible offender is a convicted NSW terrorist offender, convicted NSW underlying terrorism offender or convicted NSW terrorism activity offender.

Division 1.4 Application of Act

Clause 13 provides that the proposed Act will apply to offences committed before the date of assent to the proposed Act as well as to offences committed on or after that date.

Clause 14 provides that the proposed Act will apply to eligible offenders who are serving sentences of imprisonment for offences that commenced before the date of assent to the proposed Act as well as to sentences commenced on or after that date.

Clause 15 provides that in the event that a provision of the proposed Act or an instrument made under the Act has both valid and invalid applications, it is the intention of Parliament that the provision be construed as applying only to such of the applications of the provision as are valid.

Division 1.5 Relationship of Act with other laws

Clause 16 provides that the proposed Act does not limit the circumstances in which an order can be made in respect of an eligible offender under the *Crimes (High Risk Offenders) Act 2006*.

Clause 17 provides that the *Bail Act 2013* does not apply to or in respect of a person who is a defendant in proceedings under the proposed Act (except in relation to certain offences under the proposed Act).

Clause 18 enables rules of court to be made under the *Supreme Court Act 1970* for regulating the practice and procedure of the Supreme Court in respect of proceedings under the proposed Act.

Part 2 Extended supervision orders

Division 2.1 Interpretation

Clause 19 defines for the purposes of Part 2 *current custody or supervision*, in relation to an eligible offender in respect of whom an application for an order is made under that Part, to mean the custody or supervision to which the offender is subject at the time of the application for an order under the Part concerned.

Division 2.2 Supervision of certain eligible offenders

Clause 20 enables the Supreme Court to make an order (called an *extended supervision order*) for the supervision in the community of an eligible offender if:

- (a) the offender is in custody or under supervision:
 - (i) while serving a sentence of imprisonment for a NSW indictable offence, or
 - (ii) under an existing interim supervision order, extended supervision order, interim detention order or continuing detention order, and
- (b) an application for the order is made in accordance with Part 2, and
- (c) the Supreme Court is satisfied that the offender is any of the following:
 - (i) a convicted NSW terrorist offender,
 - (ii) a convicted NSW underlying terrorism offender,

- (iii) a convicted NSW terrorism activity offender, and
- (d) the Supreme Court is satisfied to a high degree of probability that the offender poses an unacceptable risk of committing a serious terrorism offence if not kept under supervision under the order.

Clause 21 makes it clear that the Supreme Court is not required for the purposes of Part 2 to determine that the risk of an eligible offender committing a serious terrorism offence is more likely than not in order to determine that there is an unacceptable risk of the offender committing such an offence.

Division 2.3 Application for extended supervision order

Clause 22 provides that the State may apply for an extended supervision order.

Clause 23 sets out certain requirements for an application for an extended supervision order (including in relation to supporting documentation).

Clause 24 sets out certain pre-trial procedures that must be followed after an application for an extended supervision order is filed with the Supreme Court. It also enables the Supreme Court, after conducting a preliminary hearing, to dismiss the application if it is not satisfied that the matters alleged in the supporting documentation would, if proved, justify the making of an extended supervision order.

Division 2.4 Determination of application

Clause 25 enables the Supreme Court to determine an application for an extended supervision order by either making the order or dismissing the application. The proposed section also sets out matters to which the Supreme Court must have regard in determining whether or not to make an extended supervision order in respect of an eligible offender.

Clause 26 provides for commencement and duration of an extended supervision order. The maximum term that can be specified for an extended supervision order is 3 years.

Division 2.5 Interim supervision orders

Clause 27 enables the Supreme Court to make an order for the interim supervision of an eligible offender (called an *interim supervision order*) if, in proceedings for an extended supervision order, it appears to the Court:

- (a) that the offender's current custody or supervision will expire before the proceedings are determined, and
- (b) that the matters alleged in the supporting documentation would, if proved, justify the making of an extended supervision order.

Clause 28 provides for commencement and duration of an interim supervision order. The maximum term that can be specified for an interim supervision order is 28 days. An interim supervision order may be renewed, but only for periods not totalling more than 3 months.

