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THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

ELEVENTH ASSEMBLY

CRIMES LEGISLATION AMENDMENT BILL 2025 (NO 2)

REVISED EXPLANATORY STATEMENT
and
HUMAN RIGHTS COMPATIBILITY STATEMENT
(*Human Rights Act 2004*, section 37)

Presented by
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CRIMES LEGISLATION AMENDMENT BILL 2025 (NO 2)

This explanatory statement has been revised to provide additional detail in the human rights analysis and clause notes, as requested by the Standing Committee on Legal Affairs (Legislative Scrutiny Role).

The *Crimes Legislation Amendment Bill 2025 (No 2)* (the Bill) **is** a Significant Bill. Significant Bills are bills that have been assessed as likely to have significant engagement of human rights and require more detailed reasoning in relation to compatibility with the *Human Rights Act 2004* (the HR Act).

OVERVIEW OF THE BILL

The Bill is an omnibus bill which amends criminal law legislation to support the efficient and effective functioning of the ACT criminal justice system.

The Bill amends the:

(a) *Confiscation of Criminal Assets Act 2003* to extend the timeframe for completion of a statutory review of the unexplained wealth provisions;

(b) *Corrections Management Act 2007* to ensure relevant Commissioners and their staff can contact and receive mail from detainees, consistent with other legislation;

(c) *Crimes (Child Sex Offenders) Act 2005* to:

i. provide that a police officer taking a photo of a registrable sex offender need only be the same sex as the offender as far as practicable;

ii. to limit the ability of registrable offenders to engage in certain types of employment;

iii. to update the list of offences that trigger an obligation to register a person as a child sex offender; and

iv. to make a number of minor and technical amendments;

(d) *Crimes (Restorative Justice) Act 2004* to revise the current reporting requirements to be more practical and more useful for referring entities;

(e) *Crimes (Sentence Administration) Act 2005* to make the chief police officer a standing member of the Sentence Administration Board, and to authorise the chief police officer to delegate their functions on the Sentence Administration Board to a member of the AFP that holds the rank of superintendent or above;

(f) *Crimes (Sentencing) Act 2005* to authorise a pre-sentence report to be ordered when a defendant indicates an intention to enter a guilty plea;

(g) *Evidence (Miscellaneous Provisions) Act 1991* to allow the admission of pre-recorded evidence given by dangerously ill witnesses;

(h) *Magistrates Court Act 1930* to improve the administration of infringement notices for offences other than those in the road transport legislation;

(i) *Mental Health Act 2015* to authorise the ACAT to make an order authorising police to apprehend and transport a person to an approved mental health facility in certain circumstances; and

(j) *Victims of Crime Act 1994* to authorise the chief police officer to delegate certain functions to a Victim Liaison Officer who is not a sworn police officer.

CONSULTATION ON THE PROPOSED APPROACH

The amendments were developed in consultation with the following key justice stakeholders whose views informed the development of the amendments:

Aboriginal Legal Service,

Access Canberra,

ACT Bar Association,

ACT Corrective Services,

ACT Courts and Tribunal,

ACT Director of Public Prosecutions,

ACT Health and Community Services Directorate,

ACT Human Rights Commission,

ACT Law Society,

ACT Policing,

CMTEDD (including Treasury),

First Nations Justice Branch (Justice and Community Safety Directorate).

Legal Aid ACT,

Sentence Administration Board, and

Victims of Crime Commissioner

CLIMATE IMPACT

This Bill will not have any climate impact.

CONSISTENCY WITH HUMAN RIGHTS

During the development of this Bill due regard was given to its compatibility with human rights as set out in the HR Act.

Rights engaged

The amendments in the Bill engage the following rights.

- Section 9 – Right to life (promoted)
- Section 11 – Protection of the family and children (promoted)

- Section 12 – Privacy and reputation (limited)
- Section 13 – Right to freedom of movement (limited)
- Section 18 – Right to liberty and security of person (promoted and limited)
- Section 21 – Right to a fair trial (promoted)
- Section 22 – Rights in criminal proceedings (limited)
- Section 27B – Right to work and other work-related rights (limited)

Rights Promoted

The amendments in the Bill promote the following rights.

Corrections Management Act 2007 – Ensure relevant Commissioners and their staff can contact and receive mail from detainees, consistent with other legislation

General promotion of rights

The amendments to the *Corrections Management Act 2007* ensure all commissioners exercising functions under the *Human Rights Commission Act 2005* (HRC Act) may enter a correctional centre to exercise their functions, including contacting a detainee. The amendments also provide that mail sent by a detainee to all commissioners under the HRC Act is protected mail.

The amendments will generally promote all rights under the HR Act by ensuring that detainees have effective contact with the Human Rights Commission.

Crimes (Child Sex Offenders) Act 2005 – Update the list of offences that trigger an obligation to register as a child sex offender

Right to protection for children

These amendments will update the Schedules of registrable offences in the *Crimes (Child Sex Offenders) Act 2005* (CSO Act) to include additional *Criminal Code Act 1995* (Commonwealth Criminal Code) offences relating to child sexual safety to the list of child sex offences in the CSO Act, such as grooming another person to make it easier to engage in sexual activity with a child outside Australia (section 272.15A) and using a postal or similar service to groom another person to make it easier to procure persons under 16 years of age (section 471.25A).

These amendments will promote the right of children to be protected (section 11 of the HR Act) by ensuring that persons who are convicted of any child sex offences (whether those offences are currently listed in the CSO Act schedules, or updated offences) are registered as a child sex offender. The effect of this amendment is that the definition of ‘child-related employment’ will include all employment involving contact with a child in relation to the provision of legal services related to a child,

regardless of the entity providing the service. Registrable offenders are prohibited from applying for or engaging in child-related employment

This will reduce the risk to the sexual safety of children by preventing persons who have been convicted of child sex offences from being employed in child-related employment and by requiring ongoing reporting to the chief police officer of travel details, returns to the ACT, and changes in personal details including address or employment.

Evidence (Miscellaneous Provisions) Act 1991 – Allow pre-recorded evidence of a dangerously ill witness to be admitted

Right to a fair trial

The *Evidence (Miscellaneous Provisions) Act 1991* (EMP Act) allows the court to pre-record the evidence of dangerously ill witnesses. However, under section 94, that evidence is not admissible in the trial unless the witness dies or is unable to give evidence at the time of the trial because they are dangerously ill. In practice, unless the witness is deceased at the time of the trial, witnesses have been required to prove that their condition has worsened since the evidence was pre-recorded, which can be a very high threshold. If the witness is unable to demonstrate their condition is worse, witnesses have been required to attend court and give evidence a second time despite the existence of the pre-recording and the adverse impact of giving evidence again on the witness' health.

This amendment to the EMP Act will enable the court to consider whether admitting the pre-recorded evidence would be in the interests of the administration of justice. These provisions will apply in circumstances where attending to give evidence will adversely impact the health of a dangerously ill person without the need to demonstrate that the condition (or another condition) has deteriorated further since the pre-recording was made, or where the dangerously ill person has died.

This amendment will promote the right to fair trial (section 21 of the HR Act) by ensuring that the evidence of witnesses who are dangerously ill and who have pre-recorded their evidence can have this evidence admitted and not be required to attend to the trial to give evidence. This amendment will operate as an adjustment to enable these affected witnesses to participate effectively in the criminal justice process providing equality of access to a fair hearing (which means that each party must have a reasonable opportunity to present their case) and therefore promoting the right to a fair trial.

Mental Health Act 2015 – Power to apprehend a person who breaches a Conditional Release Order requiring the person to reside in an approved facility

Right to life and the right to security of person

This amendment provides for a new apprehension power for police to return a person to an approved mental health facility or approved community care facility at which they are required to reside as a condition of their release under a Conditional Release Order (CRO). This power is only engaged if the person contravenes the CRO.

Section 180 of the MH Act applies to persons who have been detained in custody by court order under Part 13 of the *Crimes Act 1900* (Crimes Act) for the purposes of immediate review by the ACAT. When the ACAT reviews a person's detention under section 180 of the MH Act, the ACAT may order that the person be released subject to any conditions the ACAT considers appropriate under (a CRO) (section 180(4), MH Act).

The ACAT sometimes considers that it is appropriate, as a condition of a person's release, to require the person to reside at an approved mental health facility or approved community care facility to receive the necessary treatment, care and support in a therapeutic environment. The reason a person is often required to reside in such a facility is because the person has been assessed as having an underlying psychopathology that, if left unsupervised or untreated, poses an unreasonable risk of self harm to the person and/or of harm to others and/or the general community. Such persons may not have demonstrated they have the insight to appreciate they have a mental impairment, or the connection between their mental impairment and their offending behaviour and the need to submit themselves to treatment to manage their symptoms, increasing the risk of future harm. A person required to reside in a facility as part of their CRO is generally considered a high risk to themselves and/or the community and needs a high degree of supervision which can only be provided for if they reside in an approved facility.

This amendment promotes the right to life (section 9, HR Act) and the right to security of person (section 18, HR Act), because where a person fails to comply with a condition to reside in an approved facility (for example, they fail to return after a period of leave or have otherwise absconded from the facility), they cannot receive the supervision or treatment, care and support that they need. This results in a known risk to the person's safety as well as the safety of the community which in certain circumstances create positive obligations on authorities to take preventative measures to protect lives which may be at risk.[1] Conferring an apprehension power on police to take a person who is in breach of such a requirement back to the facility

[1] General Comment No.36, International Covenant on Civil and Political Rights, [20], see also *Osman v United Kingdom* [1998] ECHR

at which they are required to reside, enables police to respond promptly to keep the person and/or the community safe.

