



# **Security Legislation Amendment (Terrorism) Act 2002**

**Act No. 65 of 2002 as amended**

This compilation was prepared on 6 June 2003

**[This Act was amended by Act No. 40 of 2003]**

**Amendments from Act No. 40 of 2003**

[Schedule 2 (item 1) amended section 4(1)]

[Schedule 2 (item 1) commenced on 29 May 2003]

Prepared by the Office of Legislative Drafting,  
Attorney-General's Department, Canberra

Note: An electronic version of this Act is available in SCALEplus  
(<http://scaleplus.law.gov.au/html/comact/browse/TOCN.htm>)



---

## Contents

1	Short title .....	1
2	Commencement .....	1
3	Schedule(s) .....	3
4	Public and independent review of operation of Security Acts relating to terrorism .....	3
<b>Schedule 1—Amendments relating to treason and terrorism</b>		<b>6</b>
	<i>Criminal Code Act 1995</i>	6
	<i>Crimes Act 1914</i>	22
	<i>Migration Act 1958</i>	23
	<i>Intelligence Services Act 2001</i>	24
<b>Schedule 2—Amendments relating to air security officers</b>		<b>25</b>
	<i>Australian Protective Service Act 1987</i>	25
	<i>Crimes (Aviation) Act 1991</i>	25



---

# An Act to enhance the Commonwealth's ability to combat terrorism and treason, and for related purposes

[Assented to 5 July 2002]

The Parliament of Australia enacts:

## 1 Short title

This Act may be cited as the *Security Legislation Amendment (Terrorism) Act 2002*.

## 2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, on the day or at the time specified in column 2 of the table.

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent	5 July 2002
2. Schedule 1, item 1	The day on which this Act receives the Royal Assent, subject to subsection (3)	Does not commence at all
3. Schedule 1, item 2	The day after this Act receives the Royal Assent	6 July 2002
4. Schedule 1, item 3	The day after this Act receives the Royal Assent, subject to subsection (4)	Does not commence at all
5. Schedule 1, items 4 and 5	Immediately after the start of the day after this Act receives the Royal Assent	6 July 2002
6. Schedule 1, item 6	The day after this Act receives the Royal Assent, subject to subsection (5)	6 July 2002

<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
7. Schedule 1, item 7	Immediately after the commencement of item 2 of Schedule 1, subject to subsection (6)	Does not commence at all
8. Schedule 1, items 8 to 18	The day after this Act receives the Royal Assent	6 July 2002
8A. Schedule 1, item 19	The latest of: (a) the start of the day after the day on which this Act receives the Royal Assent; and (b) the start of the day after the day on which the <i>Border Security Legislation Amendment Act 2002</i> receives the Royal Assent; and (c) the start of the day after the day on which the <i>Criminal Code Amendment (Suppression of Terrorist Bombings) Act 2002</i> receives the Royal Assent; and (d) the start of the day after the day on which the <i>Suppression of the Financing of Terrorism Act 2002</i> receives the Royal Assent	6 July 2002
9. Schedule 2, item 1	The later of: (a) the commencement of Division 72 of the <i>Criminal Code</i> ; and (b) the start of the day on which this Act receives the Royal Assent	8 September 2002 (paragraph (a) applies)
10. Schedule 2, item 2	At the same time as Division 101 of the <i>Criminal Code</i> commences	6 July 2002
11. Schedule 2, items 3 and 4	The 28th day after the day on which this Act receives the Royal Assent	2 August 2002

Note: This table relates only to the provisions of this Act as originally passed by the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

(2) Column 3 of the table is for additional information that is not part of this Act. This information may be included in any published version of this Act.

(3) If either the *Criminal Code Amendment (Espionage and Related Offences) Act 2002* or the *Suppression of the Financing of*

---

*Terrorism Act 2002* receives the Royal Assent on or before the day on which this Act receives the Royal Assent, the provision covered by item 2 of the table does not commence at all.

- (4) If the *Suppression of the Financing of Terrorism Act 2002* receives the Royal Assent on or before the day on which this Act receives the Royal Assent, the provision covered by item 4 of the table does not commence at all.
- (5) If item 1 of Schedule 2 to the *Criminal Code Amendment (Espionage and Related Offences) Act 2002* commences before or at the same time as item 2 of Schedule 1 to this Act, then item 6 of Schedule 1 to this Act does not commence at all.
- (6) If item 1 of Schedule 2 to the *Criminal Code Amendment (Espionage and Related Offences) Act 2002* does not commence before or at the same time as item 2 of Schedule 1 to this Act, then item 7 of Schedule 1 to this Act does not commence at all.