Division 2.6 General

Clause 29 provides that an extended supervision order or interim supervision order is subject to such conditions as the Supreme Court may direct. It also gives examples of the kinds of conditions that the Supreme Court can impose.

Clause 30 makes it an offence for a person to whom an extended supervision order or interim supervision order applies not to comply with the requirements of the order. The maximum penalty for the offence will be 500 penalty units (currently, \$55,000) or imprisonment for 5 years, or both.

Clause 31 enables the Supreme Court to vary or revoke an extended supervision order or interim supervision order.

Clause 32 enables the regulations to provide for a day on or after which applications cannot be made or granted for orders under Part 2.

Part 3 Continuing detention orders

Division 3.1 Interpretation

Clause 33 defines certain expressions used in Part 3. In particular, the following expressions are defined:

A ***detained offender*** is defined to mean a person who is in custody:

- (a) while serving a sentence of imprisonment for a NSW indictable offence, or
- (b) under an existing continuing detention order, emergency detention order or interim detention order.

A ***supervised offender*** is defined to mean a person in lawful custody or under supervision:

- (a) under an extended supervision order or an interim supervision order, or
- (b) whose obligations under an extended supervision order or an interim supervision order have been suspended.

Division 3.2 Detention of certain eligible offenders

Clause 34 enables the Supreme Court to make an order (called a ***continuing detention order***) for the detention of an eligible offender if:

- (a) the offender is a detained offender or supervised offender, and
- (b) an application for the order is made in accordance with Part 3, and
- (c) the Supreme Court is satisfied that the offender is any of the following:
 - (i) a convicted NSW terrorist offender,
 - (ii) a convicted NSW underlying terrorism offender,
 - (iii) a convicted NSW terrorism activity offender, and
- (d) the Supreme Court is satisfied to a high degree of probability that the offender poses an unacceptable risk of committing a serious terrorism offence if not kept in detention under the order.

The proposed section also makes it clear that the Supreme Court must not make a continuing detention order in respect of a supervised offender who is under an extended supervision order or an interim supervision order that has not been suspended (the ***existing supervision order***) unless:

- (a) the offender has been found guilty of an offence under proposed section 30 in respect of the existing supervision order, or
- (b) the Supreme Court is satisfied that the offender poses an unacceptable risk of committing a serious terrorism offence if a continuing detention order is not made because of altered circumstances since the making of the existing supervision order.

Clause 35 makes it clear that the Supreme Court is not required for the purposes of Part 3 to determine that the risk of an eligible offender committing a serious terrorism offence is more likely than not in order to determine that there is an unacceptable risk of the offender committing such an offence.

Division 3.3 Application for continuing detention order

Clause 36 provides that the State may apply for a continuing detention order.

Clause 37 sets out certain requirements for an application for a continuing detention order (including in relation to supporting documentation).

Clause 38 sets out certain pre-trial procedures that must be followed after an application for a continuing detention order is filed with the Supreme Court. It also enables the Supreme Court, after conducting a preliminary hearing, to dismiss the application if it is not satisfied that the matters alleged in the supporting documentation would, if proved, justify the making of a continuing detention order.

Division 3.4 Determination of application

Clause 39 enables the Supreme Court to determine an application for a continuing detention order by either making the order or an extended supervision order or by dismissing the application. The proposed section also sets out matters to which the Supreme Court must have regard in determining whether or not to make a continuing detention order or extended supervision order in respect of an eligible offender.

Clause 40 provides for commencement and duration of a continuing detention order. The maximum term that can be specified for a continuing detention order is 3 years.

Division 3.5 Interim detention orders

Clause 41 enables the Supreme Court to make an order for the interim detention of an eligible offender (called an *interim detention order*) if, in proceedings for a continuing detention order, it appears to the Court:

- (a) that the offender's current custody (if any) will expire before the proceedings are determined, and
- (b) that the matters alleged in the supporting documentation would, if proved, justify the making of an extended supervision order or continuing detention order.

Clause 42 provides for commencement and duration of an interim detention order. The maximum term that can be specified for an interim detention order is 28 days. An interim detention order may be renewed, but only for periods not totalling more than 3 months.