Rights Limited

The preamble to the HR Act notes that rights may be subject only to the reasonable limits in law that can be demonstrably justified in a free and democratic society. Section 28 (2) of the HR Act contains the framework that is used to determine the acceptable limitations that may be placed on human rights.

Crimes (Child Sex Offenders) Act 2005 – Provide that the person taking a photograph of a registrable offender, and a police officer present where a photograph of a registrable offender is taken, are required to be of the same sex as the offender only as far as practicable

Right to privacy

The right to privacy under section 12 of the HR Act protects people from unlawful or arbitrary interference with their privacy. The inclusion of the concept of arbitrariness ensures that even lawful interference with the right should be in accordance with the provisions, aims and objectives of the HR Act and should be reasonable in the circumstances.

Nature of the right and the limitation (section 28(2)(a))

Section 79(1)(b) and section 79(3) of the CSO Act provide, respectively, that:

- a person who takes a photograph of a registrable offender must be of the same sex as the registrable offender; and
- a police officer present in the place where a photograph of a registrable offender is taken must be of the same sex as the registerable offender.

The Bill amends those sections to add the words “as far as practicable”. This will allow a person of a different sex to a registrable offender to take a photograph of the offender, and for a police officer of a different sex to the registrable offender to be present during the taking of a photograph, in limited circumstances.

The amendment to section 79 (1) (b) aims to ensure that the offender registration process is not unduly delayed where a person of the same sex as a registrable offender is not available to photograph the offender.

The amendment to section 79 (3) also seeks to enhance efficiencies in the offender registration scheme, as well as to address safety risks to police officers. As an example, it aims to avoid the scenario (possible under the current provision) where one male and one female officer are working together to process a female registrable offender, and the male officer is obliged to leave the room while the offender is being photographed. In this scenario, the female officer may be left alone with the offender, thereby exposing the officer to safety risk.

Legitimate purpose (section 28(2)(b))

The purpose of the offender registration scheme under the CSO Act is to protect children, including by reducing the likelihood that registrable offenders will reoffend by monitoring offenders and prohibiting offenders from engaging in certain activities. Reporting requirements in the CSO Act are a fundamental aspect of this scheme. The scheme depends on registrable offenders providing information to police, and the verification of this information by police.

The amendment to section 79 (1) (a) aims to remove impediments to the efficiency of the offender registration process and thereby enhance the integrity of the offender registration scheme. The amendment to section 79 (3) also aims to achieve efficiency in the registration process, as well as to mitigate occupational safety risks to police officers involved in the registration process. In helping to reduce these risks, the amendments promote the right to life and work-related rights (safe, just and favourable conditions of work).

Rational connection between the limitation and the purpose (section 28(2)(d))

The amendments to sections 79 (1) (b) and 79 (3) are rationally connected to the objectives of enhancing the integrity of the offender registration scheme and addressing safety risks to police officers. In this regard:

- the amendment to section 79 (1) (b) will address potential impediments to the efficient operation of the offender registration scheme by ensuring the offender registration process is not unduly delayed if a person of a different sex to a registrable offender is not available to photograph the offender.

- by providing that a police officer of a different sex to a registrable offender may, in limited circumstances, be present while the offender is photographed, the amendment to section 79 (3) will avoid the scenario where a single officer is left alone with a registrable offender if a second officer of the same sex as the offender cannot be present. This will mitigate safety risks to police officers.

The amendment will also align sections 79 (1) (b) and 79 (3) with equivalent provisions under other Australian child sex offender registration and reporting legislation. There is no restriction on the sex of the person photographing a registrable offender, or on the sex of an officer present while a photograph is being taken in other Australian jurisdictions.

Proportionality (section 28(2)(e))

The amendments to sections 79 (1) (b) and 79 (3) of the CSO Act are a proportionate limitation on the right to privacy.

Photographing a registrable offender is a non-invasive process and would typically impose only minor limitations on the offender's right to privacy.

The amendments represent the least restrictive approach to achieving the objectives of enhancing the efficiency of offender registration, protecting the safety of police officers and the registrable offender. The amendments do not create any general authorisation for officers or other persons of a different sex to a registrable offender to be involved in the process of photographing the offender. Rather, they permit a person of a different sex to photograph the offender, and/or for a police officer of a different sex to be present where the photograph is taken, only in circumstances where compliance with current requirements would be operationally inefficient or would result in safety risks. It is envisaged that in most cases the process of taking a photograph of an offender will conform to current requirements.

Section 79 (2) of the CSO Act also acts as an important safeguard. That section provides that a police officer cannot require an offender being photographed to expose their genitals, the anal area of their buttocks or—if the offender is female or a transgender person or intersex person who identifies as female—their breasts. This provision is not subject to amendment and will continue to apply regardless of the sex of the person taking the photograph or the sex of any officer present while the photograph is taken. The amendments in this Bill do not expand what may be photographed or expand the circumstances in which a photograph can be used.

Crimes (Child Sex Offenders) Act 2005 – Update the list of offences that trigger an obligation to register as a child sex offender

Right to privacy and right to freedom of movement

These amendments will update the Schedules of registrable offences in the CSO Act to include additional Commonwealth Criminal Code offences relating to child sexual safety. The relevant offences in the Commonwealth Criminal Code are as follows:

- grooming another person to make it easier to engage in sexual activity with a child outside Australia (section 272.15A),
- using a postal or similar service to groom another person to make it easier to procure persons under 16 (section 471.25A),
- using a carriage service to prepare or plan to cause harm to, engage in sexual activity with, or procure for sexual activity, persons under 16 years of age (section 474.25C), and
- using a carriage service to groom another person to make it easier to procure child under 16 years old to engage in sexual activity with other person at least 18 years old or under 18 years old (sections 474.27AA (2) and 474.27AA (3)).

The amendments also include technical amendments to align parts of the schedules with current drafting practices by separating subsections into their own item in the schedule.

To future proof the schedules and allow for historical provisions to still be recognised, item 24 inserts new section 10 (4) into the CSO Act to clarify that a reference to an offence in the schedule includes a reference to any previous form of that offence despite it having been amended, or repealed and remade, if it is the same in substance. This aims to avoid the schedules requiring updates if a provision is renumbered.

Nature of the rights and limitations (section 28(2)(a) and (c))

These amendments will engage and limit the right to privacy (section 12 of the HR Act) and the right to freedom of movement (section 13 of the HR Act) because some of the amendments broaden the range of offences captured under the CSO Act and, by virtue of that expand the persons who are required to be on the child sex offender register. Registrable offenders must also comply with a range of restrictions and reporting requirements, which will reduce the person's privacy and restrict their movements.

Legitimate purpose (section 28(2)(b))

The purpose of the overarching scheme in the CSO Act and the amendment in this Bill is to protect children. The scheme aims to reduce the likelihood that registrable offenders will reoffend by targeting those offenders who engage in concerning conduct and prohibiting them from engaging in that conduct. Registration as a child sex offender means that offenders have fewer opportunities to be in situations that facilitate reoffending such as child-related employment and, accordingly, this can reduce the likelihood of reoffending. Registration and associated reporting requirements can also facilitate the investigation and prosecution of further child sex offences and mitigate the risk of an offender to the safety of children.

Rational connection between the limitation and the purpose (section 28(2)(d))

Updating the offences in the Schedules will ensure that following conviction of relevant child sex offences, offenders are automatically added to the Child Sex Offender Register and are subject to reporting requirements for a period of time. The imposition of conditions which limit a registrable offender's right to privacy and freedom of movement is a fundamental aspect of the child sex offender registration scheme and its aim of protecting children. These limitations allow police to monitor registrable offenders in order to protect the safety of children. These limitations are essential to promoting the rights of children.

Proportionality (section 28(2)(e))

The offences added to Schedule 2 of the CSO Act (that is, offences in sections 272.15A, 471.25A, 474.25C and 474.27AA (2) and (3) of the Commonwealth Criminal Code) are substantively very similar if not virtually identical to offences already listed in the schedule.

- The offence in section 272.15A of the Commonwealth Code is substantively very similar to the offence in section 272.15. Both relate to grooming undertaken to procure a child to engage in sexual activity outside Australia. Section 272.15 is currently listed in Schedule 2, Part 2.2, item 9 of the CSO Act.

- The offence in section 471.25A of the Commonwealth Code is substantively very similar to the offence in section 471.25. Both relate to grooming undertaken to procure a person under 16 years of age to engage in sexual activity, where the grooming occurs using a postal or similar service. Section 471.25 is currently listed in Schedule 2, Part 2.2, item 22 of the CSO Act.

- The offence in section 474.25C of the Commonwealth Code captures preparatory activities related to causing harm to, engaging in sexual activity with, or procuring to engage in sexual activity, a person under 16 years of age.

  The offence is likely to capture preparatory conduct for offences in sections 475.25A and 474.26 of the Code, relating to using a carriage service to engage in sexual activity with a person aged under 16 years, or to procure a person aged under 16 years for sexual activity. Sections 474.25A and 474.26 are currently listed in Schedule 2, Part 2.2, items 31, 32, and 34 of the CSO Act.

- Offences in sections 474.27AA (2) and (3) of the Commonwealth Code are virtually identical to the offence in section 474.27AA (1) of that Act. All relate to using a carriage service to groom another person to make it easier to procedure a person under 16 years of age. Subsection 474.AA (1) is currently listed in Schedule 2, Part 2.2, item 36 of the CSO Act.

The inclusion of the additional offences addresses an oversight whereby offences in the Commonwealth Code were not listed as registrable offences despite their close similarity to offences that are listed. Addressing this oversight will help to ensure the child sex offender registration scheme operates as intended.

