

EXPOSURE DRAFT

2025-2026

The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

EXPOSURE DRAFT

Combating Antisemitism, Hate and Extremism Bill 2026

No. , 2026

(Attorney-General)

**A Bill for an Act to amend legislation relating to the
criminal law, migration, customs, background
checking, and to create a scheme to buy back
firearms, and for related purposes**

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1 **A Bill for an Act to amend legislation relating to the**
2 **criminal law, migration, customs, background**
3 **checking, and to create a scheme to buy back**
4 **firearms, and for related purposes**

5 The Parliament of Australia enacts:

6 **1 Short title**

7 This Act is the *Combatting Antisemitism, Hate and Extremism Act*
8 2026.

9 **2 Commencement**

10 (1) Each provision of this Act specified in column 1 of the table
11 commences, or is taken to have commenced, in accordance with

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1 column 2 of the table. Any other statement in column 2 has effect
2 according to its terms.
3

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	
2. Schedules 1 to 3	The day after this Act receives the Royal Assent.	
3. Schedule 4, Parts 1 to 6	The day after this Act receives the Royal Assent.	
4. Schedule 4, Part 7	The 28th day after this Act receives the Royal Assent.	
5. Schedule 4, Part 8	The day after the end of the period of 6 months beginning on the day this Act receives the Royal Assent.	
6. Schedule 5	The day after this Act receives the Royal Assent.	

4 Note: This table relates only to the provisions of this Act as originally
5 enacted. It will not be amended to deal with any later amendments of
6 this Act.

7 (2) Any information in column 3 of the table is not part of this Act.
8 Information may be inserted in this column, or information in it
9 may be edited, in any published version of this Act.

10 3 Schedules

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12 repealed as set out in the applicable items in the Schedule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

15 Note: The provisions of a legislative instrument amended or inserted by this
16 Act, and any other provisions of that instrument, may be amended or
17 repealed by a person who is currently authorised under the enabling

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- 2

legislation for the instrument to make instruments of the same kind (see subsection 13(5) of the *Legislation Act 2003*).

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Schedule 1 Amendments of legislation relating to the criminal law

Part 1 Aggravated offences for preachers and leaders

Schedule 1—Amendments of legislation relating to the criminal law

Part 1—Aggravated offences for preachers and leaders

Criminal Code Act 1995

1 Subsection 80.2BA(1) of the *Criminal Code* (penalty and note)

Repeal the penalty and note, substitute:

Note 1: For intention, see section 5.2.

Note 2: A person might commit an aggravated offence if the person is a religious official or spiritual leader etc. (see section 80.2DA).

Penalty: Imprisonment for 10 years.

2 Subsection 80.2BA(2) of the *Criminal Code* (penalty and note)

Repeal the penalty and note, substitute:

Note 1: For intention, see section 5.2.

Note 2: A person might commit an aggravated offence if the person is a religious official or spiritual leader etc. (see section 80.2DA).

Penalty: Imprisonment for 7 years.

3 Subsection 80.2BB(1) of the *Criminal Code* (penalty and note)

Repeal the penalty and note, substitute:

Note 1: For intention, see section 5.2.

Note 2: A person might commit an aggravated offence if the person is a religious official or spiritual leader etc. (see section 80.2DA).

Penalty: Imprisonment for 10 years.

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Amendments of legislation relating to the criminal law **Schedule 1**
Aggravated offences for preachers and leaders **Part 1**

1 **4 Subsection 80.2BB(2) of the *Criminal Code* (penalty and**
2 **note)**

3 Repeal the penalty and note, substitute:

4 Note 1: For intention, see section 5.2.

5 Note 2: A person might commit an aggravated offence if the person is a
6 religious official or spiritual leader etc. (see section 80.2DA).

7 Penalty: Imprisonment for 7 years.

8 **5 Subsection 80.2BD(1) of the *Criminal Code* (penalty and**
9 **note)**

10 Repeal the penalty and note, substitute:

11 Note 1: For intention, see section 5.2.

12 Note 2: A person might commit an aggravated offence if the person is a
13 religious official or spiritual leader etc. (see section 80.2DA).

14 Penalty: Imprisonment for 10 years.

15 **6 Subsection 80.2BD(2) of the *Criminal Code* (penalty and**
16 **note)**

17 Repeal the penalty and note, substitute:

18 Note 1: For intention, see section 5.2.

19 Note 2: A person might commit an aggravated offence if the person is a
20 religious official or spiritual leader etc. (see section 80.2DA).

21 Penalty: Imprisonment for 7 years.

22 **7 At the end of Subdivision C of Division 80 of the *Criminal***
23 ***Code***

24 Add:

25 **80.2DA Aggravated offence for religious officials or other spiritual**
26 **leaders etc.**

27 (1) A person commits an offence if:

28 (a) the person commits an offence against subsection 80.2A(1),
29 80.2B(1), 80.2BA(1), 80.2BB(1), 80.2BC(1), 80.2BD(1) or
30 80.2BE(1) (the *underlying offence*); and

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Schedule 1 Amendments of legislation relating to the criminal law

Part 1 Aggravated offences for preachers and leaders

- 1 (b) the conduct is engaged in by the person in the person's
2 capacity as:
3 (i) a religious official; or
4 (ii) a spiritual leader or other leader (however described) of
5 a group, who provides religious instruction or pastoral
6 care (whether religious or secular).

7 Penalty: Imprisonment for 12 years.

- 8 (2) A person commits an offence if:
9 (a) the person commits an offence against subsection 80.2A(2),
10 80.2B(2), 80.2BA(2), 80.2BB(2), 80.2BC(2), 80.2BD(2) or
11 80.2BE(2) (the *underlying offence*); and
12 (b) the conduct is engaged in by the person in the person's
13 capacity as:
14 (i) a religious official; or
15 (ii) a spiritual leader or other leader (however described) of
16 a group, who provides religious instruction or pastoral
17 care (whether religious or secular).

18 Penalty: Imprisonment for 10 years.

- 19 (3) There is no fault element for the physical element of conduct
20 described in paragraph (1)(a) or (2)(a) other than the fault elements
21 (however described), if any, for the underlying offence.
22 (4) To avoid doubt:
23 (a) a person does not commit an underlying offence for the
24 purposes of paragraph (1)(a) or (2)(a) if the person has a
25 defence to the underlying offence; and
26 (b) a person may be convicted of an offence against
27 subsection (1) or (2) even if the person has not been
28 convicted of the underlying offence.

29 *Double jeopardy for an aggravated offence*

- 30 (5) To avoid doubt, if a person has been acquitted or convicted of an
31 underlying offence the person cannot be convicted of the
32 corresponding aggravated offence for the same conduct.

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Amendments of legislation relating to the criminal law **Schedule 1**
Increased penalty for using a postal or similar service to menace, harass or cause
offence **Part 2**

1 **Part 2—Increased penalty for using a postal or**
2 **similar service to menace, harass or cause**
3 **offence**

4 ***Criminal Code Act 1995***

5 **8 Section 471.12 of the *Criminal Code* (penalty)**

6 Repeal the penalty, substitute:

7 Penalty: Imprisonment for 5 years.

8 **9 Application**

9 The amendments of the *Criminal Code* made by this Part apply in
10 relation to conduct engaged in after the commencement of this Part.

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Schedule 1 Amendments of legislation relating to the criminal law

Part 3 Aggravated sentencing factor

Part 3—Aggravated sentencing factor

Crimes Act 1914

10 After paragraph 16A(2)(ma)

Insert:

(mb) if:

- (i) the person's conduct constituting the offence was motivated, whether wholly or in part, by hatred of another person (the *target person*) or a group of persons (the *target group*); and
- (ii) that hatred was because of the person's belief that the target person or persons in the target group are distinguished by race, or national or ethnic origin; that fact as a reason for aggravating the seriousness of the criminal behaviour to which the offence relates;

11 After subsection 16A(2AA)

Insert:

(2AAB) Paragraph (2)(mb) does not apply in relation to an offence against section 80.2A, 80.2B, 80.2BA, 80.2BB, 80.2BC, 80.2BD, 80.2BE, 80.2BF, 80.2DA or 80.2DB of the *Criminal Code*.

(2AAC) Without limiting subparagraph (2)(mb)(i), a person's conduct constituting the offence is motivated by hatred if, at the time of the conduct, or immediately before or immediately after the conduct, the person demonstrated, or expressed, hostility, malice or ill-will in respect of the race, or national or ethnic origin, of the target person or the persons in the target group.

(2AAD) For the purposes of paragraph (2)(mb), it is immaterial whether the target person, or members of the target group, actually are distinguished by the particular race, or national or ethnic origin.

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Amendments of legislation relating to the criminal law **Schedule 1**
Prohibited hate groups **Part 4**

Part 4—Prohibited hate groups

Division 1—Main amendments

Criminal Code Act 1995

12 After paragraph 5(2)(fa)

Insert:

(fb) Part 5.3B (prohibited hate groups);

13 After Part 5.3A of the *Criminal Code*

Insert:

Part 5.3B—Prohibited hate groups

Division 114A—Preliminary

114A.1 Objects

The objects of this Part are to:

- (a) protect the Australian community against social, economic, psychological and physical harm by prohibiting organisations that engage in, prepare or plan to engage in, or assist the engagement in, or advocate engaging in, conduct constituting a hate crime; and
- (b) to give effect to Australia's obligations under the following:
 - (i) Articles 20 and 26 of the International Covenant on Civil and Political Rights, done at New York on 16 December 1966, as amended and in force for Australia from time to time;
 - (ii) Articles 4(a) and (b) of the International Convention on the Elimination of all Forms of Racial Discrimination, done at New York on 21 December 1965, as amended and in force for Australia from time to time.

Note: The Covenant and Convention could in 2026 be viewed in the Australian Treaties Library on the AustLII website (<https://www.austlii.edu.au>).

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Schedule 1 Amendments of legislation relating to the criminal law

Part 4 Prohibited hate groups

114A.2 Definitions

(1) In this Part:

advocate has the meaning given by subsection (2).

AFP Minister means the Minister administering the *Australian Federal Police Act 1979*.

funds means:

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

hate crime has the meaning given by section 114A.3.

member of an organisation includes:

- (a) a person who is an informal member of the organisation; and
- (b) a person who has taken steps to become a member of the organisation; and
- (c) in the case of an organisation that is a body corporate—a director or an officer of the body corporate.

organisation means a body corporate or an unincorporated body, whether or not the body:

- (a) is based outside Australia; or
- (b) consists of persons who are not Australian citizens; or
- (c) is part of a larger organisation.

prohibited hate group means an organisation that is specified by the regulations for the purposes of this definition (see sections 114A.4 to 114A.8).

prohibited hate group regulation means a regulation specifying an organisation for the purposes of the definition of *prohibited hate group* in this section.

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Amendments of legislation relating to the criminal law **Schedule 1**
Prohibited hate groups **Part 4**

1 *recruit* includes induce, incite and encourage.

2 *Definition of advocates*

- 3 (2) In this Part, an organisation *advocates* engaging in conduct
4 constituting a hate crime if:
- 5 (a) the organisation counsels, promotes, encourages or urges the
6 engagement in conduct constituting a hate crime; or
 - 7 (b) the organisation provides instruction on how to engage in
8 conduct constituting a hate crime; or
 - 9 (c) the organisation praises the engagement in:
 - 10 (i) conduct constituting a hate crime; or
 - 11 (ii) conduct that would constitute a hate crime if engaged in
12 in Australia;
- 13 in circumstances where there is an unacceptable risk that
14 such praise might have the effect of leading a person
15 (regardless of the person's age or any mental impairment that
16 the person might suffer) to engage in conduct constituting a
17 hate crime.

18 **114A.3 Definition of hate crime**

- 19 (1) A *hate crime* is conduct that would constitute any of the following
20 offences:
- 21 (a) an offence under Subdivision C of Division 80 (urging or
22 threatening violence and offences against groups or members
23 of groups), other than section 80.2, 80.2C or 80.2D, to the
24 extent that the targeted group (within the meaning of the
25 offence) is distinguished by race or national or ethnic origin;
 - 26 (b) an offence under section 80.2H or 80.2HA (publicly
27 displaying prohibited symbols and giving Nazi salute).
- 28 (2) A *hate crime* is also conduct that:
- 29 (a) was engaged in at a time before a provision referred to in
30 subsection (1) commenced; and
 - 31 (b) would constitute an offence against the provision had the
32 provision been in force at that time.
- 33 (3) A *hate crime* is also conduct, or threat of conduct, (whether
34 engaged in or threatened before or after this section commences):

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Schedule 1 Amendments of legislation relating to the criminal law

Part 4 Prohibited hate groups

- 1 (a) that involves, or would involve, any one or more of the
2 following:
3 (i) causing serious harm to a person (the *targeted person*);
4 (ii) causing serious damage to property (the *targeted*
5 *property*);
6 (iii) causing a person's (the *targeted person*) death;
7 (iv) endangering a person's (the *targeted person*) life, other
8 than the life of the person taking the action;
9 (v) creating a serious risk to the health or safety of a section
10 of the public (the *targeted persons*); and
11 (b) that the person engaged in because of the person's belief that:
12 (i) the targeted person or persons are distinguished by race
13 or national or ethnic origin; or
14 (ii) the targeted property is associated with a person or
15 persons distinguished by race or national or ethnic
16 origin.
- 17 (4) For the purposes of paragraph (3)(b), it is immaterial whether:
18 (a) the targeted person or persons actually were distinguished by
19 race or national or ethnic origin; or
20 (b) the targeted property actually was associated with a person or
21 persons distinguished by race or national or ethnic origin.

22 114A.4 Regulations specifying prohibited hate groups

- 23 (1) Before the Governor-General makes a prohibited hate group
24 regulation specifying an organisation, the AFP Minister must be
25 satisfied on reasonable grounds that:
26 (a) the organisation:
27 (i) has engaged in, prepared or planned to engage in, or
28 assisted the engagement in, conduct constituting a hate
29 crime; or
30 (ii) has advocated (whether or not in Australia) engaging in
31 conduct constituting a hate crime, other than an offence
32 against section 80.2A, 80.2B, 80.2BC or 80.2BE
33 (advocacy offences); and
34 (b) specifying the organisation as a prohibited hate group is
35 reasonably necessary to prevent harm of any one or more of
36 the kinds referred to in paragraph 114A.1(a).
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Amendments of legislation relating to the criminal law **Schedule 1**
Prohibited hate groups **Part 4**

Note: Certain steps must be taken before a prohibited hate group regulation can be made (see sections 114A.5 and 114A.6).

Conduct constituting a hate crime may have occurred before commencement

(2) In subsection (1):

- (a) a reference to conduct constituting a hate crime includes a reference to conduct constituting a hate crime that occurred before subsection (1) commences; and
- (b) a reference to having engaged in, prepared or planned to engage in, or assisted the engagement in, or having advocated engaging in, conduct constituting a hate crime includes a reference to having engaged in, prepared or planned to engage in, or assisted the engagement in, or having advocated engaging in, conduct constituting a hate crime before subsection (1) commences.

References to engaging in conduct constituting a hate crime

(3) In this section, a reference to engaging in conduct constituting a hate crime includes:

- (a) a reference to engaging in conduct constituting a hate crime, even if a hate crime does not occur; and
- (b) a reference to engaging in conduct constituting a specific hate crime; and
- (c) a reference to engaging in conduct constituting more than one hate crime.

Conviction not required

(4) A person does not need to have been convicted of a hate crime in order for the AFP Minister to be satisfied an organisation has engaged in conduct of a kind mentioned in paragraph (1)(a).

No procedural fairness required

(5) The AFP Minister is not required to observe any requirements of procedural fairness in deciding whether or not the AFP Minister is satisfied for the purposes of this section.

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Schedule 1 Amendments of legislation relating to the criminal law

Part 4 Prohibited hate groups

114A.5 Director-General of Security advice to be provided before specifying an organisation as a prohibited hate group

Director-General may provide advice to AFP Minister

- (1) The Director-General may provide written advice to the AFP Minister recommending that the AFP Minister consider whether an organisation should be specified as a prohibited hate group. However, the Director-General may provide the advice only if the Director-General is satisfied of one or more of the following:
- (a) both of the following apply:
 - (i) the organisation has engaged in activities;
 - (ii) the Director-General is satisfied that the activities, or the continued engagement in the activities, would or are likely to increase the risk of politically motivated violence, or of the promotion of communal violence;
 - (b) the organisation has:
 - (i) advocated for or engaged in politically motivated violence, or engaged in the promotion of communal violence; or
 - (ii) engaged in activities that indicate a risk that the organisation may advocate for or engage in politically motivated violence, or engage in the promotion of communal violence, in the future.