Division 3.6 Emergency detention orders

Clause 43 enables the State to apply to the Supreme Court for an order (called an *emergency detention order*) for the detention of an eligible offender who is the subject of an extended supervision order or an interim supervision order and who, because of altered circumstances, poses an unacceptable and imminent risk of committing a serious terrorism offence if the emergency detention order is not made.

Clause 44 enables the Supreme Court to make an emergency detention order if it appears to the Court that the matters alleged in support of the application for the order would, if proved, establish that because of altered circumstances, the eligible offender poses an unacceptable and imminent risk of committing a serious terrorism offence if the emergency detention order is not made.

Clause 45 sets out certain requirements for an application for an emergency detention order (including in relation to supporting documentation).

Clause 46 provides for commencement and duration of an emergency detention order. The maximum term that can be specified for an emergency detention order can be no longer than is reasonably necessary to enable action to be taken under the proposed Act to ensure that the risk of the eligible offender committing a serious terrorism offence is not unacceptable (and, in any case, no longer than 120 hours).

Division 3.7 General

Clause 47 provides that the making of a continuing detention order in respect of an eligible offender results in any interim supervision order or extended supervision order in respect of the eligible offender expiring and ceasing to have effect.

Clause 48 enables the Supreme Court to vary or revoke a continuing detention order, interim detention order or emergency detention order.

Clause 49 provides for the Supreme Court to issue warrants for the committal of an eligible offender to a correctional centre if the offender is subject to a continuing detention order, interim detention order or emergency detention order. The warrant authorises police officers to convey the eligible offender to a correctional centre (and arrest the offender for that purpose). It also authorises the governor of the correctional centre to detain the offender.

Part 4 Supreme Court proceedings

Clause 50 makes it clear that proceedings under the proposed Act (including proceedings on an appeal) are civil proceedings and that they are to be conducted in accordance with the law relating to civil proceedings (including the law of evidence).

Clause 51 provides for registered victims to be notified of certain applications under the proposed Act and to be given an opportunity to make a statement setting out the person's views about the proposed order and any conditions to which the order may be subject. The statement may be placed before the Supreme Court for consideration. The Supreme Court and the State must not disclose a statement to the eligible offender concerned unless the person who made the statement consents to the disclosure.

Clause 52 enables the Supreme Court to allow terrorism intelligence authorities prescribed by the regulations to make submissions in certain proceedings under the proposed Act if the Court considers that it would assist the Court to determine the proceedings.

Clause 53 enables an appeal to be made to the Court of Appeal against certain determinations made by the Supreme Court under the proposed Act.

Clause 54 provides that the proposed Act does not affect the right of any party to proceedings under the proposed Act to appear, to examine or cross-examine witnesses or to make submissions in proceedings under the proposed Act.

Clause 55 provides that no order for costs may be made against an eligible offender in relation to proceedings under the proposed Act.

Clause 56 preserves the jurisdiction of the Supreme Court apart from the proposed Act.

Part 5 Information about eligible offenders

Clause 57 defines *offender information* for the purposes of Part 5 to mean any document, report or other information that relates to the behaviour, beliefs, financial circumstances, or physical or mental condition, of an eligible offender, and to include terrorism intelligence about the offender.

Clause 58 enables the Attorney General in the circumstances prescribed by the regulations, by order in writing served on a person, to require that person to provide the Attorney General with offender information of a kind prescribed by the regulations that is in the person's possession or under the person's control. It will be an offence for a person to fail to comply with an order that has been duly served on the person. The maximum penalty for the offence will be a fine of 100 penalty units (currently, \$11,000) for a corporation or 100 penalty units or imprisonment for 2 years (or both) for an individual.

Clause 59 enables the Attorney General to request:

- (a) a court to provide any offender information to the Attorney General that is held by the court, or
- (b) a person in another Australian jurisdiction to provide offender information that is in the person's possession or under the person's control.

Clause 60 enables the Attorney General or a prescribed terrorism intelligence authority to make an application to the Supreme Court in any proceedings before the Court under the proposed Act for particular offender information to be dealt with as terrorism intelligence in the proceedings.

If the Supreme Court grants the application, the Court is to take steps to maintain the confidentiality of the terrorism intelligence, including steps to receive evidence and hear argument about the intelligence in private.