Other amendments to the schedule of offences are technical only and have no impact on human rights.

There are also safeguards in the CSO Act which assist in ensuring that the amendments impose only reasonable limitations on the right to privacy and the right to freedom of movement. These include the following:

- Exceptions in section 9 of the CSO Act, which provide that a person is not a registrable offender only because:

  - a court has made an order against the person for a class 1 or class 2 offence under section 17 of the *Crimes (Sentencing) Act 2005* (relating to non-conviction orders) or a corresponding provision of a foreign law; or

- the person has been sentenced for a single class 2 offence, but the sentence did not include a term of imprisonment or a requirement that the person be subject to supervision; or
- the person was a young person at the time the offence was committed, and the court considers, on application by the defence, that including the person on the register is inappropriate in the circumstances.

- Section 13 of the CSO Act, which provides that a person stops being a registrable offender if they are a registrable offender only because of a single finding of guilt for a registrable offence, and the finding of guilt is quashed or set aside or the person's sentence is reduced to the extent that they are captured by specified exceptions in section 9.

- The requirement in section 118 of the CSO Act that the chief police officer (CPO) ensure that the child sex offenders register is only accessed by people authorised by the CPO or by regulation, and that personal information in the register is only disclosed for law enforcement functions or activities or as otherwise authorised by law. Under section 120 of the CSO Act, unauthorised access to the register is an offence.

- The requirement in section 122 of the CSO Act that the CPO, on request by a registrable offender, give the offender all reportable information related to the offender held in the register. That section also requires the CPO, on request by a registrable offender, to amend any information about the offender in the register if satisfied that the information is incorrect.

The Bill also includes a saving provision to ensure that persons who are convicted of historic offences that have been repealed and remade or amended will still be captured by the registration requirements, providing they stay the same in substance. The scheme and the amendments are the least restrictive means available to provide continued protection of children.

Crimes (Child Sex Offenders) Act 2005 – Expand the definition of *child-related employment* to include any legal service related to a child (not just legal services provided by Legal Aid)

The expansion of the definition of child-related employment to legal services related to children may limit registrable offenders' right to work and other work-related rights, right to liberty and security of person, and right to privacy.

Nature of the right and the limitation (section 28(2)(a) and (c))

Section 27B – Right to work and other work-related rights

This amendment limits the right to work because it expands the list of proscribed child-related employment areas in which a registrable offender may not undertake employment. Sections 126 and 127 of the CSO Act provide that it is an offence to either apply for or engage in child-related employment. Each offence is subject to a maximum penalty of 200 penalty units, imprisonment for two years or both.

Section 12 – Right to privacy

This amendment limits the right to privacy because it expands the child-related employment areas which are relevant to the scope of the requirement for a person to disclose a pending charge for a registrable offence to an employer or prospective employer. Section 128 of the CSO Act provides that it is an offence if a person is engaged in child-related employment and fails to disclose to their employer within 7 days that they have been charged with a registrable offence. Section 130 of the CSO Act provides that it is an offence if a person has a pending charge for a registrable offence and fails to disclose it to a prospective employer when applying for child-related employment. Each offence is subject to a maximum penalty of 50 penalty units.

Section 18 – Right to liberty and security of person

The Bill limits the right to liberty as it expands the child-related employment areas to which existing offences carrying penalties of imprisonment will apply. As discussed above, sections 126 and 127 of the CSO Act provide that it is an offence to either apply for or engage in child-related employment. Each of these offences is subject to a maximum penalty of imprisonment for two years and, upon conviction, a person may be sentenced to a period of imprisonment.

Legitimate purpose (section 28(2)(b))

The purpose of the overarching child sex offenders register scheme in the CSO Act and this amendment in the Bill is to protect children by further restricting the situations where a child may come into contact with a registrable offender.

The current proscribed list of child-related employment identifies many situations where contact with children is a common feature of employment, such as positions within educational services, community groups and healthcare services. The *Crimes (Child Sex Offender) Amendment Act 2025* updated the list to include legal services related to a child provided by Legal Aid ACT. This amendment expands the scope of the list further, by removing the restriction of legal services provided only by Legal Aid ACT, and expands it to include all legal services related to a child. This amendment will apply to all professional legal services related to a child where contact with children is a feature of the employment position and necessary for the

provision of legal services to occur, such as providing legal advice to a child charged with a criminal offence. This amendment covers not only the legal profession, but other staff involved in the provision of legal services related to a child.

Children often come into contact with legal service providers through a variety of different means. Children may be charged with, or witness, criminal offending, they may be connected to family or personal violence orders, or they may be the subject of care proceedings. Ordinarily the provision of legal services in these areas will necessitate direct contact with a child, for example to take instructions or question them as a witness. Where a registrable offender has contact with a child the risk to the safety of the child is increased as is the risk the registrable offender will reoffend.

The amendment is consistent with the policy intention of the existing definition of child-related employment and will ensure that the scheme continues to operate effectively.

Rational connection between the limitation and the purpose (section 28(2)(d))

Registration as a child sex offender and the associated requirements under the CSO Act mean that registrable offenders have fewer opportunities to be in situations that facilitate reoffending and therefore increases the safety of children.

This amendment increases the protection of children who are provided with child-related legal services. Without this amendment, a registrable offender working in a law firm (whether as a legal practitioner or support staff) may be able to provide child-related legal services, which could bring them into contact with children and increase the risk to the safety of those children. By preventing employment of registrable offenders in this area, their likelihood of reoffending is mitigated. The mitigation of these risks is directly linked to the legitimate purpose of this amendment.

Proportionality (section 28(2)(e))

Section 27B – Right to work and other work-related rights

The amendment maintains the narrow scope, providing that the prohibition only affects legal services where the provision of those services involves contact with a child and is related to a child, in order to have the least restrictive impact on the right to work. The provision is not intended to restrict the ability of registrable offenders to work in legal services more broadly where the employment does not involve contact with a child.

The amendment is not intended to capture circumstances, for example, where contact with a child is incidental to the delivery of legal services or not directly related to the child, for example where a person seeking legal services in relation to their rental rights attends a meeting with their child. The amendment is intended to

capture circumstances such as where a legal service represents a child in a legal matter, provides advice to a child or where a child is a witness in a proceeding.

While the provision was originally limited to relate only to legal services provided by Legal Aid ACT, the Statutory Review on the *Crimes (Child Sex Offenders) Amendment Act 2025* found the provision should be expanded to all legal services related to children. This amendment achieves this while maintaining the narrow scope.

The narrow scope of the amendment ensures that the limitation on the right to work is proportionate to the purpose of protecting the safety of children.

Section 12 – Right to privacy

The requirement for a person to disclose a pending charge for a registrable offence to an employer or prospective employer in an area of child-related employment is essential to achieve the overarching purpose of the scheme. The requirement allows for the early identification of potential contact between a child and a person charged with a registrable offence, while not prohibiting that contact until the person is convicted and a registrable offender. Section 132 of the CSO Act provides that it is an offence for an employer to divulge information obtained as a result of the disclosure obligations under the CSO Act. This requirement minimises the limitation on the right to privacy and helps to ensure that the limitation is proportionate to the purpose of protecting the safety of children.

Section 18 – Right to liberty and security of person

The application of maximum penalties of imprisonment for the child-related employment offences in sections 126 and 127 of the CSO Act is proportionate to any limitation on a registrable offender's right to liberty. The offences and associated penalties are consistent with the ACT Government *Guide for Framing Offences* and are considered proportionate to the purpose of the scheme. The maximum penalties attached to the offences reflect the seriousness of the offences and other similar offences across the ACT statute.

Registrable offenders are provided with information about their obligations under the CSO Act upon registration. In addition, the amendment has been drafted with a delayed commencement of three months to allow sufficient time for impacted individuals to be made aware of the expansion of the scope of the offences.

Crimes (Restorative Justice) Act 2004 – Revise the quarterly reporting requirements to be more practical and more useful for referring entities

The right to privacy

Nature of the right and the limitation (section 28(2)(a))

The insertion of a new section 68A into the *Crimes (Restorative Justice) Act 2004* (CRJ Act) engages and has the potential to limit the right to privacy. The new provision outlines limited circumstances where the director-general may report to a referring entity on the outcome of restorative justice for an offence. The limited circumstances where the outcomes of restorative justice have been finalised includes where the director-general was not satisfied that a victim or parent of a victim was eligible, was not satisfied that the offender for the offence was eligible or decided that restorative justice was not suitable.

Legitimate purpose (section 28(2)(b))

The purpose of introducing new narrowly targeted reporting provisions in section 68A of the CRJ Act is to remove any confusion about the circumstances in which the director-general may report on the outcomes of restorative justice to a referring entity. Section 68 provides clarity to referring entities about the limited circumstances and information that can be provided about the outcomes of restorative justice.

Rational connection between the limitation and the purpose (section 28(2)(d))

It is important that a referring entity receives some basic information about how their referral has been concluded. In some cases, the referring entity may need to take further action as part of performing their role in the criminal justice process. Currently, only section 28 of the CRJ Act comprehensively provides for reporting on the full range of circumstances leading to the closing of a referral to restorative justice, but this only applies to referrals by the Court. The introduction of targeted reporting provisions is rationally connected to the overarching goal of providing referring entities with information they require to perform their functions in the criminal justice system.