Receipt of advice from Director-General of Security

- (2) The AFP Minister may consider recommending that the Governor-General makes a prohibited hate group regulation specifying the organisation only if the AFP Minister has received advice from the Director-General of Security in accordance with subsection (1).

AFP Minister may take account of other information

- (3) To avoid doubt, the AFP Minister may take into account information in addition to the written advice in determining whether an organisation should be specified as a prohibited hate group.

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Amendments of legislation relating to the criminal law **Schedule 1**
Prohibited hate groups **Part 4**

Function taken to be function of Organisation

- (4) The function of the Director-General under this section is, for the purposes of the *Australian Security Intelligence Organisation Act 1979*, taken to be a function of the Organisation.

No procedural fairness required

- (5) The Director-General is not required to observe any requirements of procedural fairness in providing advice under this section.

Definitions

- (6) In this section:

politically motivated violence has the meaning given by section 4 of the *Australian Security Intelligence Organisation Act 1979*.

promotion of communal violence has the meaning given by section 4 of the *Australian Security Intelligence Organisation Act 1979*.

114A.6 Engaging with the Attorney-General and Leader of the Opposition

Before the Governor-General makes a prohibited hate group regulation specifying an organisation, the AFP Minister must:

- (a) obtain the Attorney-General's agreement in writing to the organisation being specified for the purposes of that definition; and
- (b) arrange for the Leader of the Opposition in the House of Representatives to be briefed in relation to the proposed regulation.

114A.7 Including or removing names of prohibited hate groups

- (1) This section applies if the AFP Minister is satisfied on reasonable grounds that:
- (a) an organisation is specified by a prohibited hate group regulation; and
 - (b) the organisation:

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Schedule 1 Amendments of legislation relating to the criminal law

Part 4 Prohibited hate groups

- 1 (i) is referred to by another name (the *alias*), in addition to,
2 or instead of, a name used to specify the organisation in
3 the regulations; or
4 (ii) no longer uses a name (the *former name*) used in the
5 regulations to specify the organisation.
- 6 (2) The AFP Minister may, by legislative instrument, amend the
7 regulations to do either or both of the following:
8 (a) include the alias in the regulations if the AFP Minister is
9 satisfied as referred to in subparagraph (1)(b)(i);
10 (b) remove the former name from the regulations if the AFP
11 Minister is satisfied as referred to in subparagraph (1)(b)(ii).
- 12 (3) Amendment of regulations under subsection (2) does not prevent
13 the further amendment or repeal of the regulations by regulations
14 made under section 5 of this Act for the purposes of the definition
15 of *prohibited hate group* in subsection 114A.2(1).
- 16 (4) The AFP Minister may not, by legislative instrument made under
17 this section, amend the regulations to remove entirely an
18 organisation that has been prescribed.
- 19 (5) To avoid doubt, this section does not affect the power under
20 section 5 of this Act to make a prohibited hate group regulation.

21 114A.8 De-listing a prohibited hate group

- 22 (1) If:
23 (a) an organisation is specified by a prohibited hate group
24 regulation; and
25 (b) the AFP Minister ceases to be satisfied that it is reasonably
26 necessary for the organisation to be so specified to prevent
27 harm of any of the kinds referred to in paragraph 114A.1(a);
28 the AFP Minister must, by notifiable instrument, make a
29 declaration to the effect that the AFP Minister has ceased to be so
30 satisfied.
- 31 (2) Before the AFP Minister makes a declaration under subsection (1),
32 the AFP Minister must:
33 (a) have regard to the matters referred to in
34 subsection 114A.4(1); and

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Amendments of legislation relating to the criminal law **Schedule 1**
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- 1 (b) consult the Attorney-General in relation to the making of the
2 declaration.

3 *Declaration to specify a day*

- 4 (3) The declaration must specify the day on which the AFP Minister
5 ceased to be satisfied as mentioned in paragraph (1)(b).
6 (4) The regulations, to the extent to which they specify the
7 organisation, are taken to cease to have effect on the day specified
8 in the declaration under subsection (3), even if that day occurred
9 before the day on which the declaration is made.

10 *Delisted organisation may be relisted later*

- 11 (5) To avoid doubt, subsections (1) to (4) do not prevent the
12 organisation from being subsequently specified by a prohibited
13 hate group regulation if the AFP Minister becomes satisfied as
14 mentioned in subsection 114A.4(1).

15 **114A.9 Reviews by Parliamentary Joint Committee on Intelligence** 16 **and Security**

- 17 (1) This section applies in relation to the following legislative
18 instruments:
19 (a) a prohibited hate group regulation;
20 (b) an instrument made under section 114A.7 (including or
21 removing names of prohibited hate groups).
22 (2) The Parliamentary Joint Committee on Intelligence and Security
23 may:
24 (a) review the legislative instrument at any time; and
25 (b) report the Committee's comments and recommendations to
26 each House of the Parliament.

27 *Review of disallowable legislative instrument—extension of*
28 *disallowance period*

- 29 (3) If the Committee's report on a review of a disallowable legislative
30 instrument is tabled in a House of the Parliament under
31 subsection (2):

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- 1 (a) during the applicable disallowance period for that House; and
2 (b) on or after the eighth sitting day of the applicable
3 disallowance period;
4 then Part 2 of Chapter 3 of the *Legislation Act 2003* has effect, in
5 relation to that disallowable legislative instrument and that House,
6 as if each period of 15 sitting days referred to in that Part were
7 extended in accordance with the table:
8

Extension of applicable disallowance period		
Item	If the Committee's report is tabled in that House ...	extend the period of 15 sitting days by ...
1	on the fifteenth sitting day of the applicable disallowance period	8 sitting days of that House
2	on the fourteenth sitting day of the applicable disallowance period	7 sitting days of that House
3	on the thirteenth sitting day of the applicable disallowance period	6 sitting days of that House
4	on the twelfth sitting day of the applicable disallowance period	5 sitting days of that House
5	on the eleventh sitting day of the applicable disallowance period	4 sitting days of that House
6	on the tenth sitting day of the applicable disallowance period	3 sitting days of that House
7	on the ninth sitting day of the applicable disallowance period	2 sitting days of that House
8	on the eighth sitting day of the applicable disallowance period	1 sitting day of that House

- 9 *Applicable disallowance period*
- 10 (4) The ***applicable disallowance period*** for a House of the Parliament
11 means the period of 15 sitting days of that House after the
12 disallowable legislative instrument, or a copy of the disallowable
13 legislative instrument, was laid before that House in accordance
14 with section 38 of the *Legislation Act 2003*.

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Division 114B—Offences

114B.1 Directing the activities of a prohibited hate group

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

Note: For defences, see section 114B.7.

Penalty: Imprisonment for 15 years.

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

Note: For defences, see section 114B.7.

Penalty: Imprisonment for 10 years.

114B.2 Membership of a prohibited hate group

- (1) A person commits an offence if:
- (a) the person intentionally is a member of an organisation; and
 - (b) the organisation is a prohibited hate group; and
 - (c) the person knows the organisation is a prohibited hate group.

Penalty: Imprisonment for 7 years.

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

Note 1: A defendant bears a legal burden in relation to the matter in subsection (2) (see section 13.4).

Note 2: For other defences, see section 114B.7.

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114B.3 Recruiting for a prohibited hate group

(1) A person commits an offence if:

- (a) the person intentionally recruits a person to join, or participate in the activities of, an organisation; and
- (b) the organisation is a prohibited hate group; and
- (c) the first-mentioned person knows the organisation is a prohibited hate group.

Note: For defences, see section 114B.7.

Penalty: Imprisonment for 15 years.

(2) A person commits an offence if:

- (a) the person intentionally recruits a person to join, or participate in the activities of, an organisation; and
- (b) the organisation is a prohibited hate group; and
- (c) the first-mentioned person is reckless as to whether the organisation is a prohibited hate group.

Note: For defences, see section 114B.7.

Penalty: Imprisonment for 10 years.

114B.4 Training involving a prohibited hate group

(1) A person commits an offence if:

- (a) the person does any of the following:
 - (i) intentionally provides training to an organisation intending the training to assist the organisation to engage in conduct described in paragraph 114A.4(1)(a);
 - (ii) intentionally provides training to an organisation intending the training to assist the organisation to expand or to continue to exist;
 - (iii) intentionally receives training from an organisation;
 - (iv) intentionally participates in training with an organisation; and
- (b) the organisation is a prohibited hate group.

Penalty: Imprisonment for 15 years.

(2) Subject to subsection (3), strict liability applies to paragraph (1)(b).

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(3) Subsection (1) does not apply unless the person is reckless as to the circumstance mentioned in paragraph (1)(b).

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

Note 2: For other defences, see section 114B.7.

114B.5 Getting funds to, from or for a prohibited hate group

(1) A person commits an offence if:

(a) the person intentionally:

(i) receives funds from, or makes funds available to, an organisation (whether directly or indirectly) intending the receipt or provision of the funds to assist the organisation to engage in conduct described in paragraph 114A.4(1)(a); or

(ii) receives funds from, or makes funds available to, an organisation (whether directly or indirectly) intending the receipt or provision of the funds to assist the organisation to expand or to continue to exist; or

(iii) collects funds for, or on behalf of, an organisation (whether directly or indirectly); and

(b) the organisation is a prohibited hate group; and

(c) the person knows the organisation is a prohibited hate group.

Penalty: Imprisonment for 15 years.

(2) A person commits an offence if:

(a) the person intentionally:

(i) receives funds from, or makes funds available to, an organisation (whether directly or indirectly) intending the receipt or provision of the funds to assist the organisation to engage in conduct described in paragraph 114A.4(1)(a); or

(ii) receives funds from, or makes funds available to, an organisation (whether directly or indirectly) intending the receipt or provision of the funds to assist the organisation to expand or to continue to exist; or

(iii) collects funds for, or on behalf of, an organisation (whether directly or indirectly); and

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- 1 (b) the organisation is a prohibited hate group; and
2 (c) the person is reckless as to whether the organisation is a
3 prohibited hate group.
- 4 Penalty: Imprisonment for 10 years.
- 5 (3) Subsections (1) and (2) do not apply to the person's receipt of
6 funds from the organisation if the person proves that the person
7 received the funds solely for the purpose of the provision of:
8 (a) legal representation for a person in proceedings relating to
9 this Part; or
10 (b) legal advice or legal representation in connection with the
11 question of whether the organisation is a prohibited hate
12 group; or
13 (c) assistance to the organisation for it to comply with a law of
14 the Commonwealth or a State or Territory.
- 15 Note 1: A defendant bears a legal burden in relation to the matter in
16 subsection (3) (see section 13.4).
- 17 Note 2: For other defences, see section 114B.7.

114B.6 Providing support to a prohibited hate group

- 19 (1) A person commits an offence if:
20 (a) the person intentionally provides to an organisation support
21 or resources intending the support or resources to assist:
22 (i) the organisation to engage in conduct described in
23 paragraph 114A.4(1)(a); or
24 (ii) the organisation to expand or to continue to exist; and
25 (b) the organisation is a prohibited hate group; and
26 (c) the person knows the organisation is a prohibited hate group.
- 27 Note: For defences, see section 114B.7.
- 28 Penalty: Imprisonment for 15 years.
- 29 (2) A person commits an offence if:
30 (a) the person intentionally provides to an organisation support
31 or resources intending the support or resources to assist:
32 (i) the organisation to engage in conduct described in
33 paragraph 114A.4(1)(a); or

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- (ii) the organisation to expand or to continue to exist; and
(b) the organisation is a prohibited hate group; and
(c) the person is reckless as to whether the organisation is a prohibited hate group.

Note: For defences, see section 114B.7.

Penalty: Imprisonment for 10 years.

114B.7 General defences

It is not an offence against this Division to do either of the following:

- (a) do a thing in accordance with an arrangement or agreement to which the Commonwealth is a party;
(b) perform an official duty or function for the Commonwealth, a State or a Territory.

Note: A defendant bears an evidential burden in relation to the matters in this section (see subsection 13.3(3)).

Division 114C—General provisions relating to offences

114C.1 Extended geographical jurisdiction for offences

Section 15.2 (extended geographical jurisdiction—category B) applies to an offence against this Part.

114C.2 Alternative verdicts

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

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Part 4 Prohibited hate groups

Division 2—Consequential amendments

Australian Citizenship Act 2007

14 Section 3 (paragraph (cb) of the definition of *national security offence*)

After “(terrorism)”, insert “, or 5.3B (prohibited hate groups),”.

Australian Security Intelligence Organisation Act 1979

15 After paragraph 35(2)(c)

Insert:

(ca) providing advice to the AFP Minister under section 114A.5 of the *Criminal Code* (specifying an organisation as a prohibited hate group);

Criminal Code Act 1995

16 After paragraph 5(2)(fa)

Insert:

(fb) Part 5.3B (prohibited hate groups);

Legislation (Exemptions and Other Matters) Regulation 2015

17 Section 12 (after table item 18D)

Insert:

18E A regulation made solely for the purposes of the definition of *prohibited hate group* in subsection 114A.2(1) of the *Criminal Code*

Surveillance Devices Act 2004

18 Subparagraphs 30(1)(a)(viii) and (1A)(a)(iv)

After “113,”, insert “114B,”.

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Prohibited hate groups **Part 4**

- 1 ***Telecommunications (Interception and Access) Act 1979***
- 2 **19 Subsection 5D(1) (after paragraph (vd) of the definition of**
- 3 ***serious offence*)**
- 4 Insert:
- 5 (ve) Division 114B of the *Criminal Code* (prohibited hate
- 6 groups); or

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Schedule 1 Amendments of legislation relating to the criminal law

Part 5 Racial vilification offence

Part 5—Racial vilification offence

Criminal Code Act 1995

20 Paragraph 80.2BE(1)(d) of the *Criminal Code*

After “religion”, insert “, or national”.

21 Paragraph 80.2BE(2)(d) of the *Criminal Code*

After “religion”, insert “, or national”.

22 After section 80.2BE of the *Criminal Code*

Insert:

80.2BF Publicly promoting or inciting racial hatred etc.

(1) A person commits an offence if:

(a) the person engages in conduct in a public place; and

(b) the person engages in the conduct intending to:

(i) promote or incite hatred of another person (the *target*), or a group of persons (the *target group*), because of the race, colour or national or ethnic origin of the target or target group; or

(ii) disseminate ideas of superiority over or hatred of another person (the *target*), or a group of persons (the *target group*), because of the race, colour or national or ethnic origin of the target or target group; and

(c) the conduct would, in all the circumstances, cause a reasonable person who is the target, or a member of the target group, to be intimidated, to fear harassment or violence, or to fear for their safety.

Example: Inciting antisemitic hatred against Jews in a public place where a reasonable member of the Jewish community would be intimidated or fear violence.

Penalty: Imprisonment for 5 years.

(2) Strict liability applies to paragraph (1)(c).

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Amendments of legislation relating to the criminal law **Schedule 1**
Racial vilification offence **Part 5**

- (3) For the purposes of subsection (1), it is immaterial whether:
- (a) the target, or members of the target group, actually are distinguished by the particular race, colour or national or ethnic origin; or
 - (b) the conduct actually results in hatred of another person or group of persons; or
 - (c) the conduct actually results in any person feeling intimidated, fearing harassment or violence, or fearing for their safety.

Defence—religious teaching or discussion

- (4) Subsection (1) does not apply to conduct that consists only of directly quoting from, or otherwise referencing, a religious text for the purpose of religious teaching or discussion.

Note: A defendant bears an evidential burden in relation to the matters in subsection (4). See subsection 13.3(3).

Review of this section

- (5) After the end of the 2-year period beginning on the day this section commences, the Minister must cause a review to be conducted of this section.

Report

- (6) The Minister must cause copies of any report of the review that is given to the Minister to be tabled in each House of the Parliament within 15 sitting days of that House after the Minister receives the report.

Definitions

- (7) In this section:

engages in conduct in a public place: without limiting when a person engages in conduct in a public place, a person ***engages in conduct in a public place*** if the person:

- (a) communicates to the public using any form of communication (including speaking, writing, displaying notices, graffiti, playing of recorded material, broadcasting

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Part 5 Racial vilification offence

- 1 and communicating through social media and other
2 electronic methods); and
3 (b) engages in any conduct (including actions and gestures and
4 the wearing or display of clothing, signs, flags, emblems and
5 insignia) that is observable by the public; and
6 (c) distributes or disseminates any matter to the public.
7 To avoid doubt, a person may *engage in conduct in a public place*
8 even if the conduct occurs on private land.
9 Note: *Public place* is defined in the Dictionary.
10 *fear* includes apprehension.
11 (8) For the purposes of this section, the expressions *race*, *colour* and
12 *national or ethnic origin* have the same meanings as in the *Racial*
13 *Discrimination Act 1975*.