### **3 Schedule(s)**

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

### **4 Public and independent review of operation of Security Acts relating to terrorism**

- (1) The Attorney-General must cause a review of the operation, effectiveness and implications of amendments made by:
  - (a) the *Security Legislation Amendment (Terrorism) Act 2002*;  
and
  - (b) the *Suppression of the Financing of Terrorism Act 2002*; and
  - (c) the *Criminal Code Amendment (Suppression of Terrorist Bombings) Act 2002*; and
  - (d) the *Border Security Legislation Amendment Act 2002*; and
  - (e) the *Telecommunications Interception Legislation Amendment Act 2002*; and
  - (f) the *Criminal Code Amendment (Terrorism) Act 2003*.

- 
- (2) The review must be undertaken as soon as practicable after the third anniversary of the commencement of the amendments.
  - (3) The review is to be undertaken by a committee consisting of:
    - (a) up to two persons appointed by the Attorney-General, one of whom must be a retired judicial officer who shall be the Chair of the Committee; and
    - (b) the Inspector-General of Intelligence and Security; and
    - (c) the Privacy Commissioner; and
    - (d) the Human Rights Commissioner; and
    - (e) the Commonwealth Ombudsman; and
    - (f) two persons (who must hold a legal practising certificate in an Australian jurisdiction) appointed by the Attorney-General on the nomination of the Law Council of Australia.
  - (4) The Attorney-General may reject a nomination made under subsection (3)(f). If the Attorney-General rejects a nomination, the Law Council of Australia may nominate another person.
  - (5) The committee must provide for public submissions and public hearings as part of the review.
  - (6) The committee must, within six months of commencing the review, give the Attorney-General and the Parliamentary Joint Committee on ASIO, ASIS and DSD a written report of the review which includes an assessment of matters in subsection (1), and alternative approaches or mechanisms as appropriate.
  - (7) The Attorney-General must cause a copy of the report to be tabled in each House of the Parliament within 15 sitting days of that House after its receipt by the Attorney-General.
  - (8) Before the copy of the report is tabled in Parliament, the Attorney-General may remove information from the copy of the report if the Attorney-General is satisfied on advice from the Director-General of Security or the Commissioner of the Australian Federal Police that its inclusion may:
    - (a) endanger a person's safety; or
    - (b) prejudice an investigation or prosecution; or
    - (c) compromise the operational activities or methodologies of the Australian Security Intelligence Organisation, the
-



---

Australian Secret Intelligence Service, the Defence Signals Directorate or the Australian Federal Police.

- (9) The Parliamentary Joint Committee on ASIO, ASIS and DSD must take account of the report of the review given to the Committee, when the Committee conducts its review under paragraph 29(1)(ba) of the *Intelligence Services Act 2001*.

## **Schedule 1—Amendments relating to treason and terrorism**

### *Criminal Code Act 1995*

#### **1 The Schedule (after Chapter 4 of the *Criminal Code*)**

Insert:

### **Chapter 5—The security of the Commonwealth**

Note: If either the *Criminal Code Amendment (Espionage and Related Offences) Act 2002* or the *Suppression of the Financing of Terrorism Act 2002* receives the Royal Assent on or before the day on which this Act receives the Royal Assent, this item does not commence at all. See subsection 2(3) of this Act.

#### **2 The Schedule (Chapter 5 of the *Criminal Code*)**

Insert in the appropriate numerical position:

### **Part 5.1—Treason**

#### **Division 80—Treason**

##### **80.1 Treason**

- (1) A person commits an offence, called treason, if the person:
  - (a) causes the death of the Sovereign, the heir apparent of the Sovereign, the consort of the Sovereign, the Governor-General or the Prime Minister; or
  - (b) causes harm to the Sovereign, the Governor-General or the Prime Minister resulting in the death of the Sovereign, the Governor-General or the Prime Minister; or
  - (c) causes harm to the Sovereign, the Governor-General or the Prime Minister, or imprisons or restrains the Sovereign, the Governor-General or the Prime Minister; or