Proportionality (section 28(2)(e))

The scope of the new section 68A of the CRJ Act is reasonable and proportionate. Sections 68A(a) and (b) relate to when the director-general may report to a referring entity in respect to a referral. Eligibility for referral for restorative justice is assessed according to factors including the offence(s), the age of the victim and the offender and the offender's acceptance of responsibility for the offending. Under section 24 the referring entity is principally responsible for assessing eligibility and so the relevant information would be known to the referring entity at the time of referral. However, occasionally the director-general may identify an administrative error or disagree with the referring entity's assessment of eligibility. When this occurs,

sections 68A (a) and (b) will only empower the director-general to report whether the victim, parent or offender was not eligible. This is unlikely to include conveying new personal information to the referring entity. Section 68A (c) relates to the suitability of referrals. This is a complex assessment under sections 33 to 36 involving the assessment of an array of information collected from the relevant participants. However, as with section 68A (a) and (b) the director-general is only empowered to indicate that the referral was not suitable.

Referring entities are bound by the *Information Privacy Act 2014* which governs and protects the privacy of individuals.

The new provision is narrowly targeted and sufficiently precise so that where restorative justice has been finalised, only limited information and circumstances are provided to the relevant referring entity as described in the provision. There is no intention or legislative basis to provide reasons why a matter was not suitable. Providing limited grounds for why a matter has been finalised guards against the information being used in an arbitrary manner.

The new provision is situated in the context of already existing strict confidentiality provisions of the CRJ Act which ensures any potential limitations on the right to privacy are reasonable and justified.

Existing safeguards within the CRJ Act include secrecy provisions (sections 64 and 65) which protect information about a person that is disclosed to or obtained by a secret-keeper through administrating their functions under the CRJ Act. This protects the right to privacy of individuals who participate in restorative justice and information that is disclosed or produced through that process.

Crimes (Sentencing) Act 2005 – Authorise the ordering of a pre-sentence report on an indication of intention to plead guilty

Right to privacy and rights in criminal proceedings

Nature of the right and the limitation (section 28(2)(a) and (c))

This amendment engages and has the potential to limit the rights to privacy (section 12, HR Act) and rights in criminal proceedings (section 22, HR Act). The Bill amends the *Crimes (Sentencing) Act 2005* (Sentencing Act) to authorise the Magistrates Court to order a pre-sentence report (PSR) for a defendant upon the defendant indicating an intention to plead guilty to the offence; and to adjourn the proceeding for the PSR to be prepared.

The amendment provides the authorisation to the Magistrates Court, as this will authorise both a Magistrate and, if the Registrar is authorised under the Court Procedures Rules 2006 (CPRs), a Registrar.

Because this amendment permits the creation of a PSR prior to a defendant pleading guilty, there are potential risks of admissions of guilt in circumstances

where a defendant ultimately chooses to plead not guilty, which could limit the defendant's right to privacy and rights in criminal proceedings. This is because a Magistrate, judicial officer, or the prosecution could be able to read the PSR prior to the defendant pleading guilty, either because the PSR is on the court file, or because the PSR was provided to the prosecution in anticipation of the matter being sentenced. This could limit the right to privacy because information in the PSR may be revealed in circumstances that would not otherwise arise if the defendant chose to plead not guilty at a later stage, and could limit rights in criminal proceedings because the judiciary reading a PSR that may relate to admissions of guilt could limit the right to be presumed innocent until proven guilty according to law.

Legitimate purpose (section 28(2)(b))

The objective sought by the Bill is to increase efficiency for court listings and reduce the number of times a defendant needs to attend court. It is intended to enable a Registrar (the court officer who hears a matter on the first listing) to order a PSR for a defendant, which will then be available on the court file at the following listing in front of a Magistrate, at which time the defendant can choose to plead guilty and be sentenced without delay.

Reducing occasions on which a defendant is required to attend court will be supportive of defendants by encroaching on their life on fewer occasions. It may also be supportive for victims if matters are resolved more quickly in circumstances where a defendant wishes to plead guilty.

Rational connection between the limitation and the purpose (section 28(2)(d))

This amendment will achieve its purpose of reducing court listings (which will also support limiting the court's encroachment on defendants' and victims' lives) by enabling a plea of guilty and sentencing to occur on the same day, after a single listing where a defendant indicated a plea of guilty before a Registrar and the Registrar ordered the pre-sentence report. This is more efficient than the current process, which can require a first listing before a Registrar (who cannot receive pleas of guilt), then a second listing before a Magistrate who receives a plea of guilty and orders a PSR, and then a third listing where the defendant is sentenced.

Proportionality (section 28(2)(e))

This amendment is proportionate because amendments have been introduced to protect a defendant's right to privacy and the defendant's right to be presumed innocent; new sections 43A and 43B. New section 43A provides that the PSR is not admissible in court proceedings unless the Magistrates Court finds the offender guilty or accepts a plea of guilty for the offence or the defendant consents to the admission. Additionally, if the director-general provides the PSR to the court under new section 41(3)(c) and the PSR is not admissible under new section 43A(2), the court must refuse to admit the PSR, and the court that hears and decides the charge must not, unless all parties to the proceeding agree, be constituted by a magistrate

to whom the PSR was provided. New section 43B makes it an offence to publish sensitive information, or use sensitive information in connection with the investigation or prosecution of an offence; where sensitive information means the PSR prepared and information about the defendant having indicated an intention to the court to plead guilty and information provided to the assessor for the purpose of preparing a PSR. By requiring an accused person to prove that the defendant consented to the release of sensitive information in a PSR, the amendments further protect the defendant's right to privacy and right to be presumed innocent.

In addition, although section 136 of the Sentencing Act authorises information sharing between criminal justice entities, the Bill protects the defendant by providing that, where the defendant does not enter a guilty plea, the PSR ordered is not admissible in a proceeding unless the defendant consents, and by the creation of a new criminal offence for publishing information from the PSR (as referred to in the previous paragraph). This amendment will prevent information sharing of the PSR by criminal justice entities prior to a defendant making a formal guilty plea or being found guilty by the court.

Crimes (Sentencing) Act 2005 – new section 43B – restriction on use of pre-sentence report (PSR) when a PSR is ordered on an indication of intention to plead guilty

Rights in criminal proceedings

Nature of the right and the limitation (section 28(2)(a) and (c))

New section 43B of the Sentencing Act is part of the amendments to the Sentencing Act discussed above, which allows the Magistrates Court to order a PSR upon a defendant's indication of an intention to plead guilty. Because section 43B creates offences for a possible separate defendant, it has been set out separately in the human rights analysis.

Section 43B(2) creates an offence of publishing sensitive information, where "sensitive information" can mean the defendant's indication of an intention to plead guilty, the defendant's PSR, or the information provided to the assessor to prepare the PSR and "publish" can mean communicating or distributing the information to the public.

This amendment creates a defence to the offence at section 43B(4) and this defence engages and has the potential to limit rights in criminal proceedings (section 22, HR Act), in particular the right to be presumed innocent until proven guilty.

Section 43B(4) provides that it is a defence to "publish" the "sensitive material" if the defendant proves that the accused consented to the publication of the information before it was published. Under section 43B(4), the defendant has a "legal burden of proof" in establishing the defendant consented. Legal burdens of proof can limit the right to be presumed innocent until proven guilty according to law because it places

the onus of the defendant to prove the defence on the balance of probabilities. This is in comparison to an evidential burden (which also exists, at section 43B(3), for publishing information if it was necessary on reasonable grounds for certain tasks), which only requires the defendant to present evidence suggesting a reasonable possibility that the matter exists.

Legitimate purpose (section 28(2)(b))

The section 43B(4) defence, which places a legal burden on a defendant who published the sensitive information, ensures that if disclosure of the sensitive information occurs beyond the processes for preparation of the PSR and being provided to the required parties, that it is only being provided to someone where consent can clearly be evidenced. This high level of proof serves the overarching purpose of the Bill, which is to protect any information provided in in the PSR so that it is only available if the person pleads/is found guilty (or in circumstances where the person otherwise consents).

Rational connection between the limitation and the purpose (section 28(2)(d))

The requirement for an accused person to prove that a defendant gave consent to publish their “sensitive information” is a legal burden of proof, which operates to limit the accused person’s right to be presumed innocent until proven guilty. This limitation is necessary to uphold the legitimate purpose of preventing individuals from inappropriately disclosing the sensitive and potentially damaging information about a defendant contained in the PSR, as part of protecting that defendant’s right to be presumed innocent until proven guilty (rights in criminal proceedings).

Proportionality (section 28(2)(e))

The limitation to an accused’s right to be presumed innocent until proven guilty (in circumstances where they have been accused of publishing sensitive information about a defendant) is proportionate because it is operating to protect the right of the defendant who has had the PSR prepared to be presumed innocent until proven guilty. Additionally, it is a smaller number of people to whom this defence will be necessary, as the more general defence of:

- publishing the information was necessary on reasonable grounds for the preparation of the PSR, providing the PSR to a person under section 41 (3) (c),
- carrying out a court registry function, or
- giving the information to the defendant or their legal representative.

is likely to be the more common defence and is only subject to the evidential burden of proof.

Mental Health Act 2025 – The ACAT can make an order authorising apprehension of a person following contravention of a CRO

Right to equal protection before the law without discrimination

This amendment provides for a new apprehension power under section 181A for police to return a person to an approved mental health facility or approved community care facility at which they are required to reside under their CRO as ordered by the ACAT under section 180(4) of the MH Act.

This amendment engages, but does not limit, the right to equal protection before the law without discrimination (section 8 (3), HR Act). This amendment engages this right because a mental impairment may be considered a protected attribute. By introducing an apprehension power which only applies to people who breach a requirement of their CRO to reside in a facility, the amendment treats people with a mental impairment who are subject to this requirement differently from others with a mental impairment but who are not subject to this requirement.