23 After paragraph 80.3(2)(b) of the *Criminal Code*

14 Insert:

- 15 (c) with the intention of promoting or inciting hatred of another
16 person or a group of persons, because of the race, colour or
17 national or ethnic origin of the other person or group; or
18 (d) with the intention of disseminating ideas of superiority over
19 or hatred of another person, or a group of persons, because of
20 the race, colour or national or ethnic origin of the other
21 person or group; or
22

24 After paragraph 80.4(2)(ce) of the *Criminal Code*

23 Insert:

- 24 (cf) subsection 80.2BF(1); or
25

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Amendments of legislation relating to the criminal law **Schedule 1**
Aggravated grooming offences **Part 6**

Part 6—Aggravated grooming offences

Criminal Code Act 1995

25 Subsection 80.2A(1) of the *Criminal Code* (penalty and note)

Repeal the penalty and note, substitute:

Note 1: For intention, see section 5.2. For recklessness, see section 5.4.

Note 2: A person might commit an aggravated offence if the person is a religious official or other spiritual leader etc. (see section 80.2DA) or the recipient of the advocacy is less than 18 years old (see section 80.2DB).

Penalty: Imprisonment for 10 years.

26 Subsection 80.2A(2) of the *Criminal Code* (penalty and note)

Repeal the penalty and note, substitute:

Note 1: For intention, see section 5.2. For recklessness, see section 5.4.

Note 2: A person might commit an aggravated offence if the person is a religious official or other spiritual leader etc. (see section 80.2DA) or the recipient of the advocacy is less than 18 years old (see section 80.2DB).

Penalty: Imprisonment for 7 years.

27 Subsection 80.2B(1) of the *Criminal Code* (penalty and note)

Repeal the penalty and note, substitute:

Note 1: For intention, see section 5.2. For recklessness, see section 5.4.

Note 2: A person might commit an aggravated offence if the person is a religious official or other spiritual leader etc. (see section 80.2DA) or the recipient of the advocacy is less than 18 years old (see section 80.2DB).

Penalty: Imprisonment for 10 years.

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Schedule 1 Amendments of legislation relating to the criminal law

Part 6 Aggravated grooming offences

1 **28 Subsection 80.2B(2) of the *Criminal Code* (penalty and**
2 **note)**

3 Repeal the penalty and note, substitute:

4 Note 1: For intention, see section 5.2. For recklessness, see section 5.4.

5 Note 2: A person might commit an aggravated offence if the person is a
6 religious official or other spiritual leader etc. (see section 80.2DA) or
7 the recipient of the advocacy is less than 18 years old (see
8 section 80.2DB).

9 Penalty: Imprisonment for 7 years.

10 **29 Subsection 80.2BC(1) of the *Criminal Code* (penalty and**
11 **note)**

12 Repeal the penalty and note, substitute:

13 Note 1: For intention, see section 5.2. For recklessness, see section 5.4.

14 Note 2: A person might commit an aggravated offence if the person is a
15 religious official or other spiritual leader etc. (see section 80.2DA) or
16 the recipient of the advocacy is less than 18 years old (see
17 section 80.2DB).

18 Penalty: Imprisonment for 10 years.

19 **30 Subsection 80.2BC(2) of the *Criminal Code* (penalty and**
20 **note)**

21 Repeal the penalty and note, substitute:

22 Note 1: For intention, see section 5.2. For recklessness, see section 5.4.

23 Note 2: A person might commit an aggravated offence if the person is a
24 religious official or other spiritual leader etc. (see section 80.2DA) or
25 the recipient of the advocacy is less than 18 years old (see
26 section 80.2DB).

27 Penalty: Imprisonment for 7 years.

28 **31 Subsection 80.2BE(1) of the *Criminal Code* (penalty and**
29 **note)**

30 Repeal the penalty and note, substitute:

31 Note 1: For intention, see section 5.2. For recklessness, see section 5.4.

32 Note 2: A person might commit an aggravated offence if the person is a
33 religious official or other spiritual leader etc. (see section 80.2DA) or

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1 the recipient of the advocacy is less than 18 years old (see
2 section 80.2DB).

3 Penalty: Imprisonment for 10 years.

4 **32 Subsection 80.2BE(2) of the *Criminal Code* (penalty and** 5 **note)**

6 Repeal the penalty and note, substitute:

7 Note 1: For intention, see section 5.2. For recklessness, see section 5.4.

8 Note 2: A person might commit an aggravated offence if the person is a
9 religious official or other spiritual leader etc. (see section 80.2DA) or
10 the recipient of the advocacy is less than 18 years old (see
11 section 80.2DB).

12 Penalty: Imprisonment for 7 years.

13 **33 At the end of Subdivision C of Division 80 of the *Criminal*** 14 ***Code***

15 Add:

16 **80.2DB Aggravated offence—advocating violence or property** 17 **damage etc. to a child**

18 (1) A person (the *offender*) commits an offence if:

- 19 (a) the offender commits an offence against subsection 80.2A(1),
20 80.2B(1), 80.2BC(1) or 80.2BE(1) (the *underlying offence*)
21 by advocating for one or more other persons to use force or
22 violence, or cause damage; and
23 (b) at the time of the conduct, the offender is at least 18 years
24 old; and
25 (c) the offender is reckless as to whether, at the time of the
26 conduct, at least one of the other persons is less than 18 years
27 old (whether or not one of those other persons actually is less
28 than 18 years old).

29 Penalty: Imprisonment for 12 years.

30 (2) A person (the *offender*) commits an offence if:

- 31 (a) the offender commits an offence against subsection 80.2A(2),
32 80.2B(2), 80.2BC(2) or 80.2BE(2) (the *underlying offence*)

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Part 6 Aggravated grooming offences

- 1 by advocating for one or more other persons to use force or
2 violence, or cause damage; and
3 (b) at the time of the conduct, the offender is at least 18 years
4 old; and
5 (c) the offender is reckless as to whether, at the time of the
6 conduct, at least one of the other persons is less than 18 years
7 old (whether or not one of those other persons actually is less
8 than 18 years old).

9 Penalty: Imprisonment for 10 years.

- 10 (3) There is no fault element for the physical element in
11 paragraph (1)(a) or (2)(a) other than the fault elements (however
12 described), if any, for the underlying offence.
13 (4) Absolute liability applies to paragraphs (1)(b) and (2)(b).
14 (5) To avoid doubt:
15 (a) a person does not commit an underlying offence for the
16 purposes of paragraph (1)(a) or (2)(a) if the person has a
17 defence to the offence; and
18 (b) a person may be convicted of an offence against
19 subsection (1) or (2) even if the person has not been
20 convicted of the underlying offence.

21 *Double jeopardy for aggravated offences*

- 22 (6) To avoid doubt, if a person has been acquitted or convicted of an
23 underlying offence, the person cannot be convicted of an offence
24 against subsection (1) for the same conduct.

25 **34 After subsection 474.45B(1) (before the penalty)**

26 Insert:

27 Note: A person might commit an aggravated offence if an individual to
28 whom such material is provided, or from whom such material is
29 solicited, is less than 18 years old (see section 474.45BA).

30 **35 After section 474.45B of the *Criminal Code***

31 Insert:

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Aggravated grooming offences **Part 6**

474.45BA Aggravated offence for using a carriage service for violent extremist material

- (1) A person commits an offence if:
- (a) the person commits an offence against subsection 474.45B(1) (the *underlying offence*); and
 - (b) the person is at least 18 years old; and
 - (c) the conduct constituting the offence involved either:
 - (i) transmitting, making available, publishing or distributing, advertising or promoting material or electronic link to an individual or individuals; or
 - (ii) soliciting material or an electronic link from an individual or individuals; and
 - (d) the person is reckless as to whether, at the time of the conduct, at least one of the individuals is less than 18 years old (whether or not one of those individuals actually is less than 18 years old).

Penalty: Imprisonment for 7 years.

- (2) There is no fault element for the physical element of conduct described in paragraph (1)(a) other than the fault elements (however described), if any, for the underlying offence.
- (3) Absolute liability applies to paragraph (1)(b).
- (4) To avoid doubt:
- (a) a person does not commit an underlying offence for the purposes of paragraph (1)(a) if the person has a defence to the underlying offence; and
 - (b) a person may be convicted of an offence against subsection (1) even if the person has not been convicted of the underlying offence.

Double jeopardy for an aggravated offence

- (5) To avoid doubt, if a person has been acquitted or convicted of an underlying offence the person cannot be convicted of the corresponding aggravated offence for the same conduct.

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Schedule 1 Amendments of legislation relating to the criminal law

Part 7 Hate symbols

Part 7—Hate symbols

Division 1—Reversing the burden of proof for public interest elements of prohibited symbols offences

Criminal Code Act 1995

36 Paragraph 80.2H(1)(c) of the *Criminal Code*

Omit “applies; and”, substitute “applies.”.

37 Paragraph 80.2H(1)(d) of the *Criminal Code*

Repeal the paragraph.

38 Subsection 80.2H(1) (note) of the *Criminal Code*

Omit “subsection (10)”, substitute “subsections (9) and (10)”.

39 Subsection 80.2H(2) of the *Criminal Code*

Omit “paragraphs (1)(c) and (d)”, substitute “paragraph (1)(c)”.

40 Subsection 80.2H(9) of the *Criminal Code*

Repeal the subsection, substitute:

Defences—religious, academic, educational, artistic, literary, scientific or journalistic purpose

(9) Subsection (1) does not apply to a person if a reasonable person would consider that:

(a) the conduct mentioned in paragraph (1)(a) is engaged in for a purpose that is:

(i) a religious, academic, educational, artistic, literary or scientific purpose; and

(ii) not contrary to the public interest; or

(b) the conduct mentioned in paragraph (1)(a) is engaged in for the purposes of making a news report, or a current affairs report, that:

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- (i) is in the public interest; and
- (ii) is made by a person working in a professional journalistic capacity.

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

41 Subsection 80.2H(10) (heading) of the *Criminal Code*

Repeal the heading, substitute:

Defences—public duties etc. or opposing ideology

42 Paragraph 80.2HA(1)(c) of the *Criminal Code*

Omit “applies; and”, substitute “applies.”.

43 Paragraph 80.2HA(1)(d) of the *Criminal Code*

Repeal the paragraph.

44 Subsection 80.2HA(1) (note) of the *Criminal Code*

Omit “subsection (10)”, substitute “subsections (9) and (10)”.

45 Subsection 80.2HA(2) of the *Criminal Code*

Omit “paragraphs (1)(c) and (d)”, substitute “paragraph (1)(c)”.

46 Subsection 80.2HA(9) of the *Criminal Code*

Repeal the subsection, substitute:

Defences—religious, academic, educational, artistic, literary, scientific or journalistic purpose

- (9) Subsection (1) does not apply to a person if a reasonable person would consider that:
 - (a) the conduct mentioned in paragraph (1)(a) is engaged in for a purpose that is:
 - (i) a religious, academic, educational, artistic, literary or scientific purpose; and
 - (ii) not contrary to the public interest; or

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- 1 (b) the conduct mentioned in paragraph (1)(a) is engaged in for
2 the purposes of making a news report, or a current affairs
3 report, that:
4 (i) is in the public interest; and
5 (ii) is made by a person working in a professional
6 journalistic capacity.
7 Note: A defendant bears an evidential burden in relation to the matters in
8 this subsection (see subsection 13.3(3)).

9 **47 Subsection 80.2HA(10) (heading) of the *Criminal Code***

10 Repeal the heading, substitute:

11 *Defences—public duties etc. or opposing group ideology*

12 **Division 2—Lowering the fault element for prohibited**
13 **terrorist organisation symbols offences**

14 ***Criminal Code Act 1995***

15 **48 Paragraph 80.2HA(1)(b) of the *Criminal Code***

16 Omit “the person knows that”.

17 **49 Paragraph 80.2JA(1)(c) of the *Criminal Code***

18 Omit “the person knows that”.

19 **Division 3—Expanding definition of prohibited**
20 **organisation symbol**

21 ***Criminal Code Act 1995***

22 **50 Paragraph 80.2E(1)(b) of the *Criminal Code***

23 Omit “terrorist”.

24 **51 Subsection 80.2E(3) of the *Criminal Code***

25 Omit “*terrorist*” (first occurring).

EXPOSURE DRAFT

Amendments of legislation relating to the criminal law **Schedule 1**
Hate symbols **Part 7**

1 **52 Paragraph 80.2E(3)(a) of the *Criminal Code***

2 Repeal the paragraph, substitute:

- 3 (a) a symbol that an organisation that is a terrorist organisation
4 or prohibited hate group, or a member of such an
5 organisation, uses to identify the organisation or any part of
6 the organisation;

7 **53 At the end of section 80.2E of the *Criminal Code***

8 Add:

9 *Definitions*

10 (5) In this section:

11 *member:*

- 12 (a) in relation to a terrorist organisation—has the meaning given
13 by Division 102; and
14 (b) in relation to a prohibited hate group—has the meaning given
15 by Division 114A.

16 *prohibited hate group* has the meaning given by Division 114A.

17 *terrorist organisation* has the meaning given by Division 102.

18 **54 Section 80.2HA (heading) of the *Criminal Code***

19 Omit “terrorist”.

20 **55 Paragraph 80.2HA(1)(b) of the *Criminal Code***

21 Omit “terrorist”.

22 **56 Section 80.2HA(10)(f) of the *Criminal Code***

23 Omit “or of a state sponsor of terrorism”, substitute “, of a state sponsor
24 of terrorism, or of a prohibited hate group (within the meaning of
25 Division 114A)”.

26 **57 Section 80.2JA (heading) of the *Criminal Code***

27 Omit “terrorist”.

EXPOSURE DRAFT

Schedule 1 Amendments of legislation relating to the criminal law

Part 7 Hate symbols

1 **58 Paragraphs 80.2JA(1)(c), (5)(b) and (c), (6)(b) and (c), and**
2 **80.2M(3)(d) of the *Criminal Code***

3 Omit “terrorist”.

4 **59 Dictionary of the *Criminal Code***

5 Insert:

6 *prohibited organisation symbol* has the meaning given by
7 subsection 80.2E(3).

8 **60 Dictionary (definition of *prohibited terrorist organisation***
9 ***symbol*) of the *Criminal Code***

10 Repeal the definition.

11 **Division 4—Amending the reasonable person test**

12 ***Criminal Code Act 1995***

13 **61 Subsections 80.2H(3) and (4) of the *Criminal Code***

14 Repeal the subsections, substitute:

- 15 (3) For the purposes of paragraph (1)(c), this subsection applies if a
16 reasonable person who is a member of a group of persons
17 distinguished by race (a *targeted group*) would consider that the
18 conduct mentioned in paragraph (1)(a):
- 19 (a) involves dissemination of ideas of superiority over or hatred
20 of a person who is a member of the targeted group, or the
21 members of the targeted group, because of the race, colour or
22 national or ethnic origin of the targeted group; or
 - 23 (b) could incite another person or a group of persons to offend,
24 insult, humiliate or intimidate:
- 25 (i) a person who is a member of the targeted group; or
 - 26 (ii) the members of the targeted group.

27 Note: The object of this subsection is to give further effect to Article 4 of the
28 International Convention on the Elimination of All Forms of Racial
29 Discrimination, done at New York on 21 December 1965. The
30 Convention is in Australian Treaty Series 1975 No. 40 ([1975] ATS
31 40) and could in 2026 be viewed in the Australian Treaties Library on
32 the AustLII website (<https://www.austlii.edu.au>).

EXPOSURE DRAFT

Amendments of legislation relating to the criminal law **Schedule 1**
Hate symbols **Part 7**

(4) For the purposes of paragraph (1)(c), this subsection applies if a reasonable person who is a member of a group of persons distinguished by race, religion or nationality (a ***targeted group***) would consider that the conduct mentioned in paragraph (1)(a) involves advocacy that:

(a) is advocacy of hatred of:

(i) the targeted group; or

(ii) a member of the targeted group; and

(b) constitutes incitement of another person or group of persons to offend, insult, humiliate, intimidate or use force or violence against:

(i) the targeted group; or

(ii) a member of the targeted group.

Note: The object of this subsection is to give further effect to Article 20 of the Covenant.

62 Paragraph 80.2H(7)(b) of the *Criminal Code*

After “national”, insert “, ethnic”.

63 Subsections 80.2HA(3) and (4) of the *Criminal Code*

Repeal the subsections, substitute:

(3) For the purposes of paragraph (1)(c), this subsection applies if a reasonable person who is a member of a group of persons distinguished by race (a ***targeted group***) would consider that the conduct mentioned in paragraph (1)(a):

(a) involves dissemination of ideas of superiority over or hatred of a person who is a member of the targeted group, or the members of the targeted group, because of the race, colour or national or ethnic origin of the targeted group; or; or

(b) could incite another person or a group of persons to offend, insult, humiliate or intimidate:

(i) a person who is a member of the targeted group; or

(ii) the members of the targeted group.