- (d) levies war, or does any act preparatory to levying war, against the Commonwealth; or
- (e) engages in conduct that assists by any means whatever, with intent to assist, an enemy:
  - (i) at war with the Commonwealth, whether or not the existence of a state of war has been declared; and
  - (ii) specified by Proclamation made for the purpose of this paragraph to be an enemy at war with the Commonwealth; or
- (f) engages in conduct that assists by any means whatever, with intent to assist:
  - (i) another country; or
  - (ii) an organisation;  
that is engaged in armed hostilities against the Australian Defence Force; or
- (g) instigates a person who is not an Australian citizen to make an armed invasion of the Commonwealth or a Territory of the Commonwealth; or
- (h) forms an intention to do any act referred to in a preceding paragraph and manifests that intention by an overt act.

Penalty: Imprisonment for life.

- (1A) Paragraphs (1)(e) and (f) do not apply to engagement in conduct by way of, or for the purposes of, the provision of aid of a humanitarian nature.

Note: A defendant bears an evidential burden in relation to the matter in subsection (1A). See subsection 13.3(3).

- (1B) Paragraph (1)(h) does not apply to formation of an intention to engage in conduct that:

- (a) is referred to in paragraph (1)(e) or (f); and
- (b) is by way of, or for the purposes of, the provision of aid of a humanitarian nature.

Note: A defendant bears an evidential burden in relation to the matter in subsection (1B). See subsection 13.3(3).

- (2) A person commits an offence if the person:

- (a) receives or assists another person who, to his or her knowledge, has committed treason with the intention of

allowing him or her to escape punishment or apprehension;  
or

- (b) knowing that another person intends to commit treason, does not inform a constable of it within a reasonable time or use other reasonable endeavours to prevent the commission of the offence.

Penalty: Imprisonment for life.

- (3) Proceedings for an offence against this section must not be commenced without the Attorney-General's written consent.
- (4) Despite subsection (3):
- (a) a person may be arrested for an offence against this section;  
or
- (b) a warrant for the arrest of a person for such an offence may be issued and executed;  
and the person may be charged, and may be remanded in custody or on bail, but:
- (c) no further proceedings may be taken until that consent has been obtained; and
- (d) the person must be discharged if proceedings are not continued within a reasonable time.
- (5) On the trial of a person charged with treason on the ground that he or she formed an intention to do an act referred to in paragraph (1)(a), (b), (c), (d), (e), (f) or (g) and manifested that intention by an overt act, evidence of the overt act is not to be admitted unless the overt act is alleged in the indictment.
- (6) Section 24F of the *Crimes Act 1914* applies to this section in the same way it would if this section were a provision of Part II of that Act.
- (7) Section 15.4 (extended geographical jurisdiction—category D) applies to an offence against this section.
- (8) In this section:

**constable** means a member or special member of the Australian Federal Police or a member of the police force or police service of a State or Territory.

---

**organisation** means:

- (a) a body corporate; or
- (b) an unincorporated body;

whether or not the body is based outside Australia, consists of persons who are not Australian citizens, or is part of a larger organisation.

### **3 The Schedule (at the end of Chapter 5 of the *Criminal Code*)**

Add:

## **Part 5.3—Terrorism**

### **Division 100—Preliminary**

#### **100.1 Definitions**

- (1) In this Part:

**Commonwealth place** has the same meaning as in the *Commonwealth Places (Application of Laws) Act 1970*.

**constitutional corporation** means a corporation to which paragraph 51(xx) of the Constitution applies.

**funds** means:

- (a) property and assets of every kind, whether tangible or intangible, movable or immovable, however acquired; and
- (b) legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such property or assets, including, but not limited to, bank credits, travellers cheques, bank cheques, money orders, shares, securities, bonds, debt instruments, drafts and letters of credit.

**organisation** means:

- (a) a body corporate; or
- (b) an unincorporated body;

whether or not the body is based outside Australia, consists of persons who are not Australian citizens, or is part of a larger organisation.