However, this amendment does not limit this right because the reason for differential treatment is not based on the person's particular mental impairment, but rather an individualised assessment of the person's risks to themselves and/or the community.

In conducting this individualised assessment, the ACAT is required to have regard to the matters listed in section 180(3) of the MH Act. This includes among other things:

(1) the nature and extent of the person's mental disorder or mental illness, including the effect it is likely to have on the person's behaviour in the future;

(2) whether or not, if released –

   a. the person's health or safety would be, or would be likely to be, substantially at risk; or

   b. the person would be likely to do serious harm to others; and

(3) any information the chief psychiatrist or director-general has given to the ACAT about the treatment, care or support the person requires, including that the person be admitted to a particular approved mental health facility or approved community care facility.

This individualised assessment means that even where two individuals suffer from the same mental impairment, one may be required to reside in an approved facility as a condition of their release, while another may have less stringent or no conditions placed on their release. This could be because of the difference in the level of insight the individuals have demonstrated to the ACAT in relation to their mental impairment and the effect it has on their behaviour and their appreciation of the need for treatment to manage their symptoms.

For example, in the case of two individuals who need to receive treatment to manage symptoms which could lead to dangerous behaviour without such treatment, the ACAT may impose a requirement to reside in a facility on Person A but not Person B, if Person B has demonstrated a high level of insight, which may include a demonstrated commitment to their treatment regime, and an understanding/capacity to manage potential triggers which means they would be less likely to do serious harm to others if they were released. This is ultimately a discretionary judgment for the ACAT to make, informed by the considerations under section 180 (3) which may include medical expert opinion from the Chief Psychiatrist.

In this scenario, the apprehension power introduced by this Bill will only apply to Person A if they breach the requirement to reside in the approved facility. This differential treatment is not because of their mental impairment but because of their level of risk as determined by the ACAT. Accordingly, section 8 of the HR Act is not limited.

Right to liberty and security of person; right to privacy and right to freedom of movement

Nature of the right and the limitation (sections 28(2)(a) and (c))

Section 18 of the HR Act provides that everyone has the right to liberty and security of person. In particular, no-one may be arbitrarily arrested or detained. In particular, section 18 (2) of the HR Act provides that no-one may be deprived of liberty, except on the grounds and in accordance with the procedures established by law.

This amendment to section 181A engages and limits the right to liberty because it introduces a new power to apprehend a person who has breached a requirement of a CRO to reside in an approved mental health facility or approved community care facility. This amendment subjects a person with such a requirement on their CRO to further restrictive police powers.

This amendment also limits section 12 of the HR Act, which provides that everyone has the right not to have their privacy, family, home or correspondence interfered with unlawfully or arbitrarily. This is because the new apprehension power provides police officers who exercise the power to apprehend with the power of entry, search and seizure, which will limit a person's right to privacy.

This amendment also limits section 13 of the HR Act, which provides that everyone has the right to move freely within the ACT and to enter and leave it, and the freedom to choose their residence in the ACT. This limitation is engaged in section 181A because it authorises police officers to *return* persons who have breached a requirement of a CRO to reside in an approved mental health facility or approved community care facility *to that facility*.

Legitimate purpose (section 28(2)(b))

The purpose of the new apprehension power in clause 78 of the Bill is to maintain public safety in circumstances where a high-risk individual is in breach of their CRO because they have failed to return to the approved facility at which they are required to reside. This amendment enables authorities to act promptly to prevent harm from occurring where there is a known risk to public safety. As noted above this promotes the right to life (section 9, HR Act).

The public safety risks in such circumstances became apparent following an incident on 18 September 2023 where an inpatient residing at the Gawanggal Mental Health Unit, whilst on a period of leave, went to the Australian National University (ANU) and allegedly assaulted multiple people (ANU incident). The inpatient had been granted approved leave from the mental health facility but had exceeded the bounds of that leave. Prior to the ANU incident, the person had been found not guilty by reason of mental impairment of a serious violent incident at the ANU in 2019 and had been placed on a CRO requiring them to reside in an approved mental health facility.

Due to the seriousness of the ANU incident, the chief psychiatrist prepared a report which provided several recommendations for the reform of care, treatment and support provided to people found not guilty because of mental impairment and released from custody into the care of mental health services (Chief Psychiatrist Report).

Recommendation 31 of the Chief Psychiatrist Report states:

> *Clarify by way of an amendment to the legislation the legal authority for the person on a CRO to be apprehended and detained where the person has breached conditions of their conditional release order (including absconding or failure to return from approved leave) and when their approved leave is revoked.*

The apprehension power addresses this recommendation, in part, by providing a power for police to apprehend persons who have breached their CRO. To fully address this recommendation and other recommendations of the Chief Psychiatrist Report, consultation is underway to deal systematically with the overall processes in sections 180 to 183 of the MH Act to make it more transparent and attend to community safety concerns in a manner which promotes human rights and accountability. However, it was identified that the apprehension power introduced by this Bill was needed urgently to address high-risk scenarios promptly and therefore ought to be implemented separately from the other recommendations which require more detailed consideration.

Rational connection between the limitation and the purpose (section 28(2)(d))

The amendment is a direct response to the ANU incident as it provides police with the power to apprehend someone and return them to the facility stated in their CRO

In practice, this power will only be exercised where the whereabouts of the person who has breached this residential requirement are known, enabling police to protect the community from known risks.

Following consideration of the matters under section 180 (3), if the ACAT has chosen to subject a person to a condition to reside in an approved facility, rather than less stringent conditions in the community, it follows that such individuals would pose a risk to the community if they were not under the supervision of the relevant facility stated in their CRO.

As the Chief Psychiatrist Report noted:

> *The reason why a person who is deemed not guilty because of mental impairment is often required to reside at the most secure mental health facility in the Territory is because the person is considered to have an underlying psychopathology that if left unsupervised or untreated may present risks to the person, others and the general community. This requires a longitudinal and comprehensive assessment of:*
>
> - *Psychopathology that may have led the person to act in a manner that was socially inappropriate.*
> - *Other psychopathology that may be the reason for the person to be at a risk to themselves, others, or the general community.*
> - *Criminogenic factors that require assessment and management to minimise risk to the person, others, or the general community.*
> - *At least an assessment of the need for treatment and whether compliance with ongoing treatment is essential to prevent relapse of psychopathology that may increase risks to the person, others or the general community.*[2]

Therefore, if the ACAT determines that a person must, as a condition of their CRO, reside at an approved facility as it is the only safe way to facilitate the person's release from detention in custody, such a person is likely to present a higher level of risk than other persons on a CRO without such a condition. Accordingly, if a person absconds from the facility at which they are required to reside, the need for authorities to have the necessary power to take the person back to the facility stated

[2] Chief Psychiatrist Report, p 67.

in their CRO is directly connected to the prevention of potential harm to the person and others resulting from the person's non-compliance with their CRO.

Proportionality (section 28(2)(e))

The apprehension power is circumscribed to apply only to persons on a CRO who have breached a requirement to reside at an approved facility. It does not relate to breaches of any other condition of the CRO. As noted above, persons for whom the ACAT considers such a requirement to be appropriate pose risks which can only be managed by the supervision and treatment, care and support they receive in an approved facility. This determination is made only after consideration of the factors in section 180 (3) which as noted above, is an individualised assessment balancing a range of factors relevant to the level of risk the person poses to the community. This ensures that the apprehension power would not be exercised needlessly or arbitrarily.

Without this apprehension power, when a person breaches a condition of their release, this will trigger a review by the ACAT of the person's conditions within 72 hours (section 182, MH Act), and the ACAT may order the detention of the person in custody until the ACAT orders otherwise (section 182 (6), MH Act). This is inadequate for persons who are required to reside in a facility under their CRO, as the risk to themselves and/or the community is known to be high, and a determination by the ACAT has already been made that they should reside in a facility. Authorities should not have to wait for another ACAT review if this condition is breached before they can act to protect the individual and/or the community.

The apprehension power must be read with other amendments in the Bill and the MH Act which ensure that the protections in section 263(1) and 264(1) also apply to the powers exercised under the new section 181A. Section 263 authorises police to use only the minimum force reasonably necessary to apprehend the person and take them to the approved facility. Section 264 ensures that a scanning search, frisk search or ordinary search may only be carried out if there are reasonable grounds for believing that the person is carrying anything that presents a danger to themselves or the police officer, or anything that could be used to escape the custody of the police officer. Accordingly, the Bill ensures that all force authorised by these provisions is reasonable and proportionate.

Victims of Crime Act 1994 (section 29A) – Delegation of chief police officer functions

The right to privacy

Nature of the right and the limitation (sections 28(2)(a) and (c))

The right to privacy and reputation is contained in section 12 of the HR Act and states that everyone has the right not to have his or her privacy, family, home or correspondence interfered with unlawfully or arbitrarily. This right includes the right

not to have personal information collected, stored, used or disclosed unless it is for legitimate purposes and in accordance with the law.

The amendment potentially engages and limits the right to privacy as it expands the category of people employed by the Australian Federal Police (AFP) who may have access to the personal information of victims, offenders and accused people.

Legitimate purpose (section 28(2)(b))

The purpose of the amendment is to include Victim Liaison Officers (VLOs) who work for the AFP within the category of people to whom the CPO can delegate functions under the *Victims of Crime Act 1994* (the VOC Act).

Currently VLOs must be "sworn in" every two years to enable the CPO's functions under the VOC Act to be delegated to them. This is administratively burdensome and takes VLOs and senior staff away from their duties, including their work supporting victims of crime in accordance with the Charter of Rights for Victims of Crime under the VOC Act. The purpose of the amendment is to remove this ongoing administrative burden and support the VLOs and related AFP staff to focus resources on their duties, which include supporting victims.