Note: The object of this subsection is to give further effect to Article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination, done at New York on 21 December 1965. The Convention is in Australian Treaty Series 1975 No. 40 ([1975] ATS

EXPOSURE DRAFT

Schedule 1 Amendments of legislation relating to the criminal law

Part 7 Hate symbols

1 40) and could in 2026 be viewed in the Australian Treaties Library on
2 the AustLII website (<https://www.austlii.edu.au>).

- 3 (4) For the purposes of paragraph (1)(c), this subsection applies if a
4 reasonable person who is a member of a group of persons
5 distinguished by race, religion or nationality (a *targeted group*)
6 would consider that the conduct mentioned in paragraph (1)(a)
7 involves advocacy that:
8 (a) is advocacy of hatred of:
9 (i) the targeted group; or
10 (ii) a member of the targeted group; and
11 (b) constitutes incitement of another person or group of persons
12 to offend, insult, humiliate, intimidate or use force or
13 violence against:
14 (i) the targeted group; or
15 (ii) a member of the targeted group.

16 Note: The object of this subsection is to give further effect to Article 20 of
17 the Covenant.

18 **64 Paragraph 80.2HA(7)(b) of the *Criminal Code***

19 After “national”, insert “, ethnic”.

20 **65 Paragraph 80.2K(6)(b) of the *Criminal Code***

21 After “national”, insert “, ethnic”.

22 **Division 5—Directions power**

23 *Criminal Code Act 1995*

24 **66 Paragraph 80.2K(1)(a) of the *Criminal Code***

25 Omit “other than by”, substitute “including by”.

26 **Division 6—Seizing things displaying prohibited symbols**

27 *Criminal Code Act 1995*

28 **67 At the end of subsection 80.2K(1)**

29 Add:

EXPOSURE DRAFT

Amendments of legislation relating to the criminal law **Schedule 1**
Hate symbols **Part 7**

Note: The police officer may, under section 80.2N, also seize a thing that is, depicts or contains the prohibited symbol.

68 After section 80.2M of the *Criminal Code*

Insert:

80.2N Seizing things displaying prohibited symbols in public

- (1) A police officer may seize a thing in accordance with this section if the thing is, depicts or contains a prohibited symbol that is displayed in a public place.

Seizing the thing

- (2) A police officer may seize the thing, for the purpose of preventing the commission or continuation of an offence under subsection 80.2H or 80.2HA, if the police officer has a reasonable suspicion covered by subsection 80.2K(2), (3) or (6) in relation to display of the prohibited symbol.

Note 1: Sections 80.2H and 80.2HA relate to the public display of prohibited Nazi symbols and prohibited organisation symbols.

Note 2: The police officer may also give a direction under section 80.2K in relation to the display of the prohibited symbol.

- (3) In seizing the thing, the police officer:
- (a) may use such force or assistance as the police officer considers reasonably necessary; and
 - (b) may seize the thing only when it actually is in a public place; and
 - (c) must not damage the thing unless it is reasonably necessary for the seizure.

Return of seized things

- (4) The person from whom the thing was seized, or the owner of the thing, may apply:
- (a) if the thing was seized by a police officer to whom paragraph (a) or (b) of the definition of *police officer* in subsection (7) applies—to such a police officer; or
 - (b) if the thing was seized by a member (however described) of the police force of a State or Territory—to a police officer

EXPOSURE DRAFT

Schedule 1 Amendments of legislation relating to the criminal law

Part 7 Hate symbols

- 1 who is a member (however described) of the police force of
2 that State or Territory;
3 for the return of the thing.
- 4 (5) On application by a person in accordance with subsection (4), the
5 police officer must return the thing to the person, unless the officer
6 is satisfied that:
- 7 (a) the thing must be retained to prevent the commission or
8 continuation of an offence under section 80.2H or 80.2HA;
9 or
10 (b) retention of the thing is necessary for evidentiary purposes.
- 11 (6) If no application for the return of the thing is made within 90 days
12 of the day the thing was seized, a police officer who has custody of
13 the thing may destroy or otherwise dispose of the thing.
- 14 (7) In this section:
- 15 ***police officer*** means:
- 16 (a) a member of the Australian Federal Police (within the
17 meaning of the *Australian Federal Police Act 1979*); or
18 (b) a special member of the Australian Federal Police (within the
19 meaning of that Act); or
20 (c) a member (however described) of a police force of a State or
21 Territory.

EXPOSURE DRAFT

EXPOSURE DRAFT

Migration amendments **Schedule 2**
Amendment of the Migration Act 1958 **Part 1**

Schedule 2—Migration amendments

Part 1—Amendment of the Migration Act 1958

Migration Act 1958

1 Subsection 5(1)

Insert:

association: a person has an association, for the purposes of subsections 5C(1A), 500A(1A) and 501(6A), with an organisation if the person meets or communicates with the organisation.

Note: The association may consist of a single meeting or communication.

hate crime has the same meaning as in section 114A.3 of the *Criminal Code*.

member:

- (a) in relation to a terrorist organisation—has the same meaning as in Division 102 of the *Criminal Code*; and
- (b) in relation to a state sponsor of terrorism—has the same meaning as in Division 110 of the *Criminal Code*; and
- (c) in relation to a prohibited hate group—has the same meaning as in Division 114A of the *Criminal Code*.

prohibited hate group has the same meaning as in Division 114A of the *Criminal Code*.

state sponsor of terrorism has the same meaning as in Division 110 of the *Criminal Code*.

terrorist organisation has the same meaning as in Division 102 of the *Criminal Code*.

2 After paragraph 5C(1)(bb)

Insert:

- (bba) the Minister reasonably suspects that subsection (1A) applies to the non-citizen (spreading hatred and extremism); or

EXPOSURE DRAFT

Schedule 2 Migration amendments

Part 1 Amendment of the Migration Act 1958

3 Paragraph 5C(1)(d)

Omit “would”, substitute “might”.

4 After subsection 5C(1)

Insert:

Spreading hatred and extremism

(1A) This subsection applies to a non-citizen if:

(a) both of the following apply:

(i) the non-citizen is, or has been, a member of an organisation;

(ii) at any time the non-citizen was a member of the organisation, the organisation was a terrorist organisation, a state sponsor of terrorism or a prohibited hate group; or

(b) all of the following apply:

(i) the non-citizen has, or has had, an association with an organisation;

(ii) at any time during the non-citizen’s association, the organisation was a terrorist organisation, a state sponsor of terrorism or a prohibited hate group;

(iii) the association provides or provided support to the organisation in relation to the purposes of the organisation; or

(c) the non-citizen has been or is involved in conduct constituting a hate crime (whether or not the non-citizen, or another person, has been convicted of an offence constituted by the conduct); or

(d) both of the following apply:

(i) the non-citizen has made one or more public statements, or has endorsed a statement publicly, (whether in Australia or overseas, and including online statements) that involves the dissemination of ideas based on superiority over or hatred of other persons on the basis of race, colour, or national or ethnic origin;

(ii) in the event the non-citizen were allowed to enter or to remain in Australia, there is a risk of harm to the

EXPOSURE DRAFT

- 1 Australian community or to a segment of that
2 community; or
3 (e) both of the following apply:
4 (i) the non-citizen has encouraged one or more other
5 persons to make a statement publicly (whether in
6 Australia or overseas, and including an online
7 statement) that involves the dissemination of ideas
8 based on superiority over or hatred of other persons on
9 the basis of race, colour, or national or ethnic origin;
10 (ii) in the event the non-citizen were allowed to enter or to
11 remain in Australia, there is a risk of harm to the
12 Australian community or to a segment of that
13 community.

14 Note 1: Antisemitic statements are an example of statements that involve
15 harmful ideas based on superiority over or hatred of other persons on
16 the basis of ethnic origin, as mentioned in subparagraphs (d)(i) and
17 (e)(i).

18 Note 2: See also subsection 5(1) for definitions of terms used in this
19 subsection.

20 *Limbs do not limit each other*

21 (1B) None of the limbs of subsection (1) or (1A) are intended to limit or
22 otherwise affect each other.

23 *Minister not required to determine whether membership or*
24 *association is ongoing*

25 (1C) The Minister is not required to determine whether a person's
26 membership of or association with an organisation is continuing or
27 has concluded when making a decision for the purposes of
28 paragraph (1A)(a) or (b).

29 **5 After paragraph 500A(1)(a)**

30 Insert:
31 (aa) subsection (1A) applies to the person (spreading hatred and
32 extremism); or

33 **6 Paragraph 500A(1)(c)**

34 Omit "would", substitute "might".

EXPOSURE DRAFT

Schedule 2 Migration amendments

Part 1 Amendment of the Migration Act 1958

7 After subsection 500A(1)

Insert:

Spreading hatred and extremism

(1A) This subsection applies to a person if:

(a) both of the following apply:

(i) the person is, or has been, a member of an organisation;

(ii) at any time the person was a member of the organisation, the organisation was a terrorist organisation, a state sponsor of terrorism or a prohibited hate group; or

(b) all of the following apply:

(i) the person has, or has had, an association with an organisation;

(ii) at any time during the person's association, the organisation was a terrorist organisation, a state sponsor of terrorism or a prohibited hate group;

(iii) the association provides or provided support to the organisation in relation to the purposes of the organisation; or

(c) the person has been or is involved in conduct constituting a hate crime (whether or not the person, or another person, has been convicted of an offence constituted by the conduct); or

(d) both of the following apply:

(i) the person has made one or more public statements, or has endorsed a statement publicly, (whether in Australia or overseas, and including online statements) that involves the dissemination of ideas based on superiority over or hatred of other persons on the basis of race, colour, or national or ethnic origin;

(ii) in the event the person were allowed to enter or to remain in Australia, there is a risk of harm to the Australian community or to a segment of that community; or

(e) both of the following apply:

(i) the person has encouraged one or more other persons to make a statement publicly (whether in Australia or

EXPOSURE DRAFT

Migration amendments **Schedule 2**
Amendment of the Migration Act 1958 **Part 1**

1 overseas, and including an online statement) that
2 involves the dissemination of ideas based on superiority
3 over or hatred of other persons on the basis of race,
4 colour, or national or ethnic origin;
5 (ii) in the event the person were allowed to enter or to
6 remain in Australia, there is a risk of harm to the
7 Australian community or to a segment of that
8 community.

9 Note 1: Antisemitic statements are an example of statements that involve
10 harmful ideas based on superiority over or hatred of other persons on
11 the basis of ethnic origin, as mentioned in subparagraphs (d)(i) and
12 (e)(i).

13 Note 2: See also subsection 5(1) for definitions of terms used in this
14 subsection.

15 *Limbs do not limit each other*

16 (1B) None of the limbs of the grounds for refusal or cancellation of a
17 temporary safe haven visa are intended to limit or otherwise affect
18 each other.

19 *Minister not required to determine whether membership or*
20 *association is ongoing*

21 (1C) The Minister is not required to determine whether a person's
22 membership of or association with an organisation is continuing or
23 has concluded when making a decision for the purposes of
24 paragraph (1A)(a) or (b).

25 **8 After paragraph 501(6)(b)**

26 Insert:

27 (baa) subsection (6A) applies to the person (spreading hatred and
28 extremism); or

29 **9 Paragraph 501(6)(d)**

30 Omit "would", substitute "might".

31 **10 After subsection 501(6)**

32 Insert:

EXPOSURE DRAFT

Schedule 2 Migration amendments

Part 1 Amendment of the Migration Act 1958

Spreading hatred and extremism

(6A) This subsection applies to a person if:

(a) both of the following apply:

- (i) the person is, or has been, a member of an organisation;
- (ii) at any time the person was a member of the organisation, the organisation was a terrorist organisation, a state sponsor of terrorism or a prohibited hate group; or

(b) all of the following apply:

- (i) the person has, or has had, an association with an organisation;
- (ii) at any time during the person's association, the organisation was a terrorist organisation, a state sponsor of terrorism or a prohibited hate group;
- (iii) the association provides or provided support to the organisation in relation to the purposes of the organisation; or

(c) the person has been or is involved in conduct constituting a hate crime (whether or not the person, or another person, has been convicted of an offence constituted by the conduct); or

(d) both of the following apply:

- (i) the person has made one or more public statements, or has endorsed a statement publicly, (whether in Australia or overseas, and including online statements) that involves the dissemination of ideas based on superiority over or hatred of other persons on the basis of race, colour, or national or ethnic origin;
- (ii) in the event the person were allowed to enter or to remain in Australia, there is a risk of harm to the Australian community or to a segment of that community; or

(e) both of the following apply:

- (i) the person has encouraged one or more other persons to make a statement publicly (whether in Australia or overseas, and including an online statement) that involves the dissemination of ideas based on superiority over or hatred of other persons on the basis of race, colour, or national or ethnic origin;

EXPOSURE DRAFT

Migration amendments **Schedule 2**
Amendment of the Migration Act 1958 **Part 1**

(ii) in the event the person were allowed to enter or to remain in Australia, there is a risk of harm to the Australian community or to a segment of that community.

Note 1: Antisemitic statements are an example of statements that involve harmful ideas based on superiority over or hatred of other persons on the basis of ethnic origin, as mentioned in subparagraphs (d)(i) and (e)(i).

Note 2: See subsections (11A) and (11B) for other rules relating to this subsection. See also subsection 5(1) for definitions of terms used in this subsection.

11 After subsection 501(11)

Insert:

Limbs of character test do not limit each other

(11A) None of the limbs of the character test are intended to limit or otherwise affect each other.

Note: In addition, the power to cancel a visa because a person fails the character test is not limited by other powers in this Act to cancel the visa (see section 118).

Minister not required to determine whether membership or association is ongoing

(11B) The Minister is not required to determine whether a person's membership of or association with an organisation is continuing or has concluded when making a decision for the purposes of paragraph (6A)(a) or (b).

12 Application provision

(1) The amendments of section 5C of the *Migration Act 1958*, made by this Part, apply, for the purposes of subsection 336E(2) of that Act, in relation to any disclosure of information that is made on or after commencement of this Part (whether the information was collected before, on or after that commencement).

(2) The amendments of sections 500A and 501 of the *Migration Act 1958*, made by this Part, apply in relation to any decision:
(a) to grant or refuse to grant a visa if:

EXPOSURE DRAFT

Schedule 2 Migration amendments
Part 1 Amendment of the Migration Act 1958

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- (i) the application for the visa was made before the commencement of this Part, and had not been finally determined as at that commencement; or
- (ii) the application for the visa is made on or after that commencement; and
- (b) a decision made on or after that commencement to cancel a visa, whether the visa was granted before, on or after that commencement.
- (3) A decision covered by subitem (2) may take into account any conduct occurring before, on or after that commencement.

EXPOSURE DRAFT

Migration amendments **Schedule 2**
Amendment of the Migration Regulations 1994 **Part 2**

Part 2—Amendment of the Migration Regulations 1994

Migration Regulations 1994

13 After paragraph 5001(c) of Schedule 5

Insert:

(ca) a person who left Australia, and whose visa has been refused under section 501, 501A or 501B of the Act, if:

(i) the refusal has not been revoked under subsection 501C(4) of the Act; or

(ii) after refusing the visa, the Minister has not, acting personally, granted a permanent visa to the person; whether or not the person was in Australia when the visa was refused; or

14 In the appropriate location in Schedule 13

Insert:

Part 157—Amendments made by the Combatting Antisemitism, Hate and Extremism Act 2026

15701 Operation of amendments

The amendments of these Regulations made by Part 2 of Schedule 2 to the *Combatting Antisemitism, Hate and Extremism Act 2026* apply in relation to an application for a visa:

(a) made on or after the commencement of that Part; and

(b) made, but not finally determined, before that commencement.

EXPOSURE DRAFT

Schedule 3 Customs amendments

Part 1 Prohibited material

Schedule 3—Customs amendments

Part 1—Prohibited material

Division 1—Amendments

Customs (Prohibited Exports) Regulations 1958

1 After subregulation 3(2AA)

Insert:

(2AB) Without limiting subregulation (2), this regulation also applies to goods that:

- (a) are violent extremist material (within the meaning of the *Criminal Code*); or
- (b) are or depict prohibited symbols (within the meaning of the *Criminal Code*); or
- (c) contain goods mentioned in paragraph (a) or (b).

2 At the end of subsection 3(4)

Add:

; or (c) the goods are being exported for the purpose of engaging in conduct covered by subparagraph 80.2H(9)(a)(i) or (b)(ii), or paragraph 80.2H(10)(a) to (e), of the *Criminal Code*.