**terrorist act** means an action or threat of action where:

- (a) the action falls within subsection (2) and does not fall within subsection (2A); and
  - (b) the action is done or the threat is made with the intention of advancing a political, religious or ideological cause; and
  - (c) the action is done or the threat is made with the intention of:
    - (i) coercing, or influencing by intimidation, the government of the Commonwealth or a State, Territory or foreign country, or of part of a State, Territory or foreign country; or
    - (ii) intimidating the public or a section of the public.
- (2) Action falls within this subsection if it:
- (a) causes serious harm that is physical harm to a person; or
  - (b) causes serious damage to property; or
  - (ba) causes a person's death; or
  - (c) endangers a person's life, other than the life of the person taking the action; or
  - (d) creates a serious risk to the health or safety of the public or a section of the public; or
  - (e) seriously interferes with, seriously disrupts, or destroys, an electronic system including, but not limited to:
    - (i) an information system; or
    - (ii) a telecommunications system; or
    - (iii) a financial system; or
    - (iv) a system used for the delivery of essential government services; or
    - (v) a system used for, or by, an essential public utility; or
    - (vi) a system used for, or by, a transport system.
- (2A) Action falls within this subsection if it:
- (a) is advocacy, protest, dissent or industrial action; and
  - (b) is not intended:
    - (i) to cause serious harm that is physical harm to a person; or
-

- (ii) to cause a person's death; or
  - (iii) to endanger the life of a person, other than the person taking the action; or
  - (iv) to create a serious risk to the health or safety of the public or a section of the public.
- (3) In this Division:
- (a) a reference to any person or property is a reference to any person or property wherever situated, within or outside Australia; and
  - (b) a reference to the public includes a reference to the public of a country other than Australia.

### **100.2 Constitutional basis for offences**

- (1) This Part applies to a terrorist act constituted by an action, or threat of action, in relation to which the Parliament has power to legislate.
- (2) Without limiting the generality of subsection (1), this Part applies to a terrorist act constituted by an action, or threat of action, if:
  - (a) the action affects, or if carried out would affect, the interests of:
    - (i) the Commonwealth; or
    - (ii) an authority of the Commonwealth; or
    - (iii) a constitutional corporation; or
  - (b) the threat is made to:
    - (i) the Commonwealth; or
    - (ii) an authority of the Commonwealth; or
    - (iii) a constitutional corporation; or
  - (c) the action is carried out by, or the threat is made by, a constitutional corporation; or
  - (d) the action takes place, or if carried out would take place, in a Commonwealth place; or
  - (e) the threat is made in a Commonwealth place; or
  - (f) the action involves, or if carried out would involve, the use of a postal service or other like service; or
  - (g) the threat is made using a postal or other like service; or

- (h) the action involves, or if carried out would involve, the use of an electronic communication; or
- (i) the threat is made using an electronic communication; or
- (j) the action disrupts, or if carried out would disrupt, trade or commerce:
  - (i) between Australia and places outside Australia; or
  - (ii) among the States; or
  - (iii) within a Territory, between a State and a Territory or between 2 Territories; or
- (k) the action disrupts, or if carried out would disrupt:
  - (i) banking (other than State banking not extending beyond the limits of the State concerned); or
  - (ii) insurance (other than State insurance not extending beyond the limits of the State concerned); or
- (l) the action is, or if carried out would be, an action in relation to which the Commonwealth is obliged to create an offence under international law; or
- (m) the threat is one in relation to which the Commonwealth is obliged to create an offence under international law; or
- (n) the action takes place, or if carried out would take place, outside Australia; or
- (o) the threat is made outside Australia.

Note: If the *Suppression of the Financing of Terrorism Act 2002* receives the Royal Assent on or before the day on which this Act receives the Royal Assent, this item does not commence at all. See subsection 2(4) of this Act.

## **4 The Schedule (after Division 100 of the *Criminal Code*)**

Insert:

### **Division 101—Terrorism**

#### **101.1 Terrorist acts**

- (1) A person commits an offence if the person engages in a terrorist act.

Penalty: Imprisonment for life.



- (2) Section 15.4 (extended geographical jurisdiction—category D) applies to an offence against subsection (1).

### **101.2 Providing or receiving training connected with terrorist acts**

- (1) A person commits an offence if:
- (a) the person provides or receives training; and
  - (b) the training is connected with preparation for, the engagement of a person in, or assistance in a terrorist act; and
  - (c) the person mentioned in paragraph (a) knows of the connection described in paragraph (b).

Penalty: Imprisonment for 25 years.