Rational connection between the limitation and the purpose (section 28(2)(d))

The VLO role supports ACT Policing members in meeting their statutory obligations under the VOC Act, including helping victims of crime to navigate the criminal justice system. As such, VLOs need to have the same level of access to police systems and victim, accused and offender information as sworn police officers in order to carry out their work under the VOC Act. VLOs assist victims to complete victim impact statements and provide in person support both in the interview process and at court.

Proportionality (section 28(2)(e))

Any limitation on the right to privacy is proportionate as the amendment ensures that CPO functions are only delegable to those people within the AFP who need to carry out those functions in order to give effect to the VOC Act, namely, sworn police officers and AFP employees whose functions include victim liaison.

Section 29 of the VOC Act applies to VLOs (as people who exercise a function under the VOC Act) and provides that a person who makes a record of or divulges protected information about another person commits an offence punishable by up to 6 months imprisonment and a fine of 50 penalty units (section 29, VOC Act). Protected information means information about a person that is obtained because of the exercise of a function under the VOC Act.

Further, the *Australian Federal Police Act 1979 (Cth)* (the AFP Act) applies to AFP VLOs. The AFP Act provides that AFP employees, including VLOs must not make a record of or divulge any prescribed information (which includes information obtained by a VLO in the course of carrying out their functions) except for the purposes of the

VOC Act, other relevantly prescribed Acts or carrying out the person's duties and functions as prescribed by legislation. To divulge/record information in this way constitutes an offence punishable by imprisonment for 2 years (section 60A, AFP Act).

AFP VLOs are required to maintain security clearances under the Australian Government's Protective Security Policy Framework.

CLAUSE NOTES

Part 1 Preliminary

Clause 1 Name of Act

This clause provides that the name of this Act is the *Crimes Legislation Amendment Act 2025 (No 2)*.

Clause 2 Commencement

This clause provides that this Act (other than section 17) commences on the 14th day after its notification day.

Section 17 commences three months after this Act's notification day.

Clause 3 Legislation amended

This clause provides that this Act amends the following legislation:

- *Confiscation of Criminal Assets Act 2003*
- *Corrections Management Act 2007*
- *Crimes (Child Sex Offenders) Act 2005*
- *Crimes (Restorative Justice) Act 2004*
- *Crimes (Sentence Administration) Act 2005*
- *Crimes (Sentencing) Act 2005*
- *Evidence (Miscellaneous Provisions) Act 1991*
- *Magistrates Court Act 1930*
- *Mental Health Act 2015*
- *Victims of Crime Act 1994*

Clause 4 Legislation repealed

This clause provides that the Act repeals the *Crimes (Sentence Administration) (Sentence Administration Board) Appointment 2024 (No 2)* (DI2024-266) consequential to the change at clause 29.

Part 2 Confiscation of Criminal Assets Act 2003

Clause 5 Review of unexplained wealth provisions Section 258A (1) (a)

This clause amends section 258A of the *Confiscation of Criminal Assets Act 2003* (the COCA Act), which provides for a statutory review of the unexplained wealth provisions of the COCA Act to be commenced as soon as practicable after 3 August 2025. The amendment provides for the timeframe for the statutory review to be extended by two years until 3 August 2027. This will enable the ACT review to consider the outcomes of the Commonwealth's review into its unexplained wealth laws.

Clause 6 Section 258A (1) (b)

This clause amends section 258A of the COCA Act, extending the timeframe for provision of a report to the Legislative Assembly with the results of the statutory review into the unexplained wealth provisions of the COCA Act by a period of two years consequential to the changes at clause 5.

Clause 7 Section 258A (2)

The expiration date of section 258A is extended by two years to allow for completion of the statutory review consequential to the changes at clauses 5 and 6.

Part 3 Corrections Management Act 2007

Clause 8 Exclusions from notified corrections policies and operating procedures Section 15 (2) (b) (v) and (vi)

This clause substitutes a provision in section 15 of the *Corrections Management Act 2007* (CM Act) which provides for exclusions from notified corrections policies and operating procedures. It omits the references to the human rights commissioner and the public advocate, and substitutes to a commissioner exercising functions under the *Human Rights Commission Act 2005*. This ensures there is consistency terminology used throughout the CM Act, to recognise all of the commissioners established by the *Human Rights Commission Act 2005* and their functions.

Clause 9 Access to correctional centres Section 56A

This clause amends section 56A which provides access to a correctional centre. The amendment omits the reference to 'the human rights commissioner' and substitutes 'A commissioner exercising functions under the *Human Rights Commission Act 2005'.* This clause provides that all commissioners established by the *Human Rights Commission Act 2005* may enter a correctional centre to exercise their functions.

Clause 10 Dictionary, definition of *accredited person,* paragraphs (e) and (f)

This clause amends the definition of *accredited person* consequential to the changes at clauses 8 and 9.

Clause 11 Dictionary, definition of *protected mail*, paragraphs (d) and (e)

This clause amends the definition of protected mail consequential to the changes at clauses 8 and 9

Part 4 Crimes (Child Sex Offenders) Act 2005

Clause 12 Registrable Offender—exceptions Section (9) (1) (c), note

This clause is consequential on the changes at clause 25 and is a minor and technical amendment.

Clause 13 Section 9 (2)

This clause is consequential on the changes at clause 25 and is a minor and technical amendment.

Clause 14 What is a *registrable offence*? New section 10 (4)

This clause inserts a new section 10 (4) into the CSO Act. This new section is a savings provision, which ensures that an offence does not cease to be a registrable offence only because it is amended or repealed and remade.

The clause also inserts notes referring to relevant provisions of the *Legislation Act 2001.*

Clause 15 Right to privacy when being photographed Section 79 (1) (b)

This clause amends section 79 (1) (b) of the CSO Act to provide that a photograph of a registrable offender must be taken by a person of the same sex as the offender as far as practicable.

The amendment aims to minimise delays in offender registration and reporting that may arise if a person of the same sex as a registered offender is not available to photograph the offender. It is not intended as a broad or general exemption to the current requirement that a registrable offender be photographed by a person of the same sex. Rather, it creates a limited exception where compliance with that requirement is not practicable.

Clause 16 Section 79 (3)

This clause amends section 79 (3) of the CSO Act to provide that a police officer present during the photographing of a registrable offender must be of the same sex as the offender as far as practicable.

The amendment aims to minimise delays in offender registration and reporting and to address safety risks to police officers which may arise because of the current requirement that a police officer present while a registrable offender is being photographed must be of the same sex as the offender.

Like the amendment to section 79 (1) (b), this amendment is not intended as a broad or general exemption to the current requirement that only a police officer of the same sex as a registrable offender be present while the offender is being photographed. Rather, it creates a limited exception where compliance with that requirement is not practicable.

Clause 17 What is *child-related employment*?
Section 124 (1) (t)

This clause amends section 124 (1) (t) of the CSO Act to remove the reference to Legal Aid ACT from that section which has the effect of extending the definition of *child-related employment* to all employment involving contact with a child in relation to the provision of legal services. Examples are provided of what legal services related to a child are. These examples have not been amended.

Clause 18 Definitions—ch 5A
Section 132A, definition of *application*

This clause substitutes the word ‘prohibition’ for the word ‘protection’ in the definition of *application* for the purpose of Chapter 5A to correct a drafting error.

Clause 19 Registration of corresponding prohibition order—no amendment
Section 132N (1) (b)

This clause substitutes the word ‘prohibition’ for the word ‘protection’ in section 132N(1)(b) to correct a drafting error.

Clause 20 Registration of corresponding prohibition order—with amendment
Section 132P (1) (b) (i)

This clause substitutes the word ‘prohibition’ for the word ‘protection’ in section 132N(1)(b)(i) to correct a drafting error.

Clause 21 Class 1 offences
Schedule 1 heading, reference

This clause is a minor and technical amendment consequential to the change at clause 14.

Clause 22 Schedule 1, part 1.1, items 9 to 12

This clause amends descriptions of the offences in sections 55 (1), 55 (3), 55A (1), and 56 (1) of the Crimes Act as they appear in Schedule 1, Part 1.1, items 9 to 12 of the CSO Act.

The amendments are technical only and aim to ensure descriptions accurately reflect the operation of the corresponding offences in the Crimes Act. They do not alter the operation of the child sex offender registration scheme.

Clause 23 Schedule 1, part 1.1, items 14 and 15

This clause amends descriptions of the offences in sections 62 (1) and 62 (2) of the Crimes Act as they appear in Schedule 1, Part 1.1, items 14 and 15 of the CSO Act.

The amendments are technical only and aim to ensure the descriptions accurately reflect the operation of corresponding offences in the Crimes Act. They do not alter the operation of the child sex offender registration scheme.

Clause 24 Schedule 1, part 1.2, items 1 to 9

This clause makes minor and technical amendments to items 1 to 9 in Schedule 1, Part 1.2 of the CSO Act, including updates to descriptions of certain registrable offences, the removal of references to certain repealed offences, and the re-numbering of items according to current drafting practice and as a consequence of other amendments to the schedule. The amendments do not affect the operation of the child sex offender registration scheme.

Clause 25 Schedule 2

This clause replaces existing schedule 2.

It inserts new items into Schedule 2, Part 2.2 of the CSO Act to refer to the following offences in the Commonwealth Criminal Code:

- The offence of grooming a person to make it easier to engage in sexual activity with a child outside Australia. The offence appears in section 272.15A (1) of the Commonwealth Criminal Code.
- Three offences relating to the use of postal or similar service to groom another person to make it easier to procure a child under 16 years old to engage in sexual activity. These offences appear in sections 471.25A (1), (2), and (3) of the Commonwealth Criminal Code.