Customs (Prohibited Imports) Regulations 1956

3 After subregulation 4A(1AA)

Insert:

(1AB) Without limiting subregulation (1A), this regulation also applies to goods that:

- (a) are violent extremist material (within the meaning of the *Criminal Code*); or
- (b) are or depict prohibited symbols (within the meaning of the *Criminal Code*); or
- (c) contain goods mentioned in paragraph (a) or (b).

EXPOSURE DRAFT

Customs amendments **Schedule 3**
Prohibited material **Part 1**

1 **4 At the end of subsection 4A(2)**

2 Add:

3 ; or (c) the goods are being imported for the purpose of engaging in
4 conduct covered by subparagraph 80.2H(9)(a)(i) or (b)(ii), or
5 paragraph 80.2H(10)(a) to (e), of the *Criminal Code*.

6 ***Customs Regulation 2015***

7 **5 Section 4 (definition of *commercial quantity of*
8 *objectionable goods*)**

9 Repeal the definition.

10 **6 Subclause 1(1) of Schedule 7 (table items 22 and 23)**

11 Repeal the table items, substitute:

12
22 A good that:

(a) is an objectionable good; but

(b) is not an item of child abuse material

13 **7 Subclause 1(2) of Schedule 7 (definition of *commercial*
14 *quantity of objectionable goods*)**

15 Repeal the definition.

16 **Division 2—Application and transitional provisions**

17 ***Customs (Prohibited Exports) Regulations 1958***

18 **8 In the appropriate position in Part 5**

19 Insert:

20 **27 Transitional matters—amendments made by Part 1 of Schedule 3
21 to the *Combatting Antisemitism, Hate and Extremism Act*
22 *2026***

23 The amendments of these Regulations made by Part 1 of
24 Schedule 3 to the *Combatting Antisemitism, Hate and Extremism*

EXPOSURE DRAFT

Schedule 3 Customs amendments
Part 1 Prohibited material

1 *Act 2026* apply in relation to goods exported from Australia on or
2 after the commencement of that Part.

3 ***Customs (Prohibited Imports) Regulations 1956***

4 **9 In the appropriate position before Schedule 1**

5 Insert:

6 **23 Transitional matters—amendments made by the *Combatting***
7 ***Antisemitism, Hate and Extremism Act 2026***

8 (1) The amendments of these Regulations made by Part 1 of
9 Schedule 3 to the *Combatting Antisemitism, Hate and Extremism*
10 *Act 2026* apply in relation to goods imported into Australia on or
11 after the commencement of that Part.

12 ***Customs Regulation 2015***

13 **10 In the appropriate position in Part 18**

14 Insert:

15 **167 Amendments made by Part 1 of Schedule 3 to the *Combatting***
16 ***Antisemitism, Hate and Extremism Act 2026***

17 The amendments of these Regulations made by Part 1 of
18 Schedule 3 to the *Combatting Antisemitism, Hate and Extremism*
19 *Act 2026* apply in relation to:

- 20 (a) goods imported into Australia on or after the commencement
21 of that Part; or
22 (b) goods exported from Australia on or after the commencement
23 of that Part.

EXPOSURE DRAFT

Customs amendments **Schedule 3**
Powers relating to instruments **Part 2**

1 **Part 2—Powers relating to instruments**

2 *Customs Act 1901*

3 **11 At the end of section 4A**

4 Add:

5 (2) Neither of the following is a legislative instrument:

6 (a) a form or statement approved as mentioned in this section;

7 (b) an instrument approving a form or statement as mentioned in
8 this section.

9 **12 After subsection 50(3A)**

10 Insert:

11 (3B) Regulations made for the purposes of this section may confer on
12 the Minister the power to make provision in relation to a matter by
13 legislative instrument.

14 **13 After subsection 112(2AA)**

15 Insert:

16 (2AB) Regulations made for the purposes of this section may confer on
17 the Minister the power to make provision in relation to a matter by
18 legislative instrument.

EXPOSURE DRAFT

Schedule 4 Firearms amendments

Part 1 National gun buyback

Schedule 4—Firearms amendments

Part 1—National gun buyback

Division 1—National gun buyback

1 Object of Part

The object of this Part is to provide for the Government of the Commonwealth, as the national Government of Australia, to implement a national gun buyback scheme in response to the antisemitic terrorist attack at Bondi Beach on 14 December 2025.

2 Definitions

(1) In this Part:

AFP Minister means the Minister administering the *Australian Federal Police Act 1979*.

buyback period, for a State, means:

- (a) the period beginning on 1 January 2026 and ending on 31 December 2027, unless paragraph (b) applies; or
- (b) if a different period is determined by the AFP Minister under subitem (2) for that State—that period.

national firearms program means:

- (a) the commitments made or affirmed, or other measures agreed, by National Cabinet, on 15 December 2025, relating to firearms licencing, reducing the number of firearms in the community or any other matter connected with firearms; and
- (b) any other measures determined by the AFP Minister under subitem (3).

qualifying compensation has the meaning given by item 3.

State includes the Australian Capital Territory and the Northern Territory.

(2) For the purposes of paragraph (b) of the definition of **buyback period** in subitem (1), the AFP Minister may, by notifiable instrument, determine a period for a State, on the recommendation of the Minister of that State who is responsible for police matters.

EXPOSURE DRAFT

Firearms amendments **Schedule 4**
National gun buyback **Part 1**

- 1 (3) For the purposes of paragraph (b) of the definition of ***national firearms***
2 ***program*** in subitem (1), the AFP Minister may, by notifiable
3 instrument, determine measures if the AFP Minister is satisfied those
4 measures are in relation to firearms.

5 **3 Qualifying compensation paid by a State**

- 6 (1) Compensation paid by a State is ***qualifying compensation*** to the extent
7 that the compensation is paid during the buyback period for the State
8 under a compensation scheme:
9 (a) set up by the State to support the national firearms program;
10 and
11 (b) approved by the AFP Minister under subitem (2).
- 12 (2) For the purposes of paragraph (1)(b), the AFP Minister may, by
13 notifiable instrument, approve a compensation scheme set up by a State
14 to support the national firearms program.

15 **4 Determination under *Federal Financial Relations Act 2009***

- 16 (1) The Minister administering the *Federal Financial Relations Act 2009*
17 must make a determination under subsection 16(1) of that Act in
18 relation to a State in respect of reimbursement of some of the qualifying
19 compensation paid by the State.
- 20 (2) Subitem (1) does not limit the application of section 16 of the *Federal*
21 *Financial Relations Act 2009* in connection with the implementation of
22 the national firearms program.

23 **5 Other financial assistance and payments**

- 24 (1) The AFP Minister may authorise payments by the Commonwealth in
25 connection with activities relating to the implementation of the national
26 firearms program.
- 27 (2) Subitem (1) does not apply in relation to a payment to a State.
- 28 ***Overall limit on payments under this item***
- 29 (3) The total amount that may be authorised by the AFP Minister under this
30 item must not be more than the amount determined in an instrument
31 under subitem (4).

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Schedule 4 Firearms amendments

Part 1 National gun buyback

1 *AFP Minister's instrument*

- 2 (4) Before authorising any payment under this item, the AFP Minister
3 must, by notifiable instrument, determine an amount for the purposes of
4 subitem (3).

5 *Implied nationhood power*

- 6 (5) Subitem (1) relies on the legislative power that the Parliament has under
7 the Constitution with respect to matters that are peculiarly adapted to
8 the government of a nation and cannot otherwise be carried on for the
9 benefit of the nation.

10 Note: See also item 1 (about the object of this Part).

11 *Defence power*

- 12 (6) In addition to subitem (5), subitem (1) also has the effect it would have
13 if a reference to activities were expressly confined to activities
14 undertaken for purposes relating to the defence of the Commonwealth
15 and of the several States within the meaning of paragraph 51(vi) of the
16 Constitution.

17 *Corporations power*

- 18 (7) In addition to subitem (5), subitem (1) also has the effect it would have
19 if a reference to activities were expressly confined to activities
20 undertaken by or on behalf of a corporation to which paragraph 51(xx)
21 of the Constitution applies.

22 *Territories power*

- 23 (8) In addition to subitem (5), subitem (1) also has the effect it would have
24 if a reference to activities were expressly confined to activities
25 undertaken in a Territory.

26 *Commonwealth places power*

- 27 (9) In addition to subitem (5), subitem (1) also has the effect it would have
28 if a reference to activities were expressly confined to activities
29 undertaken in a place that is referred to in paragraph 52(i) of the
30 Constitution.

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Firearms amendments **Schedule 4**
National gun buyback **Part 1**

1 *Appropriation*

2 (10) The Consolidated Revenue Fund is appropriated for payments under
3 this item.

4 **Division 2—Consequential amendments**

5 *Income Tax Assessment Act 1997*

6 **6 Subsection 995-1(1) (definition of *firearms surrender* 7 *arrangements*)**

8 Repeal the definition, substitute:

9 *firearms surrender arrangements* means:

- 10 (a) an *Australian law; or
11 (b) administrative arrangements of a State or Territory;
12 implementing:
13 (c) the agreement arising from the meeting of the Police
14 Ministers held on 10 May 1996 concerning the surrender of
15 prohibited firearms; or
16 (d) the national firearms program (within the meaning of item 2
17 of Schedule 4 to the *Combatting Antisemitism, Hate and*
18 *Extremism Act 2026*).

19 **7 Application provision**

20 The amendments made by this Division apply in respect of years of
21 income in which proceeds are derived as a result of firearms surrender
22 arrangements.

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Schedule 4 Firearms amendments

Part 2 Firearms background checks

Part 2—Firearms background checks

Division 1—AusCheck amendments

AusCheck Act 2007

8 Subsection 4(1)

Insert:

CEO of ACIC means the Chief Executive Officer of the Australian Criminal Intelligence Organisation established by the *Australian Crime Commission Act 2002*.

firearms background check means a background check conducted under regulations made for the purposes of paragraph 8(1)(f).

firearms licensing authority has the meaning given by regulations made for the purposes of this definition.

law enforcement agency means an authority of the Commonwealth, or an authority of a State or Territory, that has functions relating to law enforcement.

national security agency means:

- (a) the Australian Security Intelligence Organisation; or
- (b) the Australian Criminal Intelligence Commission established by the *Australian Crime Commission Act 2002*; or
- (c) any other agency of the Commonwealth prescribed by the regulations.

9 Paragraph 5(ba)

After “8(1)(a)”, insert “or (f)”.

10 At the end of subsection 8(1)

Add:

; or (f) the check is of an individual in connection with any of the following:

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Firearms amendments **Schedule 4**
Firearms background checks **Part 2**

- (i) a decision under a law of a State or Territory about whether to issue a firearms licence to the individual or otherwise relating to the issue of such a licence (including in relation to conditions);
- (ii) a decision about whether to renew, revoke, vary or suspend a licence mentioned in subparagraph (i);
- (iii) in relation to an individual who holds a firearms licence—an application by a law enforcement agency or a national security agency.

11 After subsection 8(4)

Insert:

Firearms background checks

- (4A) If paragraph (1)(f) applies, a firearms background check of an individual may only take into account one or more of the following:
- (a) an assessment by the Australian Security Intelligence Organisation of the individual under the *Australian Security Intelligence Organisation Act 1979*;
 - (b) a criminal intelligence assessment (within the meaning of Division 2A of Part II of the *Australian Crime Commission Act 2002*) of the individual under that Act;
 - (c) the citizenship status of the individual.

12 After section 10A

Insert:

10B Matters covered by AusCheck scheme—firearms background checks

- (1) The AusCheck scheme may, for the purposes of paragraph 8(1)(f), make provision for and in relation to any of the following:
- (a) the making of an application for a firearms background check by a firearms licensing authority, a law enforcement agency or a national security agency;

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Schedule 4 Firearms amendments

Part 2 Firearms background checks

- 1 (b) the information that is to be contained in an application for a
2 firearms background check (including in relation to consent
3 for the check);
4 (c) the manner for conducting a firearms background check;
5 (d) the criteria against which an application for a firearms
6 background check is to be assessed;
7 (e) the form of advice to be given to the applicant for a firearms
8 background check;
9 (f) the form of advice to be given to other persons about the
10 status or outcome of a firearms background check (including
11 any conditions relating to the advice being provided to other
12 persons);
13 (g) any other matter relating to a firearms background check.
- 14 (2) The matters referred to in subsection (1) may relate to:
15 (a) all firearms background checks to be conducted for the
16 purposes of paragraph 8(1)(f); or
17 (b) a specified class or specified classes of such background
18 checks.
- 19 (3) For the purposes of paragraph (1)(b), without limiting that
20 paragraph, an individual is taken to have given consent to another
21 person making an application for a firearms background check of
22 the individual if:
23 (a) the individual has applied for a firearms licence (whether
24 immediately before the firearms background check or at any
25 previous time); and
26 (b) before making the application for the firearms licence, the
27 individual was advised by the person to whom that
28 application was made, in accordance with the requirements
29 (if any) specified in the regulations, that a firearms
30 background check:
31 (i) was a precondition to the issuing of the licence; and
32 (ii) may be conducted at any time that the licence is in
33 force.

13 Subsection 13(1)

Omit “The”, substitute “Subject to subsection (3), the”.

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14 Paragraph 13(1)(a)

Before “outcome”, insert “status or”.

15 At the end of section 13

Add:

Application of section in relation to firearms background checks

- (3) This section applies in relation to information (other than identity verification information) collected about an individual for the purposes of a firearms background check only if the individual is, or has been, the subject of the firearms background check.

16 At the end of subsection 14(1)

Add:

Note: For information collected for the purposes of a firearms background check, see subsection (4).

17 At the end of section 14

Add:

Application of section in relation to firearms background checks

- (4) This section applies in relation to information (other than identity verification information) collected about an individual for the purposes of a firearms background check only if the individual is, or has been, the subject of the firearms background check.

18 Transitional provision

Despite paragraph 10B(1)(b) of the *AusCheck Act 2007*, as inserted by this Part, an individual is taken to have given consent to another person making an application for a firearms background check of the individual if, immediately before the commencement of this item, the individual holds a firearms licence that is in force under a law of a State or Territory.

Note: This section constitutes an authorisation for the purposes of other laws, such as Australian Privacy Principle 6 of the *Privacy Act 1988*.

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Schedule 4 Firearms amendments

Part 2 Firearms background checks

Australian Security Intelligence Organisation Act 1979

19 Subsection 39(3)

Repeal the subsection, substitute:

(3) Subsection (1) does not prevent a Commonwealth agency from taking prescribed administrative action within the meaning of paragraph (h) of the definition of *prescribed administrative action* in subsection 35(1):

(a) on the basis of a communication made under subsection 18(3) or 19A(4) to a staff member of the Commonwealth agency; or

(b) without limiting paragraph (a), for the purposes of a firearms background check (within the meaning of the *AusCheck Act 2007*).

Division 2—ACC and ASIO amendments

Australian Crime Commission Act 2002

20 Subsection 4(1) (at the end of the definition of *serious and organised crime*)

Add:

Note: A different definition applies in Part III (see section 52).

21 After paragraph 7A(d)

Insert:

(da) to make and give criminal intelligence assessments (within the meaning of Part III) in accordance with that Part;

22 Division 2A of Part II

Repeal the Division.

23 Subsection 46A(8)

Repeal the subsection.

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Firearms background checks Part 2

1 **24 After Part II**

2 Insert:

3 **Part III—Criminal intelligence assessments**

4 **Division 1—Preliminary**

5 **52 Definitions**

6 In this Part:

7 ***adverse criminal intelligence assessment*** has the meaning given
8 by section 54.

9 ***ART Act*** means the *Administrative Review Tribunal Act 2024*.

10 ***background check*** has the same meaning as in section 5 of the
11 *AusCheck Act 2007*.

12 ***Commonwealth agency*** means an agency within the meaning of
13 the *Freedom of Information Act 1982*, and includes an exempt
14 agency.

15 ***criminal intelligence assessment*** has the meaning given by
16 section 53.

17 ***exempt agency*** means a body specified, or a person holding an
18 office specified, in Part I of Schedule 2 to the *Freedom of*
19 *Information Act 1982*.

20 ***federal offence*** has the meaning given by subsection 54B(2).

21 ***firearms background check*** has the same meaning as in the
22 *AusCheck Act 2007*.

23 ***law enforcement or intelligence interests*** means interests in one or
24 more of the following:

- 25 (a) avoiding prejudice or disruption to national and international
26 efforts relating to law enforcement, criminal intelligence,
27 criminal investigation, foreign intelligence and security
28 intelligence;

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Schedule 4 Firearms amendments

Part 2 Firearms background checks

- 1 (b) protecting the technologies and methods used to collect,
2 analyse, secure or otherwise deal with, criminal intelligence,
3 foreign intelligence or security intelligence;
4 (c) the protection and safety of informants and of persons
5 associated with informants;
6 (d) ensuring that intelligence and law enforcement agencies are
7 not discouraged from giving information to a nation's
8 government and government agencies;
9 (e) avoiding disclosure of lawful methods or procedures for
10 preventing, detecting, investigating, or dealing with matters
11 arising out of, breaches or evasions of the law the disclosure
12 of which would, or would be reasonably likely to, prejudice
13 the effectiveness of those methods or procedures.