- (2) A person commits an offence if:
- (a) the person provides or receives training; and
  - (b) the training is connected with preparation for, the engagement of a person in, or assistance in a terrorist act; and
  - (c) the person mentioned in paragraph (a) is reckless as to the existence of the connection described in paragraph (b).

Penalty: Imprisonment for 15 years.

- (4) A person commits an offence under this section even if the terrorist act does not occur.
- (5) Section 15.4 (extended geographical jurisdiction—category D) applies to an offence against this section.
- (6) If, in a prosecution for an offence (the *prosecuted offence*) against a subsection of this section, the trier of fact is not satisfied that the defendant is guilty of the offence, but is satisfied beyond reasonable doubt that the defendant is guilty of an offence (the *alternative offence*) against another subsection of this section, the trier of fact may find the defendant not guilty of the prosecuted offence but guilty of the alternative offence, so long as the defendant has been accorded procedural fairness in relation to that finding of guilt.

### **101.4 Possessing things connected with terrorist acts**

- (1) A person commits an offence if:
-

- (a) the person possesses a thing; and
- (b) the thing is connected with preparation for, the engagement of a person in, or assistance in a terrorist act; and
- (c) the person mentioned in paragraph (a) knows of the connection described in paragraph (b).

Penalty: Imprisonment for 15 years.

- (2) A person commits an offence if:
- (a) the person possesses a thing; and
  - (b) the thing is connected with preparation for, the engagement of a person in, or assistance in a terrorist act; and
  - (c) the person mentioned in paragraph (a) is reckless as to the existence of the connection described in paragraph (b).

Penalty: Imprisonment for 10 years.

- (3) A person commits an offence under subsection (1) or (2) even if the terrorist act does not occur.
- (4) Section 15.4 (extended geographical jurisdiction—category D) applies to an offence against this section.
- (5) Subsections (1) and (2) do not apply if the possession of the thing was not intended to facilitate preparation for, the engagement of a person in, or assistance in a terrorist act.

Note: A defendant bears an evidential burden in relation to the matter in subsection (5) (see subsection 13.3(3)).

- (6) If, in a prosecution for an offence (the *prosecuted offence*) against a subsection of this section, the trier of fact is not satisfied that the defendant is guilty of the offence, but is satisfied beyond reasonable doubt that the defendant is guilty of an offence (the *alternative offence*) against another subsection of this section, the trier of fact may find the defendant not guilty of the prosecuted offence but guilty of the alternative offence, so long as the defendant has been accorded procedural fairness in relation to that finding of guilt.

### **101.5 Collecting or making documents likely to facilitate terrorist acts**

- (1) A person commits an offence if:
- (a) the person collects or makes a document; and
  - (b) the document is connected with preparation for, the engagement of a person in, or assistance in a terrorist act; and
  - (c) the person mentioned in paragraph (a) knows of the connection described in paragraph (b).

Penalty: Imprisonment for 15 years.

- (2) A person commits an offence if:
- (a) the person collects or makes a document; and
  - (b) the document is connected with preparation for, the engagement of a person in, or assistance in a terrorist act; and
  - (c) the person mentioned in paragraph (a) is reckless as to the existence of the connection described in paragraph (b).

Penalty: Imprisonment for 10 years.

- (3) A person commits an offence under subsection (1) or (2) even if the terrorist act does not occur.

- (4) Section 15.4 (extended geographical jurisdiction—category D) applies to an offence against this section.

- (5) Subsections (1) and (2) do not apply if the collection or making of the document was not intended to facilitate preparation for, the engagement of a person in, or assistance in a terrorist act.

Note: A defendant bears an evidential burden in relation to the matter in subsection (5) (see subsection 13.3(3)).

- (6) If, in a prosecution for an offence (the ***prosecuted offence***) against a subsection of this section, the trier of fact is not satisfied that the defendant is guilty of the offence, but is satisfied beyond reasonable doubt that the defendant is guilty of an offence (the ***alternative offence***) against another subsection of this section, the trier of fact may find the defendant not guilty of the prosecuted offence but guilty of the alternative offence, so long as the defendant has been accorded procedural fairness in relation to that finding of guilt.