The Supreme Court may make orders for this purpose to restrict or prevent access to, or the disclosure or publication of, the terrorism intelligence. It will be an offence for a person to contravene such an order. The maximum penalty for the offence will be a fine of 100 penalty units (currently, \$11,000) for a corporation or 100 penalty units or imprisonment for 2 years (or both) for an individual. However, if the offence is committed in certain circumstances of aggravation, the maximum penalty will be imprisonment for 7 years.

Clause 61 provides that any document or report provided to the Attorney General under Part 5 will be admissible in proceedings under the proposed Act despite any Act or law to the contrary.

Part 6 Role of HRO Assessment Committee and inter-agency co-operation

Clause 62 defines *relevant agency* for the purposes of Part 6 to mean each of the following:

- (a) Corrective Services NSW,
- (b) the Department of Family and Community Services,
- (c) the Justice Health and Forensic Mental Health Network,
- (d) the Department of Justice,
- (e) the NSW Police Force,
- (f) the Ministry of Health,
- (g) any other agency of any Australian jurisdiction that is prescribed by the regulations as a relevant agency.

Clause 63 confers certain functions on the High Risk Offenders Assessment Committee (the *HRO Assessment Committee*) established under the *Crimes (High Risk Offenders) Act 2006*, including with respect to:

- (a) the review of risk assessments of eligible offenders who could be subject to the proposed Act, and
- (b) the making of recommendations to the Commissioner of Corrective Services whether or not action should be taken by the State under the proposed Act in respect of eligible offenders who could be subject to the proposed Act.

Clause 64 requires relevant agencies of the State to co-operate with each other in the assessment and management of eligible offenders who could be subject to the proposed Act.

Clause 65 enables relevant agencies of the State to enter into arrangements to share information for the purposes of the co-operative management of eligible offenders who could be subject to the proposed Act.

Part 7 Miscellaneous

Clause 66 provides that the Attorney General (or any other person prescribed by the regulations) is entitled to act on behalf of the State for the purposes of applications made under the proposed Act.

Clause 67 enables the Attorney General to enter into arrangements, on behalf of the State, with one or more other Australian jurisdictions (or one or more of their agencies) for the exchange or sharing of information that the parties hold about terrorism activities or suspected terrorism activities.

Clause 68 provides for certain offences against the proposed Act or regulations to be dealt with summarily by the Local Court.

Clause 69 makes it clear that the Supreme Court can make an extended supervision order in respect of a person at the same time that it makes a continuing detention order in respect of the person.

Clause 70 enables a court that sentences a person for a NSW indictable offence to warn the person about the application of the proposed Act.

Clause 71 permits the disclosure of expert reports prepared for supporting documentation relating to applications for orders to corrective services officers and other persons responsible for the supervision (whether in custody or in the community), treatment or risk assessment of eligible offenders and to any person in connection with the person's functions under the proposed Act. It also provides for the disclosure and use of such expert reports in certain proceedings in relation to

an eligible offender if the Supreme Court determines it is in the public interest and would be informative of the offender's mental state with respect to the offender's offending.

Clause 72 protects certain persons (including the State) from liability for acts and omissions that are done or omitted to be done in connection with the administration of the proposed Act.

Clause 73 enables the Commissioner of Corrective Services to issue certificates certifying that an extended supervision order was suspended and provides for those certificates to be admissible in legal proceedings despite any Act or law to the contrary.

Clause 74 enables the Governor to make regulations for the purposes of the proposed Act.

Schedule 1 Savings, transitional and other provisions

Schedule 1 enables the Governor to make regulations of a savings or transitional nature consequent on the enactment of the proposed Act or any other Act that amends the proposed Act.