14 **member** has the same meaning as in the *Administrative Review*
15 *Tribunal Act 2024*.

16 **officer of the Tribunal** means:

- 17 (a) the Principal Registrar within the meaning of the
18 *Administrative Review Tribunal Act 2024*; or
19 (b) a staff member within the meaning of that Act.

20 **prescribed administrative action** has the meaning given by
21 section 54A.

22 **security** has the same meaning as in the *Australian Security*
23 *Intelligence Organisation Act 1979*.

24 **serious and organised crime** has the meaning given by
25 section 54B.

26 **specified criminal intelligence assessment action** has the meaning
27 given by subsection 54G(2).

28 **Tribunal** means the Administrative Review Tribunal.

29 **53 Meaning of criminal intelligence assessment**

- 30 (1) A **criminal intelligence assessment** is a written statement made by
31 the ACC expressing any recommendation, opinion or advice on, or
32 otherwise referring to, the question of whether it would be
33 consistent with preventing the advancement of serious and

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1 organised crime for prescribed administrative action to be taken, or
2 not taken, in respect of a person.

- 3 (2) To avoid doubt, a criminal intelligence assessment includes any
4 qualification or comment expressed in connection with any
5 recommendation, opinion or advice mentioned in subsection (1), if
6 the qualification or comment relates, or could relate, to the
7 question mentioned in that subsection.

8 **54 Meaning of *adverse criminal intelligence assessment***

9 An ***adverse criminal intelligence assessment*** is a criminal
10 intelligence assessment in respect of a person that contains:

- 11 (a) any opinion or advice, or any qualification of any opinion or
12 advice, or any information, that is or could be prejudicial to
13 the interests of the person; and
14 (b) a recommendation that prescribed administrative action be
15 taken or not be taken in respect of the person, being a
16 recommendation the implementation of which would be
17 prejudicial to the interests of the person.

18 **54A Meaning of *prescribed administrative action***

- 19 (1) ***Prescribed administrative action*** means the exercise of any power,
20 or the performance of any function, in relation to any of the
21 following decisions under a law of a State or Territory:

- 22 (a) a decision about whether to issue a firearms licence or
23 otherwise relating to the issue of such a licence (including in
24 relation to conditions);
25 (b) a decision about whether to renew, revoke, vary or suspend a
26 licence mentioned in paragraph (a).

- 27 (2) Action is also ***prescribed administrative action*** if the action relates
28 to or affects:

- 29 (a) access by a person to any information or place, access to
30 which is controlled or limited under:
31 (i) the *Aviation Transport Security Act 2004* or regulations
32 under that Act; or
33 (ii) the *Maritime Transport and Offshore Facilities Security*
34 *Act 2003* or regulations under that Act; or

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- 1 (iii) an Act prescribed by the regulations for the purposes of
2 this subparagraph, or a legislative instrument under that
3 Act; or
4 (b) a person's ability to perform an activity in relation to, or
5 involving, a thing (other than information or a place), if that
6 ability is controlled or limited under:
7 (i) the *Aviation Transport Security Act 2004* or regulations
8 under that Act; or
9 (ii) the *Maritime Transport and Offshore Facilities Security*
10 *Act 2003* or regulations under that Act; or
11 (iii) an Act prescribed by the regulations for the purposes of
12 this subparagraph, or a legislative instrument under that
13 Act.

14 **54B Meaning of *serious and organised crime***

- 15 (1) For the purposes of this Part, ***serious and organised crime*** means a
16 federal offence that may have been committed, may presently be
17 being committed, or may in future be committed, in circumstances
18 involving:
19 (a) 2 or more offenders; and
20 (b) substantial planning or organisation; and
21 (c) the use of sophisticated methods and techniques.
22 (2) A ***federal offence*** is an offence:
23 (a) against a law of the Commonwealth; or
24 (b) against a law of a Territory; or
25 (c) against a law of a State that has a federal aspect;
26 that is:
27 (d) punishable by imprisonment for a period of 2 years or more;
28 or
29 (e) prescribed by the regulations for the purposes of this
30 paragraph.

Division 2—Criminal intelligence assessments

54C Making criminal intelligence assessments

General

(1) The ACC may make criminal intelligence assessments for purposes related to:

- (a) firearms background checks; or
- (b) background checks required or permitted by any of the following:
 - (i) the *Aviation Transport Security Act 2004* or regulations under that Act;
 - (ii) the *Maritime Transport and Offshore Facilities Security Act 2003* or regulations under that Act;
 - (iii) an Act prescribed by the regulations for the purposes of subparagraph 54A(2)(a)(iii) or (b)(iii), or a legislative instrument under that Act.

Note: The making of criminal intelligence assessments is separate to, and does not affect, the ACC's function of providing strategic criminal intelligence assessments to the Board (as referred to in paragraph 7A(e)) and the Board's function of disseminating those strategic criminal intelligence assessments (as referred to in paragraph 7C(1)(g)).

(2) The CEO may, by legislative instrument, determine the following in relation to the making of criminal intelligence assessments:

- (a) the matters that must be taken into account;
- (b) the manner in which those matters must be taken into account;
- (c) the matters that must not be taken into account.

(3) The CEO must not make a determination under subsection (2) unless the CEO has consulted the Minister.

(4) If the ACC, in making a criminal intelligence assessment, considers that making an adverse criminal intelligence assessment in respect of a person would prejudice law enforcement or intelligence interests, the ACC may decide not to make the assessment.

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- 1 (5) To avoid doubt, for the purposes of performing the function in
2 subsection (1), the ACC may:
3 (a) make a criminal intelligence assessment at any time for
4 purposes related to a background check that:
5 (i) is being undertaken; or
6 (ii) has previously been undertaken; and
7 (b) make more than one criminal intelligence assessment for
8 purposes related to the same background check.

9 *Certain criminal intelligence assessments that are not adverse*

- 10 (6) Despite subsections (1) and (2), the ACC must make a criminal
11 intelligence assessment in respect of a person that is not an adverse
12 criminal intelligence assessment if the person is not identified in a
13 search of intelligence held by the ACC that is conducted in
14 accordance with the instructions issued by the CEO under
15 subsection (7).

16 Note: The CEO may arrange for the use of a computer program to make
17 criminal intelligence assessments to which this subsection applies: see
18 section 54G.

- 19 (7) The CEO must, in writing, issue instructions about the conducting
20 of searches for the purposes of subsection (6).
21 (8) Instructions issued under subsection (7) are not a legislative
22 instrument.

23 **54D Giving criminal intelligence assessments to Commonwealth** 24 **agencies**

25 *Criminal intelligence assessments that are not adverse*

- 26 (1) The ACC may give a criminal intelligence assessment, that is not
27 an adverse criminal intelligence assessment, in respect of a person
28 to a Commonwealth agency for purposes related to:
29 (a) a firearms background check of the person; or
30 (b) a background check of the person that is required or
31 permitted by any of the following:
32 (i) the *Aviation Transport Security Act 2004* or regulations
33 under that Act;

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- 1 (ii) the *Maritime Transport and Offshore Facilities Security*
2 *Act 2003* or regulations under that Act;
3 (iii) an Act prescribed by the regulations for the purposes of
4 subparagraph 54A(2)(a)(iii) or (b)(iii), or a legislative
5 instrument under that Act.

- 6 (2) Despite subsection (1), the ACC must give a criminal intelligence
7 assessment, that is not an adverse criminal intelligence assessment,
8 in respect of a person to a Commonwealth agency for purposes
9 mentioned in subsection (1) if the criminal intelligence assessment
10 is made in accordance with subsection 54C(6).

11 Note: The CEO may arrange for the use of a computer program to give
12 certain kinds of criminal intelligence assessments to Commonwealth
13 agencies: see section 54G.

14 *Adverse criminal intelligence assessments*

- 15 (3) The CEO may cause an adverse criminal intelligence assessment in
16 respect of a person to be given to a Commonwealth agency for
17 purposes related to:

- 18 (a) a firearms background check of the person; or
19 (b) a background check of the person that is required or
20 permitted by any of the following:
21 (i) the *Aviation Transport Security Act 2004* or regulations
22 under that Act;
23 (ii) the *Maritime Transport and Offshore Facilities Security*
24 *Act 2003* or regulations under that Act;
25 (iii) an Act prescribed by the regulations for the purposes of
26 subparagraph 54A(2)(a)(iii) or (b)(iii), or a legislative
27 instrument under that Act.

- 28 (4) If the CEO considers that giving a Commonwealth agency an
29 adverse criminal intelligence assessment in respect of a person
30 would prejudice law enforcement or intelligence interests or
31 security, the CEO may decide not to cause the assessment to be
32 given to the agency.

- 33 (5) An adverse criminal intelligence assessment given to a
34 Commonwealth agency under subsection (3) must be accompanied
35 by:

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- 1 (a) a statement of the grounds for the assessment (which is taken
2 to be part of the assessment); and
3 (b) if, under subsection (7), the CEO makes a certificate in
4 relation to information contained in the assessment—a copy
5 of the certificate.
- 6 (6) The statement of the grounds for the adverse criminal intelligence
7 assessment must contain all information that the ACC relied on in
8 making the assessment, other than:
9 (a) subject to subsection (8), information in relation to which the
10 CEO has made a certificate under subsection (7); and
11 (b) information the disclosure of which would be contrary to a
12 law of the Commonwealth, a State or a Territory.
- 13 (7) The CEO may certify, in writing, that the CEO is satisfied that
14 disclosing particular information contained in an adverse criminal
15 intelligence assessment, including particular information contained
16 in the statement of the grounds for the assessment, to the person in
17 respect of whom the assessment was made would prejudice law
18 enforcement or intelligence interests or security.
- 19 (8) If the CEO makes a certificate under subsection (7) in relation to
20 information, the CEO may decide not to cause the information to
21 be given to a Commonwealth agency under subsection (3).
22 However, the Minister may, after consulting the CEO, direct the
23 CEO to cause the information to be given to the Commonwealth
24 agency.
- 25 (9) A certificate made under subsection (7) is not a legislative
26 instrument.
- 27 (10) If the direction under subsection (8) is made in writing, the
28 direction is not a legislative instrument.

54E Person to be notified of adverse criminal intelligence assessment

- 30 (1) If an adverse criminal intelligence assessment in respect of a
31 person is given to a Commonwealth agency under
32 subsection 54D(3), the Commonwealth agency must give written
33 notice of the assessment to the person.
- 34 Note: See also subsections (3) to (5) (about exceptions to subsection (1)).

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Timing and content of notice

- (2) The written notice must:
- (a) be given to the person before the end of the period of 14 days beginning on the day after:
 - (i) unless subparagraph (ii) applies—the day the adverse criminal intelligence assessment is given to the Commonwealth agency; or
 - (ii) if a certificate under subsection (6) that was in force in relation to the adverse criminal intelligence assessment is subsequently revoked—the day the certificate is revoked; and
 - (b) inform the person of the making of the adverse criminal intelligence assessment; and
 - (c) include the statement of the grounds for the adverse criminal intelligence assessment that was given to the Commonwealth agency (other than information in relation to which the CEO has made a certificate under subsection 54D(7)); and
 - (d) contain information concerning the person's right to apply to the Tribunal for a review of the adverse criminal intelligence assessment.

Exception—firearms

- (3) Subsection (1) does not apply if the adverse criminal intelligence assessment is given to the Commonwealth agency in relation to any of the following decisions under a law of a State or Territory:
- (a) a decision about whether to issue a firearms licence or otherwise relating to the issue of such a licence (including in relation to conditions);
 - (b) a decision about whether to renew, revoke, vary or suspend a licence a licence mentioned in paragraph (a).
- (4) Despite subsection (3), subsection (1) does apply in the circumstances prescribed by the regulations for the purposes of this subsection.

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Exception—Minister's certificate

- (5) Subsection (1) does not apply if a certificate made under subsection (6) of this section is in force in relation to the adverse criminal intelligence assessment.
- (6) The Minister may certify, in writing, that the Minister is satisfied that the withholding of notice to a person of the making of an adverse criminal intelligence assessment in respect of the person is essential to either or both of the following:
- (a) avoiding prejudice to law enforcement or intelligence interests;
 - (b) security.
- (7) If the Minister makes a certificate under subsection (6) in relation to an adverse criminal intelligence assessment, the Minister must:
- (a) give a copy of the certificate to the Commonwealth agency to which the assessment was given under subsection 54D(3); and
 - (b) before the end of the following periods (unless the certificate is revoked earlier), consider whether to revoke the certificate:
 - (i) the period of 12 months beginning on the day on which the certificate was made;
 - (ii) each subsequent 12 month period.
- (8) A certificate made under subsection (6) is not a legislative instrument.

54F Effect of preliminary advice by the ACC

A Commonwealth agency must not take, refuse to take or refrain from taking prescribed administrative action on the basis of any communication in relation to a person made by the ACC not amounting to a criminal intelligence assessment.

1 **Division 3—Automation of specified criminal intelligence**
2 **assessment action**

3 **54G Automation of specified criminal intelligence assessment action**

4 (1) The CEO may, in writing, arrange for the use, under the CEO's
5 oversight, of computer programs to take specified criminal
6 intelligence assessment action that must be taken by the ACC
7 under this Act.

8 (2) *Specified criminal intelligence assessment action* is:

9 (a) performing, or refusing or failing to perform, a function or
10 duty under subsection 54C(6); or

11 (b) performing, or refusing or failing to perform, a function or
12 duty under subsection 54D(2); or

13 (c) doing, or refusing or failing to do, anything related to
14 performing a function or duty under the subsection
15 mentioned in paragraph (a) or (b).

16 *ACC treated as having taken specified criminal intelligence*
17 *assessment action*

18 (3) Specified criminal intelligence assessment action taken by the
19 operation of a computer program under an arrangement under
20 subsection (1) is treated, for all purposes, as specified criminal
21 intelligence assessment action taken by the ACC.

22 *Substituting specified criminal intelligence assessment action*

23 (4) The ACC may take specified criminal intelligence assessment
24 action, or make a criminal intelligence assessment under
25 subsection 54C(1), (the *substituted action*) in substitution for
26 specified criminal intelligence assessment action the ACC is
27 treated as having taken under subsection (3) of this section if the
28 ACC is satisfied that the specified criminal intelligence assessment
29 action taken by the operation of the computer program is not the
30 correct or preferable action.

31 (5) The substituted action takes effect on:

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- 1 (a) if the ACC specifies the day on which the substituted action
2 takes effect—that specified day; or
3 (b) otherwise—the day of the specified criminal intelligence
4 assessment action taken by the operation of the computer
5 program.

- 6 (6) The day specified under paragraph (5)(a) may be earlier than the
7 day the substituted action is taken but not earlier than the day of
8 the specified criminal intelligence assessment action taken by the
9 operation of the computer program.

10 *ACC may still take specified criminal intelligence assessment*
11 *action*

- 12 (7) An arrangement under subsection (1) does not prevent the ACC
13 from taking specified criminal intelligence assessment action.

14 *Arrangement not a legislative instrument*

- 15 (8) An arrangement under subsection (1) is not a legislative
16 instrument.

17 **54H Oversight and safeguards for automation of specified criminal** 18 **intelligence assessment action**

19 *CEO to ensure specified criminal intelligence assessment action is*
20 *action that could be validly taken*

- 21 (1) The CEO must take all reasonable steps to ensure that specified
22 criminal intelligence assessment action taken by the operation of a
23 computer program under an arrangement under subsection 54G(1)
24 is specified criminal intelligence assessment action that the ACC
25 could validly take under section 54C or 54D.

- 26 (2) Without limiting subsection (1), the CEO must do the things (if
27 any) prescribed by the regulations for the purposes of this
28 subsection.

29 Note: Specified criminal intelligence assessment action may still be invalid
30 even if subsections (1) and (2) are complied with.

- 31 (3) A failure to comply with subsection (1) or (2) does not affect the
32 validity of the specified criminal intelligence assessment action
-

1 taken by the operation of a computer program under an
2 arrangement under subsection 54G(1).

3 **Division 4—Review of adverse criminal intelligence**
4 **assessments**

5 **54J Applications to Tribunal**

6 (1) Applications may be made to the Tribunal for review of a decision
7 of the ACC under section 54C to make an adverse criminal
8 intelligence assessment.