### **101.6 Other acts done in preparation for, or planning, terrorist acts**

- (1) A person commits an offence if the person does any act in preparation for, or planning, a terrorist act.  
Penalty: Imprisonment for life.
- (2) A person commits an offence under subsection (1) even if the terrorist act does not occur.
- (3) Section 15.4 (extended geographical jurisdiction—category D) applies to an offence against subsection (1).

## **Division 102—Terrorist organisations**

### **Subdivision A—Definitions**

#### **102.1 Definitions**

- (1) In this Division:
    - member* of an organisation includes:
      - (a) a person who is an informal member of the organisation; and
      - (b) a person who has taken steps to become a member of the organisation; and
      - (c) in the case of an organisation that is a body corporate—a director or an officer of the body corporate.
    - recruit* includes induce, incite and encourage.
    - terrorist organisation* means:
      - (a) an organisation that is directly or indirectly engaged in, preparing, planning, assisting in or fostering the doing of a terrorist act (whether or not the terrorist act occurs); or
      - (c) an organisation that is specified by the regulations for the purposes of this paragraph (see subsections (3), (4), (5) and (6)).
  - (3) Before the Governor-General makes a regulation specifying an organisation for the purposes of paragraph (c) of the definition of
-

**terrorist organisation** in this section, the Minister must be satisfied on reasonable grounds that:

- (a) the Security Council of the United Nations has made a decision relating wholly or partly to terrorism; and
  - (b) the organisation is identified in the decision, or using a mechanism established under the decision, as an organisation to which the decision relates; and
  - (c) the organisation is directly or indirectly engaged in, preparing, planning, assisting in or fostering the doing of a terrorist act (whether or not the terrorist act has occurred or will occur).
- (4) Regulations for the purposes of paragraph (c) of the definition of **terrorist organisation** in this section may not take effect earlier than the day after the last day on which they may be disallowed under section 48 of the *Acts Interpretation Act 1901*. That section has effect subject to this subsection.
- (5) Regulations for the purposes of paragraph (c) of the definition of **terrorist organisation** in this section cease to have effect on the second anniversary of the day on which they take effect. To avoid doubt, this subsection does not prevent:
- (a) the repeal of those regulations; or
  - (b) the cessation of effect of those regulations under subsection (6); or
  - (c) the making of new regulations the same in substance as those regulations (whether the new regulations are made or take effect before or after those regulations cease to have effect because of this subsection).
- (6) A regulation specifying an organisation for the purposes of paragraph (c) of the definition of **terrorist organisation** in this section ceases to have effect when:
- (a) the decision mentioned in paragraph (3)(b) ceases to have effect; or
  - (b) the organisation ceases to be identified as described in paragraph (3)(b).
- The regulation does not revive even if the organisation is again identified as described in paragraph (3)(b).
- (7) To avoid doubt, subsection (6) does not prevent:
-

- (a) the repeal of a regulation; or
- (b) the making of a regulation that is the same in substance as a regulation that has ceased to have effect because of that subsection.

## **Subdivision B—Offences**

### **102.2 Directing the activities of a terrorist organisation**

- (1) A person commits an offence if:
  - (a) the person intentionally directs the activities of an organisation; and
  - (b) the organisation is a terrorist organisation; and
  - (c) the person knows the organisation is a terrorist organisation.

Penalty: Imprisonment for 25 years.

- (2) A person commits an offence if:
  - (a) the person intentionally directs the activities of an organisation; and
  - (b) the organisation is a terrorist organisation; and
  - (c) the person is reckless as to whether the organisation is a terrorist organisation.

Penalty: Imprisonment for 15 years.

### **102.3 Membership of a terrorist organisation**

- (1) A person commits an offence if:
  - (a) the person intentionally is a member of an organisation; and
  - (b) the organisation is a terrorist organisation because of paragraph (c) of the definition of *terrorist organisation* in this Division (whether or not the organisation is a terrorist organisation because of another paragraph of that definition also); and
  - (c) the person knows the organisation is a terrorist organisation.

Penalty: Imprisonment for 10 years.

- (2) Subsection (1) does not apply if the person proves that he or she took all reasonable steps to cease to be a member of the organisation as soon as practicable after the person knew that the organisation was a terrorist organisation.

Note: A defendant bears a legal burden in relation to the matter in subsection (2) (see section 13.4).