- The offence of using a carriage service to prepare or plan to cause harm to, engage in sexual activity with, or procure for sexual activity, persons under 16. This appears in section 474.25C of the Commonwealth Criminal Code.

- Two offences relating to using a carriage service to 'groom' another person to make it easier to procure persons under 16 years of age for sexual activity. These appear in sections 474.27AA (2) and (3) of the Commonwealth Criminal Code. Section 472.27AA (1) is already listed as a registrable offence.

The inclusion of these offences in Schedule 2, Part 2.2 has the effect that the offences are registrable offences for the purpose of the child sex offender registration scheme. However, the inclusion of the offences does not represent new policy. Rather, the offences are included to address an oversight whereby offences in the Commonwealth Criminal Code were not listed as registrable offences notwithstanding that they relate to conduct that is very similar or identical to conduct captured by existing listed offences Addressing this oversight helps to ensure the child sex offender registration scheme operates as intended.

In addition, the clause makes a series of minor and technical amendments to Schedule 2, Parts 2.1 and 2.2 of the CSO Act, including updates to the descriptions of certain registrable offences, the removal of references to certain repealed offences, and the re-numbering of items according to current drafting practice and because of other amendments to the schedule. These amendments do not affect the operation of the child sex offender registration scheme.

Part 5 Crimes (Restorative Justice) Act 2004

Clause 26 Section 68

This clause substitutes section 68 of the *Crimes (Restorative Justice) Act 2004* (CRJ Act) with new sections 68 and 68A.

New section 68 changes both the frequency of reporting by the director-general and the matters that must be included in those reports.

Currently, section 68 requires the director-general to report on the progress of each relevant restorative justice matter to each relevant referring entity within 14 days of the last day of the quarter. Referring entities have indicated this frequency of reporting is of limited utility because restorative justice matters can take considerably longer than a quarter to complete. Accordingly, the new section 68 requires the director-general to report certain matters to referring entities within 20 working days after the end of a financial year.

In addition, rather than requiring the director-general to report on progress for each relevant restorative justice matter, new section 68 requires the director-general to report on the numbers of offences, eligible victims or eligible parents referred, the number of eligible offenders referred, and the number of restorative justice

conferences convened in that year. Referring entities have indicated that this information will be more useful to them.

New section 68A supplements the annual reporting requirement in new section 68 by authorising the director-general to report to a referring entity that the director-general:

- was not satisfied that a victim or parent for the offence was eligible;
- was not satisfied that the offender for the offence was eligible;
- decided that restorative justice was not suitable.

The director-general may report these matters to a referring entity at any time.

This supplementary reporting power will ensure that referring entities can be informed of when their referral has concluded in scenarios other than a restorative justice conference or agreement compliance.

Clause 27 Dictionary, note 2

This amendment is a minor and technical amendment consequential to the changes at clause 26.

Clause 28 Dictionary, note 2

This amendment is a minor and technical amendment consequential to the changes at clause 26.

Part 6 Crimes (Sentence Administration) Act 2005

Clause 29 Section 173

This clause substitutes section 173 to provide that the Board consists of the members appointed under section 174 and the chief police officer, meaning the chief police officer is a standing member of the Board without requiring Ministerial appointment.

Clause 30 Appointment of board members Section 174 (1) (c)

This clause is consequential to the change at clause 29.

Clause 31 Section 174 (3)

This clause omits section 174 (3). The amendment to section 174 (1) (c) makes it unnecessary to identify whether members of the Board are ‘judicial’ because section 174 (2) provides that only the chair and deputy chair/s must be judicially qualified.

Clause 32 Conditions of appointment of board members Section 175

This clause is a minor and technical amendment. It omits the words ‘determination of’ and substitutes the words ‘determination under’ the Remuneration Tribunal to improve the clarity and accuracy of the provision.

Clause 33 Delegation by chief police officer Section 179A

This clause amends section 179A of the Act to remove the reference to “commander” and insert a reference to “superintendent”. This will mean that the CPO may delegate their functions as a Board member to a police officer of the rank of superintendent (or a higher rank). This will result in operational efficiencies and a more effective Board.

Part 7 Crimes (Sentencing) Act 2005

Clause 34 Pre-sentence reports—order New section 41 (1) (aa)

This clause inserts new section 41 (1) (aa). Section 41 applies to orders for pre-sentence reports. New section 41 (1) (aa) provides that, if an offender indicates to the Magistrates Court that they intend to plead guilty, the Magistrates Court is authorised to order a pre-sentence report. The court can then exercise its discretion to adjourn the proceeding for the report to be prepared.

This amendment is intended to increase efficiency for court listings and reduce the number of times a defendant needs to attend court.

Clause 35 Section 41 (3)

This clause is a minor and technical amendment consequential to the change at clause 34

Clause 36 New sections 43A and 43B

This clause inserts new sections 43A and 43B. As the amendment in clause 34 permits the court to order a pre-sentence report before a defendant enters a guilty plea, it is possible that the defendant could subsequently decide not to plead guilty, and to contest the matter. These amendments protect the defendant’s rights under the HR Act in those circumstances.

New section 43A provides that pre-sentence reports ordered and prepared following the defendant’s indication of a guilty plea are generally inadmissible. New section 43A (2) provides that a pre-sentence report ordered on indication of a guilty plea is not admissible in a proceeding before a court unless the Magistrates Court finds the offender guilty of the offence or accepts the offender’s guilty plea for the offence, or the defendant consents to the admission of the relevant material.

Currently section 41 (3) (c) of the Sentencing Act provides that the court may order the director-general to provide a copy of a pre-sentence report to the court or any other person. New section 43A (3) provides that, if the report is inadmissible under new section 43A (2), the court must not admit the report even if the director-general has provided the report to the court under new section 41 (3) (c). In addition, in these circumstances, the court that subsequently hears and decides the charge must not be constituted by the magistrate to whom the report was provided unless all parties to the proceeding agree.

New section 43B creates an offence for publishing a pre-sentence report or information in such a report that was ordered following a defendant's indication of an intention to plead guilty in circumstances where the court has either not found the defendant guilty or has not accepted the defendant's guilty plea.

The maximum penalty for the offence is 50 penalty units, imprisonment for 6 months, or both.

New section 43B (3) creates an exception to the offence if publishing the information was necessary on reasonable grounds for the purposes of preparing the report, lawfully providing the report to a person under section 41 (3) (c), carrying out a court registry function, or giving the information to the defendant or their legal representative. The defendant bears an evidential burden in relation to the exception.

New section 43B (4) creates a defence to the new offence if the person proves that the defendant consented to the publication of the information before it was published. The defendant bears the legal burden in relation to the defence.

New section 43B (5) provides that sensitive information must not be used in connection with the investigation or prosecution of an offence.

New section 43B (6) provides definitions of *publish* and *sensitive information* for section 43B. ‘

Part 8 Evidence (Miscellaneous Provisions) Act 1991

Clause 37 Relationship to other provisions of this Act
Section 4AN

This clause makes a minor and technical amendment to correct terminology.

Clause 38 Admissibility of recording of evidence of dangerously ill person
Section 94 (1) (b) (i) and (ii)

Section 92 of the *Evidence (Miscellaneous Provisions) Act 1991* (EMP Act) allows the court to pre-record the evidence of dangerously ill witnesses. However, under

section 94, that evidence is not admissible in the trial unless the witness dies or is unable to give evidence because of illness.

In practice, unless the witness is deceased at the time of the trial, the witness is required to prove that their condition has worsened, regardless of how ill the witness was at the time of pre-recording the evidence or how ill the witness is at the time of the trial. If the witness is unable to prove their condition has worsened, the witness may be required to attend court and give evidence a second time despite the existence of the pre-recording and the impact giving evidence again may have on the witness's ill health. This issue was raised in *DPP v Black* [2024] ACTSC 1 at [9], [17] by Baker J and then referred to the Attorney-General requesting review of the provisions by the Supreme Court Registrar.

This clause removes the existing requirements that the court be satisfied that the person who prerecorded their evidence is deceased or unable to attend because of illness and replaces it with a requirement that the court must be satisfied that if it is in the interests of the administration of justice to admit the audio or audiovisual recording of the evidence and reasonable notice of the time and place was given that the court can admit the recording of evidence. This clause confers discretion on the court to admit the pre-recorded evidence where it considers it is appropriate to do so, having regard to the circumstances before it at the time.

The amendment sets out examples of what would be considered in the interests of the administration of justice, which references the previous requirements, being that the dangerously ill person is unable to attend the proceeding because of that, or another, illness; or that the dangerously ill person is dead.

Part 9 Magistrates Court Act 1930

Clause 39 Definitions for pt 3.8
Section 117 (1), definition *of responsible director-general*

This clause is a minor and technical amendment to align with current drafting practices.

Clause 40 Additional information in infringement notices
Section 122 (1) (d)

This clause is a minor and technical amendment to align with current drafting practices.

Clause 41 Section 122 (1) (i)

This clause clarifies the information that must be provided to a recipient of an infringement notice. The existing information is unclear about whether a person would receive a reminder notice if they have applied for an infringement notice management plan and the time to pay the infringement notice elapsed while that application was under consideration.

Clause 42 Section 122 (2) (c)

This clause is a minor and technical amendment to align with current drafting practices.

Clause 43 Section 123 heading

This clause is a minor and technical amendment to align with current drafting practices.