9 Note 1: Section 18 of the ART Act generally requires an application for
10 review of a decision to be made within the period prescribed by rules
11 made under that Act.

12 Note 2: See also subsections (4) and (5) (about an exception to subsection (1)).

13 (2) An application under subsection (1) may be made by the person in
14 respect of whom the assessment was made and who has been given
15 notice of the assessment under section 54E.

16 *Interaction with the ART Act*

17 (3) Subsection (2) has effect despite subsection 17(1) of the ART Act
18 (about who can apply for review).

19 *Exception*

20 (4) Subsection (1) does not apply if the criminal intelligence
21 assessment concerned was in relation to any of the following
22 decisions under a law of a State or Territory:

23 (a) a decision about whether to issue a firearms licence or
24 otherwise relating to the issue of such a licence (including in
25 relation to conditions);

26 (b) a decision about whether to renew, revoke, vary or suspend a
27 licence mentioned in paragraph (a).

28 (5) Despite subsection (4), subsection (1) does apply in the
29 circumstances prescribed by the regulations for the purposes of this
30 subsection.

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54K Restriction on further assessments after review

If the Tribunal has made findings upon a review of an adverse criminal intelligence assessment, the ACC must not make a further criminal intelligence assessment in respect of the person concerned that is not in accordance with those findings except on the basis of matters occurring after the review or of evidence that was not available at the time of the review.

54L Costs

- (1) The Tribunal may order that costs reasonably incurred by an applicant under section 54J in connection with the application, or any part of those costs that is determined by the Tribunal, be paid by the Commonwealth if:
 - (a) the applicant was, in the opinion of the Tribunal, successful, or substantially successful, in the application for review; and
 - (b) the Tribunal is satisfied that it is appropriate to make the order in all the circumstances of the case.

Interaction with ART Act

- (2) For the purposes of section 115 of the ART Act (about taxing costs), the Commonwealth is taken to be a party to the proceeding referred to in subsection (1) of this section.

Division 5—Secrecy

54M Secrecy—criminal intelligence assessment information

- (1) A person commits an offence if:
 - (a) the person is, or has been:
 - (i) a member or an officer of the Tribunal; or
 - (ii) an officer or employee of a Commonwealth agency to which an adverse criminal intelligence assessment has been given under subsection 54D(3); and
 - (b) the person makes a record of, discloses or otherwise uses information; and
 - (c) the information was obtained by the person by reason of, or in the course of, the performance or exercise of the person's

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1 functions, duties or powers as a member or an officer of the
2 Tribunal, or as an officer or employee of the agency; and
3 (d) the information is, is contained in, or relates to, a criminal
4 intelligence assessment.

5 Penalty: Imprisonment for 2 years or 120 penalty units, or both.

6 (2) Subsection (1) does not apply if the making of the record,
7 disclosure or use:

8 (a) is for the purposes of this Part; or

9 (b) is for the purposes of, or in connection with, the performance
10 or exercise of the person's functions, duties or powers as a
11 member or an officer of the Tribunal, or as an officer or
12 employee of the Commonwealth agency.

13 Note 1: A defendant bears an evidential burden in relation to a matter in
14 subsection (2) (see subsection 13.3(3) of the *Criminal Code*).

15 Note 2: Section 276 of the ART Act also deals with the disclosure of certain
16 information and documents by members and officers of the Tribunal.

17 Note 3: Section 51 of this Act deals with secrecy requirements for the CEO,
18 members of the Board, members of the staff of the ACC and
19 examiners.

20 **25 Section 59A**

21 Omit "subsection 36B(2)", substitute "subsection 54C(2) or 54D(3)".

22 ***Australian Security Intelligence Organisation Act 1979***

23 **26 Section 4**

24 Insert:

25 *specified assessment action* has the meaning given by
26 subsection 92E(4).

27 **27 Subsection 35(1) (subparagraph (h)(ii) of the definition of** 28 ***prescribed administrative action*)**

29 Omit "a decision about whether to revoke", substitute "a decision about
30 whether to renew, revoke, vary or suspend".

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28 At the end of subsection 36(1)

Add:

- ; or (d) a security assessment provided in relation to any of the following decisions under a law of a State or Territory:
- (i) a decision about whether to issue a firearms licence or otherwise relating to the issue of such a licence (including in relation to conditions);
 - (ii) a decision about whether to renew, revoke, vary or suspend a licence mentioned in subparagraph (i).

Note: See subsection (2A) for an exception to paragraph (1)(d).

29 After subsection 36(2)

Insert:

- (2A) Paragraph (1)(d) does not apply in the circumstances prescribed by the regulations for the purposes of this subsection.

30 Before section 93A

Insert:

92E Automation of specified assessment action

- (1) The Director-General may, in writing, arrange for the use, under the Director-General's oversight, of computer programs to take specified assessment action that may, or must, be taken by the Organisation under this Act.
- (2) Before making an arrangement under subsection (1), the Director-General must consult the Inspector-General of Intelligence and Security.
- (3) As soon as practicable after making an arrangement under subsection (1), the Director-General must give a copy of the arrangement to the Inspector-General of Intelligence and Security.
- (4) *Specified assessment action* has the meaning given by an instrument made by the Minister under subsection 92F(1).

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Organisation treated as having taken specified assessment action

- (5) Specified assessment action taken by the operation of a computer program under an arrangement under subsection (1) is treated, for all purposes, as specified assessment action taken by the Organisation.

Substituting specified assessment action

- (6) The Organisation may take specified assessment action (the ***substituted action***) in substitution for specified assessment action the Organisation is treated as having taken under subsection (5) if the Organisation is satisfied that the specified assessment action taken by the operation of the computer program is not the correct or preferable action.
- (7) The substituted action takes effect on:
- (a) if the Organisation specifies the day on which the substituted action takes effect—that specified day; or
 - (b) otherwise—the day of the specified assessment action taken by the operation of the computer program.
- (8) The day specified under paragraph (7)(a) may be earlier than the day the substituted action is taken but not earlier than the day of the specified assessment action taken by the operation of the computer program.

Organisation may still take specified assessment action

- (9) An arrangement under subsection (1) does not prevent the Organisation from taking specified assessment action.

Reference to Organisation

- (10) In this section, a reference to the Organisation includes a reference to the Director-General exercising powers or performing functions on behalf of the Organisation.

Arrangement not a legislative instrument

- (11) An arrangement under subsection (1) is not a legislative instrument.

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92F Instrument defining specified assessment action

- (1) The Minister may make an instrument for the purposes of subsection 92E(4) (meaning of *specified assessment action*).
- Note: For variation and revocation of an instrument, see subsection 33(3) of the *Acts Interpretation Act 1901*.
- (2) Before making an instrument under subsection (1), the Minister must consult the Inspector-General of Intelligence and Security.
- (3) As soon as practicable after making an instrument under subsection (1), the Minister must:
- (a) notify the Committee on Intelligence and Security; and
 - (b) give a copy of the instrument to the Inspector-General of Intelligence and Security.
- (4) The Committee on Intelligence and Security may request a briefing on the instrument.
- (5) An instrument made under subsection (1) is not a legislative instrument.

92G Oversight and safeguards for automation of specified assessment action

Director-General to ensure specified assessment action is action that could be validly taken

- (1) The Director-General must take all reasonable steps to ensure that specified assessment action taken by the operation of a computer program under an arrangement under subsection 92E(1) is specified assessment action that the Organisation could validly take under this Act.
- (2) Without limiting subsection (1), the Director-General must do the things (if any) prescribed by the regulations for the purposes of this subsection.
- Note: Specified assessment action may still be invalid even if subsections (1) and (2) are complied with.
- (3) A failure to comply with subsection (1) or (2) does not affect the validity of the specified assessment action taken by the operation

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1 of a computer program under an arrangement under
2 subsection 92E(1).

3 *Reference to Organisation*

- 4 (4) In this section, a reference to the Organisation includes a reference
5 to the Director-General exercising powers or performing functions
6 on behalf of the Organisation.

7 **31 Application and saving provisions**

- 8 (1) Division 2A of Part II of the *Australian Crime Commission Act 2002*, as
9 in force immediately before the commencement of this item, continues
10 to apply on and after that commencement in relation to a criminal
11 intelligence assessment that was completed before the commencement
12 of this item.
- 13 (2) The amendment of subsection 36(1) of the *Australian Security*
14 *Intelligence Organisation Act 1979* made by this Division applies in
15 relation to a security assessment provided on or after the
16 commencement of this item.

17 **Division 3—Spent etc. convictions**

18 *Crimes Act 1914*

19 **32 Subsection 85ZP(3) (note)**

20 Repeal the note, substitute:

21 Note: There are exceptions in sections 85ZZJC (use and disclosure of spent
22 conviction etc. information by ASIO, ACC and other intelligence or
23 security agencies) and 85ZZL (criminal proceedings before the
24 Federal Court of Australia).

25 **33 After section 85ZZJ**

26 Insert:

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1 **Subdivision BA—Exclusions relating to ASIO and ACC**
2 **(Divisions 2 and 3)**

3 **34 Section 85ZZJA (heading)**

4 Repeal the heading, substitute:

5 **85ZZJA Exclusions—ASIO**

6 **35 Subsection 85ZZJA(1)**

7 Omit “Division 3 does”, substitute “Divisions 2 and 3 do”.

8 **36 Before Subdivision C of Division 6 of Part VIIC**

9 Insert:

10 **85ZZJB Exclusions—ACC**

11 (1) Divisions 2 and 3 do not apply in relation to:

- 12 (a) the disclosure of information to or by the ACC, or an ACC
13 officer, if the disclosure is made for the purposes of the
14 performance of the ACC’s function covered by
15 paragraph 7A(da) of the *Australian Crime Commission Act*
16 2002; or
17 (b) filing or recording information that comes into the possession
18 of the ACC, or an ACC officer, if the filing or recording is
19 done for the purposes of the performance of the ACC’s
20 function covered by paragraph 7A(da) of the *Australian*
21 *Crime Commission Act 2002*; or
22 (c) the use by the ACC, or an ACC officer, of information for
23 the purposes of the performance of the ACC’s function
24 covered by paragraph 7A(da) of the *Australian Crime*
25 *Commission Act 2002*.

26 Note 1: The ACC’s function covered by 7A(da) of the *Australian Crime*
27 *Commission Act 2002* relates to criminal intelligence assessments.

28 Note 2: The ACC is also covered by section 85ZZJ (see the definition of *law*
29 *enforcement agency* in section 85ZL).

30 (2) In this section:

31 ***ACC officer*** means:

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- 1 (a) a member of the staff of the ACC; or
2 (b) the Chief Executive Officer of the ACC.

3 **Subdivision BB—Use and disclosure of spent etc. conviction**
4 **information by ASIO, ACC and other intelligence**
5 **and security agencies**

6 **85ZZJC Use and disclosure of spent etc. conviction information by**
7 **ASIO, ACC and other intelligence or security agencies**

8 *Spent, pardoned and quashed convictions*

- 9 (1) ASIO or an ASIO officer may use or disclose information, relating
10 to a person's conviction of an offence that is spent, pardoned or
11 quashed, in the performance of the functions, or the exercise of the
12 powers, of ASIO or the officer.
- 13 (2) The ACC or an ACC officer may use or disclose information,
14 relating to a person's conviction of an offence that is spent,
15 pardoned or quashed, in the performance of the ACC's function
16 covered by paragraph 7A(da) of the *Australian Crime Commission*
17 *Act 2002*.

18 Note: The ACC's function covered by paragraph 7A(da) of the *Australian*
19 *Crime Commission Act 2002* relates to criminal intelligence
20 assessments.

- 21 (3) An intelligence or security agency may use or disclose information,
22 relating to a person's conviction of an offence that is spent,
23 pardoned or quashed, for the purpose of assessing:
24 (a) prospective employees or prospective members of the
25 agency; or
26 (b) persons proposed to be engaged as consultants to, or to
27 perform services for, the agency or a member of the agency.

28 *Persons being found guilty of offences but discharged without*
29 *conviction*

- 30 (4) ASIO or an ASIO officer may use or disclose information, relating
31 to a person having been charged with and found guilty of an
32 offence but discharged without conviction, in the performance of
33 the functions, or the exercise of the powers, of ASIO or the officer.

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- 1 (5) The ACC or an ACC officer may use or disclose information,
2 relating to a person having been charged with and found guilty of
3 an offence but discharged without conviction, in the performance
4 of the ACC's function covered by paragraph 7A(da) of the
5 *Australian Crime Commission Act 2002*.
- 6 (6) An intelligence or security agency may use or disclose information,
7 relating to a person having been charged with and found guilty of
8 an offence but discharged without conviction, for the purpose of
9 assessing:
- 10 (a) prospective employees or prospective members of the
11 agency; or
- 12 (b) persons proposed to be engaged as consultants to, or to
13 perform services for, the agency or a member of the agency.

14 *Relationship with other laws*

- 15 (7) Nothing in this section limits any other power of ASIO, the ACC
16 or an intelligence or security agency to use or disclose information
17 relating to a person's conviction of an offence that is spent,
18 pardoned or quashed.

19 *Interpretation*

- 20 (8) This section has effect:
- 21 (a) despite subsection 85ZP(3) and Divisions 2 and 3; and
22 (b) despite any law of a State or Territory.

- 23 (9) In this section:

24 **ACC officer** means:

- 25 (a) a member of the staff of the ACC; or
26 (b) the Chief Executive Officer of the ACC.

27 **ASIO** means the Australian Security Intelligence Organisation.

28 **ASIO officer** means:

- 29 (a) the Director-General of Security; or
30 (b) an ASIO employee (within the meaning of the *Australian*
31 *Security Intelligence Organisation Act 1979*); or
32 (c) an ASIO affiliate (within the meaning of that Act).

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1 **37 Application provision**

2 The amendments made by this Division apply in relation to the use or
3 disclosure of information on or after the commencement of this item,
4 whether the information was obtained before, on or after that
5 commencement.

6 **Division 4—Consequential amendments**

7 *Administrative Decisions (Judicial Review) Act 1977*

8 **38 Paragraph (wa) of Schedule 1**

9 Omit “Division 2A of Part II”, substitute “Part III”.

10 *Administrative Review Tribunal Act 2024*

11 **39 Section 4 (definition of *criminal intelligence assessment*)**

12 Omit “Division 2A of Part II”, substitute “Part III”.

13 **40 Section 4 (subparagraph (b)(iii) of the definition of *exempt***
14 *security record decision*)

15 Omit “Division 2A of Part II”, substitute “Part III”.

16 **41 Section 4 (definition of *law enforcement interests*)**

17 Repeal the definition.

18 **42 Section 4**

19 Insert:

20 *law enforcement or intelligence interests* has the same meaning as
21 in Part III of the *Australian Crime Commission Act 2002*.

22 **43 Subsection 141(3) (table item 1, column 2)**

23 Omit “subsection 36C(5)”, substitute “subsection 54D(7)”.

24 **44 Paragraph 156(2)(b)**

25 Repeal the paragraph, substitute:

26 (b) law enforcement or intelligence interests.

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1 **45 Paragraph 158(3)(b)**

2 Omit “law enforcement interests”, substitute “law enforcement or
3 intelligence interests”.

4 **46 Paragraph 161(2)(c)**

5 Omit “law enforcement interests”, substitute “law enforcement or
6 intelligence interests”.

7 **47 Subsection 162(1) (table item 1, column 2)**

8 Omit “subsection 36C(5)”, substitute “subsection 54D(7)”.

9 ***AusCheck Act 2007***

10 **48 Paragraph 5(ba)**

11 Omit “as defined in section 36A”, substitute “within the meaning of
12 Part III”.

13 ***AusCheck Regulations 2017***

14 **49 Section 4 (definition of *adverse criminal intelligence***
15 ***assessment*)**

16 Omit “section 36A”, substitute “Part III”.

17 **50 Section 4 (definition of *high risk criminal intelligence***
18 ***assessment*)**

19 Repeal the definition.

20 **51 Subsection 13(4A) (heading)**

21 Omit “*high risk*”, substitute “*adverse*”.

22 **52 Subsection 13(4A)**

23 Omit “a high risk”, substitute “an adverse”.

24 **53 Subsection 14(6) (heading)**

25 Omit “*high risk*”, substitute “*adverse*”.

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1 **54 Subsection 14(6)**

2 Omit “a high risk”, substitute “an adverse”.

3 **55 Subparagraph 23(b)(ia)**

4 Omit “a high risk”, substitute “an adverse”.

5 **56 In the appropriate position in Part 5**

6 Insert:

7 **Division 9—Combatting Antisemitism, Hate and**
8 **Extremism Act 2026**

9 **45 Application provision—amendments made by the *Combatting***
10 ***Antisemitism, Hate and Extremism Act 2026***

11 (1) The amendments of sections 13, 14 and 23 made by Division 4 of
12 Part 2 of Schedule 4 to the *Combatting Antisemitism, Hate and*
13 *Extremism Act 2026* apply in relation to the following:

14 (a) an application for a background check made on or after the
15 commencement of this section;

16 (b) an application for a background check made before the
17 commencement of this section that had not been completed
18 before that commencement.