#### **102.4 Recruiting for a terrorist organisation**

- (1) A person commits an offence if:
- (a) the person intentionally recruits a person to join, or participate in the activities of, an organisation; and
  - (b) the organisation is a terrorist organisation; and
  - (c) the first-mentioned person knows the organisation is a terrorist organisation.

Penalty: Imprisonment for 25 years.

- (2) A person commits an offence if:
- (a) the person intentionally recruits a person to join, or participate in the activities of, an organisation; and
  - (b) the organisation is a terrorist organisation; and
  - (c) the first-mentioned person is reckless as to whether the organisation is a terrorist organisation.

Penalty: Imprisonment for 15 years.

#### **102.5 Training a terrorist organisation or receiving training from a terrorist organisation**

- (1) A person commits an offence if:
- (a) the person intentionally provides training to, or intentionally receives training from, an organisation; and
  - (b) the organisation is a terrorist organisation; and
  - (c) the person knows the organisation is a terrorist organisation.

Penalty: Imprisonment for 25 years.

- (2) A person commits an offence if:
- (a) the person intentionally provides training to, or intentionally receives training from, an organisation; and

- (b) the organisation is a terrorist organisation; and
- (c) the person is reckless as to whether the organisation is a terrorist organisation.

Penalty: Imprisonment for 15 years.

### **102.6 Getting funds to or from a terrorist organisation**

- (1) A person commits an offence if:
  - (a) the person intentionally receives funds from, or makes funds available to, an organisation (whether directly or indirectly); and
  - (b) the organisation is a terrorist organisation; and
  - (c) the person knows the organisation is a terrorist organisation.

Penalty: Imprisonment for 25 years.

- (2) A person commits an offence if:
  - (a) the person intentionally receives funds from, or makes funds available to, an organisation (whether directly or indirectly); and
  - (b) the organisation is a terrorist organisation; and
  - (c) the person is reckless as to whether the organisation is a terrorist organisation.

Penalty: Imprisonment for 15 years.

- (4) Subsections (1) and (2) do not apply to the person's receipt of funds from the organisation if the person proves that he or she received the funds solely for the purpose of the provision of:
  - (a) legal representation for a person in proceedings relating to this Division; or
  - (b) assistance to the organisation for it to comply with a law of the Commonwealth or a State or Territory.

Note: A defendant bears a legal burden in relation to the matter in subsection (4) (see section 13.4).

### **102.7 Providing support to a terrorist organisation**

- (1) A person commits an offence if:
-



- (a) the person intentionally provides to an organisation support or resources that would help the organisation engage in an activity described in paragraph (a) of the definition of ***terrorist organisation*** in this Division; and
- (b) the organisation is a terrorist organisation; and
- (c) the person knows the organisation is a terrorist organisation.

Penalty: Imprisonment for 25 years.

- (2) A person commits an offence if:
  - (a) the person intentionally provides to an organisation support or resources that would help the organisation engage in an activity described in paragraph (a) of the definition of ***terrorist organisation*** in this Division; and
  - (b) the organisation is a terrorist organisation; and
  - (c) the person is reckless as to whether the organisation is a terrorist organisation.

Penalty: Imprisonment for 15 years.

## **Subdivision C—General provisions relating to offences**

### **102.9 Extended geographical jurisdiction for offences**

Section 15.4 (extended geographical jurisdiction—category D) applies to an offence against this Division.

### **102.10 Alternative verdicts**

- (1) This section applies if, in a prosecution for an offence (the ***prosecuted offence***) against a subsection of a section of this Division, the trier of fact is not satisfied that the defendant is guilty of the offence, but is satisfied beyond reasonable doubt that the defendant is guilty of an offence (the ***alternative offence***) against another subsection of that section.
- (2) The trier of fact may find the defendant not guilty of the prosecuted offence but guilty of the alternative offence, so long as the defendant has been accorded procedural fairness in relation to that finding of guilt.

## 5 Application

For the purpose of making regulations specifying an organisation for the purposes of paragraph (c) of the definition of *terrorist organisation* in section 102.1 of the *Criminal Code*, it does not matter whether the relevant decision of the Security Council of the United Nations was made before or after the commencement of this item.

## *Crimes Act 1914*

### 6 Subsection 4J(7)

Repeal the subsection, substitute:

- (7) This section does not apply in relation to an offence against:
- (a) section 24AA, 24AB or 78 or subsection 79(2) or (5) of this Act; or
  - (b) section 80.1 of the *Criminal Code*.