Schedule 2 Amendment of legislation

Schedule 2.6 amends the *Crimes (Administration of Sentences) Act 1999*:

- (a) to make it clear that persons detained under a continuing detention order made under Part 5.3 of the Commonwealth Criminal Code (***Commonwealth post sentence terrorism inmates***) are inmates for the purposes of that Act along with persons detained under the *Crimes (High Risk Offenders) Act 2006* and the proposed Act (***NSW post sentence inmates***) (see **Schedule 2.6 [3]**), and
- (b) to provide that Commonwealth post sentence terrorism inmates and NSW post sentence inmates are serious offenders for the purposes of that Act (see **Schedule 2.6 [2]**), and
- (c) to enable the regulations under that Act to make provision for or with respect to the treatment, accommodation and detention of NSW post sentence inmates and Commonwealth post sentence terrorism inmates (see **Schedule 2.6 [4]**), and
- (d) to provide that NSW post sentence inmates and Commonwealth post sentence terrorism inmates are not eligible for parole under that Act (see **Schedule 2.6 [5]**), and
- (e) to require the State Parole Authority and Serious Offenders Review Council to take into account that applications for certain supervision or detention orders have been made under the *Crimes (High Risk Offenders) Act 2006*, the proposed Act or Part 5.3 of the Commonwealth Criminal Code (see **Schedule 2.6 [6] and [7]**), and
- (f) to provide for the suspension of parole orders in respect of persons under supervision or detention under the *Crimes (High Risk Offenders) Act 2006*, the proposed Act or Part 5.3 of the Commonwealth Criminal Code (see **Schedule 2.6 [8]**), and
- (g) to provide for the revocation of parole orders made in respect of sentences for NSW offences if the parolee is subject to a continuing detention order (see **Schedule 2.6 [9]**), and
- (h) to require the recording in the Victims Register of the names of victims of convicted NSW terrorist offenders or convicted NSW underlying terrorism offenders who have requested that they be given notice of an application for an order under Part 2 or 3 of the proposed Act in respect of the offender concerned (see **Schedule 2.6 [13]–[18]**), and
- (i) to enable the regulations under that Act to make provision for the preparation and implementation of plans of management in respect of persons under supervision or detention under the *Crimes (High Risk Offenders) Act 2006*, the proposed Act or Part 5.3 of the Commonwealth Criminal Code (see **Schedule 2.6 [19]**), and
- (j) to make consequential amendments (see **Schedule 2.6 [1], [10], [11] and [12]**).

Schedule 2.7 amends the *Crimes (Administration of Sentences) Regulation 2014*:

- (a) to enable Commonwealth post sentence terrorism inmates and NSW post sentence inmates to be kept separately from other classes of inmates, and
- (b) to make amendments consequential on amendments made by Schedule 2.6.

Schedule 2.9 amends the *Crimes (High Risk Offenders) Act 2006* to make it clear that the HRO Assessment Committee has the functions imposed or conferred on it by or under the proposed Act.

Schedule 2.10 amends the *Crimes (Sentencing Procedure) Act 1999*:

- (a) to ensure that the fact that an offender has or may become the subject of an order under the proposed Act is not taken into account by a court sentencing the offender, and
- (b) to remove the limitation on the power of the Local Court to impose consecutive sentences for certain disciplinary offences committed by inmates of correctional centres. The amendment corrects a deficiency in the current law identified in *Riad Taha v R* [2017] NSWDC 180.

Schedule 2.11 amends the *Criminal Procedure Act 1986* to provide that an indictable offence against section 30 or 60 (7) or (8) of the proposed Act is to be dealt with summarily before the Local Court unless the prosecutor elects for the offence to be dealt with on indictment.

Schedule 2.12 amends the *Government Information (Public Access) Act 2009* to provide that information of an agency relating to functions involving the handling of requests for information from, or the provision of information to, the Australian Security Intelligence Organisation is excluded information for the purposes of that Act.

Schedule 2.14 amends the *Privacy and Personal Information Protection Act 1998*:

- (a) to enable a public sector agency that holds personal information about a person to withhold that information from the person if its disclosure would reveal to the public that ASIO had requested, or been provided with, information about a person, and
- (b) to enable a public sector agency to disclose personal information about a person to ASIO for a purpose connected with its functions.

Schedule 2.1–2.5, 2.8, 2.13 and 2.15 make consequential amendments to certain other legislation to ensure that provisions that currently apply in relation to persons who are or were subject to orders under the *Crimes (High Risk Offenders) Act 2006* also apply to persons who are or were subject to orders under the proposed Act.