Clause 44 New section 123 (ca)

This clause includes a new provision setting out what time limit applies if a person applied for a withdrawal of an infringement notice and the application was refused. This section is currently silent in relation to time limits relating to withdrawal of infringement notices. Some time limits relating to withdrawal of infringement notices are contained in other provisions.

Clause 45 Section 124 heading

This clause is a minor and technical amendment to align with current drafting practices.

Clause 46 Section 124 (1)

This clause clarifies to whom an application should be made.

Clause 47 Extension of time—guidelines
Section 124A (1)

This clause is a minor and technical amendment to align with current drafting practices.

Clause 48 Section 125 heading

This clause is a minor and technical amendment to align with current drafting practices.

Clause 49 Section 125 (1) (a) (ii)

This clause is a minor and technical amendment to align with current drafting practices.

Clause 50 Section 125 (1) (a) (iii)

This clause is a minor and technical amendment to align with current drafting practices.

Clause 51 Section 125 (1) (b) (ii)

This clause is a minor and technical amendment to align with current drafting practices.

Clause 52 Application for withdrawal of infringement notice New section 126 (3) and (4)

This clause establishes the processes following a refusal of an application for withdrawal of an infringement notice.

Clause 53 Withdrawal of infringement notice Section 127 (4) (c)

This clause is a minor and technical amendment consequential on changes at clause 49.

Clause 54 Additional information in reminder notices Section 131 (1) (e)

This clause is a minor and technical amendment to align with current drafting practices.

Clause 55 Section 131 (1) (e) (iv)

This clause is a minor and technical amendment consequential on the changes at clause 53.

Clause 56 Section 131 (1) (j)

This clause clarifies the additional information that must be provided to a recipient of an infringement notice. The existing information is unclear about whether a person would receive a reminder notice if they have applied for an infringement notice management plan.

Clause 57 Section 131 (3), definition of *the required time*

This clause is a minor and technical amendment to align with current drafting practices.

Clause 58 Section 131 (3), definition of *the required time,* paragraph (b)

This clause is a minor and technical amendment to align with current drafting practices.

Clause 59 Section 131 (3), definition of *the required time,* paragraph (c) (ii)

This clause is a minor and technical amendment to correct a drafting error.

Clause 60 Application for infringement notice management plan or addition to plan—decision
Section 131AB (4)

This clause is a minor and technical amendment consequential to the changes at clause 40.

Clause 61 Section 131AC heading

This clause is a minor and technical amendment.

Clause 62 Section 131AC etc

This clause is a minor and technical amendment.

Clause 63 Procedure if liability disputed
Section 134 (4)

This clause is a minor and technical amendment consequential on changes at clause 48.

Clause 64 New division 3.8.4A

This clause inserts new Division 3.8.4A. This division establishes a framework for the notification and review of decisions made under Part 3.8 of the Act.

A regulation will specify which decisions under Part 3.8 of the Act are reviewable. Part 3.8 of the Act already requires decision-makers to provide written reasons for decisions. The Act does not currently provide a clear pathway to the review of decisions made about infringement notice decisions (such as extension to pay, waiver, withdrawal, and to participate in an infringement notice management plan). This new part aligns Part 3.8 of the Act with administrative law norms.

A regulation-based scheme is required due to the broad framework for infringement notices established under Part 3.8 of the Act. Part 3.8 of the Act creates an infringement notice scheme that has a broad application, from minor offences through to more serious corporate regulatory offences. Infringement notice schemes may be created and revoked through regulations, making it a highly adaptive and flexible framework. In order to accommodate this wide range of uses, its flexibility, and its adaptability, using a regulation to specify which decisions under Part 3.8 of the Act are reviewable will allow for greater fine-tuning to avoid unintended consequences that may undermine the purpose of issuing infringement notices.

Clause 65 Section 134A

This clause clarifies the process for appointing authorised persons and clarifies the roles of the administering authority in appointing an authorised person and the role of an authorised person. This clause aligns with similar provisions in the ACT statute and current drafting practices.

Clause 66 Dictionary, note 2

This clause is a minor and technical amendment consequential to the changes at clause 64.

Clause 67 Dictionary, new definitions

This clause inserts definitions of *internally reviewable infringement decision*, *internal reviewer* and *internal review notice* consequential to the changes at clause 64.

Clause 68 Dictionary, definition of *responsible director-general*

This clause is a minor and technical amendment consequential on other changes to this Act.

Clause 69 Dictionary, new definition of *reviewable infringement decision*

This clause inserts a definition of *reviewable infringement decision* consequential to the changes at clause 64.

Part 10 Mental Health Act 2015

Clause 70 Sections 38 and 39

This clause is a minor and technical amendment to correct a drafting error.

Clause 71 Removal order to conduct assessment Section 43 (1) (a)

This clause is a minor and technical amendment to address a drafting error.

Clause 72 Section 43 (1) (b)

This clause is a minor and technical amendment to address a drafting error.

Clause 73 Disclosures to registered affected people Section 134 (2) (d)

This clause inserts the word “order” after the word “decision” in section 134 (2) (d), reflecting that decisions imposing conditions made under section 134 (2) (c) are referred to as orders.

Clause 74 New section 175A

This clause inserts new section 175A which provides that, for the purposes of chapter 10, “***conditional release order***” is defined in section 180 (4).

Clause 75 Review of detention under court order Section 180 (3) (f)

This clause replaces existing section 180 (3) (f) with a new section 180 (3) (f) in order to increase the information that the ACAT must have regard to when reviewing the detention and considering the release of a person. The information previously listed under section 180 (3) (f) is now listed under new section 180 (3) (f) (i). New section 180 (3) (f) (ii) now also requires the ACAT to have regard to any information the chief psychiatrist or director-general has given to the ACAT about the person's compliance with any orders or conditions in relation to treatment, care or support made under the MH Act.

Clause 76 Section 180 (4)

This clause inserts the words "(*a **conditional release order**)*" in section 180 (4), reflecting the new approach of referring to conditions imposed under section 180 as part of an order.

Clause 77 Section 181

This clause repeals and replaces existing section 181 and inserts new section181A.

The changes to section 181 are consequential, reflecting the new approach of referring to conditions imposed under section 180 as part of an order.

Currently, section 181 requires the chief psychiatrist to tell the ACAT of a contravention of a condition imposed by the ACAT as soon as practicable after becoming aware of the contravention of the condition.

New section 181 requires the chief psychiatrist to tell the ACAT of a contravention of a condition of a conditional release order made by the ACAT as soon as practicable after becoming aware of the contravention of a condition of the order.

New section 181A authorises police to apprehend and transport a person subject to a conditional release order back to an approved facility in certain circumstances.

New section 181A (1) provides that section 181A applies where a person subject to a conditional release order that includes a condition that the person reside at a stated approved mental health facility or approved community care facility, and the person is not present at the facility as required under the order.

New section 181A (2) authorises a police officer to apprehend such a person and return the person to the approved facility.

New section 181A (3) requires the facility to notify the ACAT and the chief psychiatrist as soon as practicable after the person is returned to the facility.

Clause 78 Review of conditions of release
Section 182 (1) to (3), except note

This clause substitutes current sections 182 (1) to (3) with new sections 182 (1) and (2), consequential to the insertion of new section 181A at clause 77.

Currently, section 182 (1) requires the ACAT to review a condition imposed under section 180 at least every 6 months, and section 182 (2) requires the ACAT to review each condition under section 180 (4) within 72 hours of receiving notice of contravention under section 181 (2).

Both of these requirements are now set out in section 182 (1), which now refers to the order rather than conditions. Specifically, section 182 (1) (a) now requires the ACAT to review each condition of a conditional release order every 6 months and section 182 (1) (b) requires the ACAT to review each condition of the order within 72 hours of receiving notification of a contravention of the order under section 182 (2). New section 182 (1) (b) (i) to (iii) lists the persons who may provide a notification resulting triggering the requirement to undertake a review within 72 hours of receiving the notice.

New section 182 (2) provides that a review under section 182 (1) (b) may be conducted without a hearing, consistent with current section 182 (3).

Clause 79 Section 182 (4)

This clause is a minor and technical approach to reflect the new approach of referring to conditions as part of a conditional release order.

Clause 80 Notice of hearing
Section 188 (3) (f)

This clause is a minor and technical amendment consequential to the changes at clause 79.

Clause 81 Powers of entry and apprehension
New section 263 (1) (ja)

This clause inserts new section 263 (1) (ja) into the MH Act. This amendment ensures the powers of entry and apprehension that can be exercised under other provisions of the MH Act can be exercised in relation to new section 181A.

Clause 82 Powers of search and seizure
New section 264 (1) (oa)

This clause inserts new section 264 (1) (oa). This amendment ensures the powers of search and seizure that can be exercised under other provisions of the MH Act can be exercised in relation to new section 181A.

Clause 83 Dictionary, new definition of *conditional release order*

This clause inserts a definition of *conditional release order* into the MH Act for the purposes of chapter 10.

Clause 84 New chapter 21

This clause inserts new chapter 21 (Transitional—Crimes Legislation Amendment Act 2025 (No 2)) into the MH Act.

Chapter 21 sets out the transitional provisions for the amendments to the MH Act outlined above. These provisions ensure notice requirements on the chief psychiatrist and conditions imposed on a person under a conditional release order before the commencement of the amendments are subject to the same processes and safeguards that apply to conditional release orders made after the commencement of the amendments.

Part 11 Victims of Crime Act 1994

Clause 85 Section 29A and note

This clause amends the current delegation power of the chief police officer and provides that the chief police officer may delegate a function under the *Victims of Crime Act 1994* to a police officer and a staff member of the Australian Federal Police whose duties include victims of crime liaison.