Note: If item 1 of Schedule 2 to the *Criminal Code Amendment (Espionage and Related Offences) Act 2002* commences before or at the same time as item 2 of Schedule 1 to this Act, then this item does not commence at all. See subsection 2(5) of this Act.

### 7 Subsection 4J(7)

Repeal the subsection, substitute:

- (7) This section does not apply to an offence against:
- (a) section 24AA or 24AB or subsection 79(2) or (5) of this Act; or
  - (b) section 80.1 or 91.1 of the *Criminal Code*.

Note: If item 1 of Schedule 2 to the *Criminal Code Amendment (Espionage and Related Offences) Act 2002* does not commence before or at the same time as item 2 of Schedule 1 to this Act, then this item does not commence at all. See subsection 2(6) of this Act.

### 8 Section 24

Repeal the section.

### 9 Subsection 24AC(1)

Omit “24,”.

**10 Subparagraph 24F(2)(b)(ii)**

Omit “paragraph 24(1)(d)”, substitute “paragraph 80.1(1)(e) of the *Criminal Code*”.

**11 After paragraph 24F(2)(b)**

Insert:

(ba) with intent to assist:

(i) another country; or

(ii) an organisation (within the meaning of section 100.1 of the *Criminal Code*);

that is engaged in armed hostilities against the Australian Defence Force;

**12 Paragraph 24F(2)(c)**

After “subsection 24AA(4)”, insert “of this Act”.

**13 Paragraph 24F(2)(d)**

After “paragraphs 24AA(2)(a) and (b)”, insert “of this Act”.

***Migration Act 1958***

**14 Subparagraph 203(1)(c)(i)**

Omit “24,”.

**15 After subparagraph 203(1)(c)(i)**

Insert:

(ia) an offence against section 80.1 of the *Criminal Code*; or

**16 Subparagraph 203(1)(c)(ii)**

Omit “that Act that relates to an offence mentioned in subparagraph (i)”, substitute “the *Crimes Act 1914* that relates to an offence mentioned in subparagraph (i) or (ia)”.

**17 Subparagraph 203(1)(c)(iia)**

After “subparagraph (i)”, insert “or (ia)”.

## 18 Saving of Proclamations

A Proclamation that was in force for the purpose of paragraph 24(1)(d) of the *Crimes Act 1914* immediately before the commencement of this item has effect, after that commencement, as if it were a Proclamation that was in force for the purpose of paragraph 80.1(1)(e) of the *Criminal Code*.

## *Intelligence Services Act 2001*

### 19 After paragraph 29(1)(b)

Insert:

- (ba) to review, as soon as possible after the third anniversary of the day on which the *Security Legislation Amendment (Terrorism) Act 2002* receives the Royal Assent, the operation, effectiveness and implications of amendments made by that Act and the following Acts:
- (i) the *Border Security Legislation Amendment Act 2002*;
  - (ii) the *Criminal Code Amendment (Suppression of Terrorist Bombings) Act 2002*;
  - (iii) the *Suppression of the Financing of Terrorism Act 2002*;
- and

## **Schedule 2—Amendments relating to air security officers**

### ***Australian Protective Service Act 1987***

#### **1 After paragraph 13(2)(b)**

Insert:

- (ba) an offence against Division 72 of the *Criminal Code* that relates to a person, place or thing in respect of which the Protective Service is performing its functions; or

#### **2 Before paragraph 13(2)(c)**

Insert:

- (bb) an offence against Division 101 of the *Criminal Code* that relates to a person, place or thing in respect of which the Protective Service is performing its functions; or

### ***Crimes (Aviation) Act 1991***

#### **3 Subsection 3(1) (at the end of the definition of *prescribed flight*)**

Add:

- ; or (c) within a State.

#### **4 After section 8**

Insert:

#### **8A Aircraft flights within a State**

For the purposes of this Act, a flight of an aircraft is taken to be a flight within a State if:

- (a) the flight starts in the State; and
- (b) the flight ends in the State or is, when the flight starts, intended to end, in the State;

whether or not the aircraft goes, or will or may go, outside the State during the flight.

---

*[Minister's second reading speech made in—  
House of Representatives on 13 March 2002  
Senate on 14 March 2002]*

(954/02)