19 (2) In relation to a background check covered by paragraph (1)(b),
20 subsections 13(4A) and 14(6) and subparagraph 23(b)(ia), as in
21 force on or after the commencement of this section, apply as if a
22 reference to an adverse criminal intelligence assessment included a
23 reference to a high risk criminal intelligence assessment (within the
24 meaning of this instrument as in force immediately before that
25 commencement).

26 ***Australian Border Force Act 2015***

27 **57 After paragraph 46(j)**

28 Insert:

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1 (ja) a purpose relating to the performance of the Australian Crime
2 Commission's function covered by paragraph 7A(da) of the
3 *Australian Crime Commission Act 2002*;

4 *Aviation Transport Security Act 2004*

5 **58 Section 4 (simplified outline)**

6 Omit "serious crime", substitute "serious and organised crime".

7 **59 Section 9**

8 Insert:

9 *serious and organised crime* has the same meaning as in Part III of
10 the *Australian Crime Commission Act 2002*.

11 **60 Section 27 (simplified outline)**

12 Omit "serious crime", substitute "serious and organised crime".

13 **61 Division 4A of Part 3 (heading)**

14 Repeal the heading, substitute:

15 **Division 4A—Serious and organised crime**

16 **62 Section 38AA**

17 Omit "serious crime", substitute "serious and organised crime".

18 **63 Subsection 38AB(1)**

19 Omit "serious crime", substitute "serious and organised crime".

20 **64 Subsection 44C(1)**

21 Omit "serious crime", substitute "serious and organised crime".

22 *Aviation Transport Security Regulations 2005*

23 **65 Subregulation 6.01(1) (definition of *adverse criminal*** 24 ***intelligence assessment*)**

25 Omit "section 36A", substitute "Part III".

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1 **66 Subregulation 6.01(1) (note to the definition of *adverse***
2 ***criminal intelligence assessment*)**

3 Omit “section 36D and Subdivision C of Division 2A of Part II”,
4 substitute “section 54E and Division 4 of Part III”.

5 **67 Paragraph 6.27AA(3)(c)**

6 Omit “serious crime”, substitute “serious and organised crime”.

7 **68 Paragraph 6.28(1)(ea)**

8 Omit “person issuing the assessment”, substitute “Chief Executive
9 Officer of the Australian Crime Commission”.

10 **69 Paragraph 6.28(1)(ea)**

11 Omit “serious crime”, substitute “serious and organised crime”.

12 **70 Paragraph 6.28(4G)(a)**

13 Omit “and (c)”, substitute “, (c) and (ea)”.

14 **71 Subparagraph 6.42A(1)(b)(ii)**

15 Omit “serious crime”, substitute “serious and organised crime”.

16 **72 Paragraph 6.43(2)(bb)**

17 Omit “person issuing the assessment”, substitute “Chief Executive
18 Officer of the Australian Crime Commission”.

19 **73 Paragraph 6.43(2)(bb)**

20 Omit “serious crime”, substitute “serious and organised crime”.

21 **74 Subregulation 6.44(2)**

22 Omit “serious crime”, substitute “serious and organised crime”.

23 **75 In the appropriate position in Part 10**

24 Insert:

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Division 25—Amendments made by the Combatting Antisemitism, Hate and Extremism Act 2026

10.56 Application of amendments made by the *Combatting Antisemitism, Hate and Extremism Act 2026*

- (1) The amendment of paragraph 6.27AA(3)(c) made by Division 4 of Part 2 of Schedule 4 to the *Combatting Antisemitism, Hate and Extremism Act 2026* applies in relation to an application for a background check made on or after the commencement of that Part.
- (2) The amendments of regulation 6.28 made by Division 4 of Part 2 of Schedule 4 to the *Combatting Antisemitism, Hate and Extremism Act 2026* apply in relation to the issue of an ASIC on or after the commencement of that Part.
- (3) The amendment of subparagraph 6.42A(1)(b)(ii) made by Division 4 of Part 2 of Schedule 4 to the *Combatting Antisemitism, Hate and Extremism Act 2026* applies in relation to a direction made on or after the commencement of that Part.
- (4) The amendments of paragraph 6.43(2)(bb) made by Division 4 of Part 2 of Schedule 4 to the *Combatting Antisemitism, Hate and Extremism Act 2026* apply in relation to a cancellation of an ASIC on or after the commencement of that Part, whether the ASIC was issued before, on or after that commencement.
- (5) The amendment of subregulation 6.44(2) made by Division 4 of Part 2 of Schedule 4 to the *Combatting Antisemitism, Hate and Extremism Act 2026* applies in relation to a cancellation of an ASIC, VIC or TAC on or after the commencement of that Part, whether the ASIC, VIC or TAC was issued before, on or after that commencement.

Crimes Act 1914

76 After paragraph 3ZQU(1)(d)

Insert:

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1 (da) the performance of the ACC’s function covered by
2 paragraph 7A(da) of the *Australian Crime Commission Act*
3 2002;

4 ***Maritime Transport and Offshore Facilities Security Act***
5 **2003**

6 **77 Section 10**

7 Insert:

8 *serious and organised crime* has the same meaning as in Part III of
9 the *Australian Crime Commission Act 2002*.

10 **78 Section 101 (simplified outline)**

11 Omit “serious crime”, substitute “serious and organised crime”.

12 **79 Division 6 of Part 6 (heading)**

13 Repeal the heading, substitute:

14 **Division 6—Serious and organised crime**

15 **80 Section 113E**

16 Omit “serious crime”, substitute “serious and organised crime”.

17 **81 Subsection 113F(1)**

18 Omit “serious crime”, substitute “serious and organised crime”.

19 ***Maritime Transport and Offshore Facilities Security***
20 ***Regulations 2003***

21 **82 Subregulation 6.07B(1) (definition of *adverse criminal***
22 ***intelligence assessment*)**

23 Omit “section 36A”, substitute “Part III”.

24 **83 Paragraph 6.08C(1)(da)**

25 Omit “person issuing the assessment”, substitute “Chief Executive
26 Officer of the Australian Crime Commission”.

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1 **84 Paragraph 6.08C(1)(da)**

2 Omit “serious crime”, substitute “serious and organised crime”.

3 **85 At the end of subregulation 6.08C(5)**

4 Add:

5 ; and (c) the person meets the criteria in paragraph (1)(da).

6 **86 Paragraph 6.08D(1)(b)**

7 Omit “person issuing the assessment”, substitute “Chief Executive
8 Officer of the Australian Crime Commission”.

9 **87 Paragraph 6.08D(1)(b)**

10 Omit “serious crime”, substitute “serious and organised crime”.

11 **88 Subregulation 6.08D(1) (note)**

12 Omit “section 36D and Subdivision C of Division 2A of Part II”,
13 substitute “section 54E and Division 4 of Part III”.

14 **89 Subregulation 6.08D(3)**

15 Omit “serious crime”, substitute “serious and organised crime”.

16 **90 Subregulation 6.08F(8)**

17 Omit “serious crime”, substitute “serious and organised crime”.

18 **91 Paragraph 6.08LC(1)(c)**

19 Omit “serious crime”, substitute “serious and organised crime”.

20 **92 Subparagraph 6.08LE(1)(b)(ii)**

21 Omit “serious crime”, substitute “serious and organised crime”.

22 **93 Paragraph 6.08M(1)(cb)**

23 Omit “person issuing the assessment”, substitute “Chief Executive
24 Officer of the Australian Crime Commission”.

25 **94 Paragraph 6.08M(1)(cb)**

26 Omit “serious crime”, substitute “serious and organised crime”.

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1 **95 Subregulation 6.08O(3)**

2 Omit “serious crime”, substitute “serious and organised crime”.

3 **96 In the appropriate position in Schedule 2**

4 Insert:

5 **Part 15—Amendments made by the Combatting**
6 **Antisemitism, Hate and Extremism Act**
7 **2026**
8

9 **123 Application of amendments made by the *Combatting***
10 ***Antisemitism, Hate and Extremism Act 2026***

- 11 (1) The amendments of regulation 6.08C made by Division 4 of Part 2
12 of Schedule 4 to the *Combatting Antisemitism, Hate and*
13 *Extremism Act 2026* apply in relation to the issue of an MSIC on or
14 after the commencement of that Part.
- 15 (2) The amendments of paragraph 6.08D(1)(b) made by Division 4 of
16 Part 2 of Schedule 4 to the *Combatting Antisemitism, Hate and*
17 *Extremism Act 2026* apply in relation to an adverse criminal
18 intelligence assessment given on or after the commencement of
19 that Part.
- 20 (3) The amendments of subregulations 6.08D(3) and 6.08F(8) made by
21 Division 4 of Part 2 of Schedule 4 to the *Combatting Antisemitism,*
22 *Hate and Extremism Act 2026* apply in relation to a direction made
23 on or after the commencement of that Part.
- 24 (4) The amendment of paragraph 6.08LC(1)(c) made by Division 4 of
25 Part 2 of Schedule 4 to the *Combatting Antisemitism, Hate and*
26 *Extremism Act 2026* applies in relation to an application for a
27 background check made on or after the commencement of that
28 Part.
- 29 (5) The amendment of subparagraph 6.08LE(1)(b)(ii) made by
30 Division 4 of Part 2 of Schedule 4 to the *Combatting Antisemitism,*
31 *Hate and Extremism Act 2026* applies in relation to a direction
32 made on or after the commencement of that Part.

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- 1 (6) The amendments of regulations 6.08M and 6.08O made by
2 Division 4 of Part 2 of Schedule 4 to the *Combatting Antisemitism,*
3 *Hate and Extremism Act 2026* apply in relation to a cancellation of
4 an MSIC on or after the commencement of that Part, whether the
5 MSIC was issued before, on or after that commencement.

6 *Surveillance Devices Act 2004*

7 **97 After paragraph 45(5)(g)**

8 Insert:

- 9 (ga) the performance of the Australian Crime Commission's
10 function covered by paragraph 7A(da) of the *Australian*
11 *Crime Commission Act 2002*;
12 (gb) a proceeding relating to the review of an adverse criminal
13 intelligence assessment (within the meaning of Part III of the
14 *Australian Crime Commission Act 2002*);

15 **98 After subsection 45(7)**

16 Insert:

- 17 (7A) Subsection (7) does not apply in relation to the Australian Crime
18 Commission in connection with the performance of the Australian
19 Crime Commission's function covered by paragraph 7A(da) of the
20 *Australian Crime Commission Act 2002*.

21 **99 After paragraph 45B(5)(b)**

22 Insert:

- 23 (ba) the performance of the Australian Crime Commission's
24 function covered by paragraph 7A(da) of the *Australian*
25 *Crime Commission Act 2002*;

26 *Telecommunications (Interception and Access) Act 1979*

27 **100 Subsection 5(1) (before subparagraph (aa)(i) of the** 28 **definition of *permitted purpose*)**

29 Insert:

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Firearms amendments **Schedule 4**
Firearms background checks **Part 2**

- 1 (ia) the performance of the ACC's function covered by
2 paragraph 7A(da) of the *Australian Crime Commission*
3 *Act 2002*; or

4 **101 After paragraph 5B(1)(a)**

5 Insert:

- 6 (aa) a proceeding by way of review of a decision of the
7 Organisation to make an adverse security assessment (within
8 the meaning of Part IV of the *Australian Security Intelligence*
9 *Organisation Act 1979*) or a qualified security assessment
10 (within the meaning of that Part); or
11 (ab) a proceeding by way of review of a decision of the ACC to
12 make an adverse criminal intelligence assessment (within the
13 meaning of Part III of the *Australian Crime Commission Act*
14 *2002*); or

15 **102 After subsection 67(1C)**

16 Insert:

- 17 (1D) An officer of the ACC may communicate to another person, make
18 use of, or make a record of information mentioned in
19 paragraph (1A)(c) for the purpose of the performance of the ACC's
20 function covered by paragraph 7A(da) of the *Australian Crime*
21 *Commission Act 2002*.
22 (1E) Subsection (1D) does not apply if the information mentioned in
23 paragraph (1A)(c) was obtained by an officer of the ACC:
24 (a) by, or in connection with, intercepting a communication
25 when exercising authority under a warrant issued to another
26 agency; or
27 (b) as a result of a communication in accordance with section 66,
28 where the information was obtained by intercepting a
29 communication under a warrant issued to another agency.

30 **103 After paragraph 68(a)**

31 Insert:

- 32 (aa) if the information relates, or appears to relate, to the
33 performance of the ACC's function covered by

EXPOSURE DRAFT

Schedule 4 Firearms amendments

Part 2 Firearms background checks

1 paragraph 7A(da) of the *Australian Crime Commission Act*
2 2002—to the Chief Executive Officer of the ACC; and

3 **104 Subsection 73(1)**

4 Omit “subsections (2) and (3)”, substitute “subsections (1A), (2) and
5 (3)”.

6 **105 After subsection 73(1)**

7 Insert:

8 (1A) Subsection (1) does not apply in relation to an officer of the ACC
9 in connection with the performance of the ACC’s function covered
10 by paragraph 7A(da) of the *Australian Crime Commission Act*
11 2002.

12 **106 At the end of subsection 139(2)**

13 Add:

14 ; or (f) the performance of the ACC’s function covered by
15 paragraph 7A(da) of the *Australian Crime Commission Act*
16 2002.

17 **107 Section 142**

18 Before “A person”, insert “(1)”.

19 **108 At the end of section 142**

20 Add:

21 (2) Subsection (1) does not apply in relation to an officer of the ACC
22 in connection with the performance of the ACC’s function covered
23 by paragraph 7A(da) of the *Australian Crime Commission Act*
24 2002.

25 **109 Section 178 (at the end of the heading)**

26 Add “etc.”.

27 **110 Subsection 178(3)**

28 Repeal the subsection, substitute:

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Firearms amendments **Schedule 4**
Firearms background checks **Part 2**

- 1 (3) The authorised officer must not make the authorisation unless the
2 authorised officer is satisfied that the disclosure is reasonably
3 necessary for:
4 (a) in any case—the enforcement of the criminal law; or
5 (b) in the case of an authorised officer of the ACC—the
6 performance of the ACC’s function covered by
7 paragraph 7A(da) of the *Australian Crime Commission Act*
8 *2002*.

9 **111 Subsection 180(4)**

10 Omit “the investigation of”.

11 **112 Paragraph 180(4)(a)**

12 Before “a”, insert “in any case—the investigation of”.

13 **113 Paragraph 180(4)(b)**

14 Before “an”, insert “in any case—the investigation of”.

15 **114 At the end of subsection 180(4)**

16 Add:
17 ; or (c) in the case of an authorised officer of the ACC—the
18 performance of the ACC’s function covered by
19 paragraph 7A(da) of the *Australian Crime Commission Act*
20 *2002*.

21 **115 After subparagraph 181A(3)(b)(ii)**

22 Insert:
23 (ia) to enable the ACC to perform its function covered by
24 paragraph 7A(da) of the *Australian Crime Commission*
25 *Act 2002*; or

26 **116 After subparagraph 181A(6)(b)(ii)**

27 Insert:
28 (ia) to enable the ACC to perform its function covered by
29 paragraph 7A(da) of the *Australian Crime Commission*
30 *Act 2002*; or

EXPOSURE DRAFT

Schedule 4 Firearms amendments

Part 2 Firearms background checks

1 **117 After subparagraph 181B(3)(b)(iib)**

2 Insert:

3 (iic) to enable the ACC to perform its function covered by
4 paragraph 7A(da) of the *Australian Crime Commission*
5 *Act 2002*; or

6 **118 After subparagraph 181B(6)(b)(iab)**

7 Insert:

8 (iac) to enable the ACC to perform its function covered by
9 paragraph 7A(da) of the *Australian Crime Commission*
10 *Act 2002*; or

11 **119 After subparagraph 182(2)(a)(iiib)**

12 Insert:

13 (iiic) for the performance by the ACC of its function covered
14 by paragraph 7A(da) of the *Australian Crime*
15 *Commission Act 2002*; or

16 **120 After subparagraph 182(3)(a)(iib)**

17 Insert:

18 (iic) for the performance by the ACC of its function covered
19 by paragraph 7A(da) of the *Australian Crime*
20 *Commission Act 2002*; or

21 **121 After subparagraph 182B(b)(ivb)**

22 Insert:

23 (ivc) to enable the ACC to perform its function covered by
24 paragraph 7A(da) of the *Australian Crime Commission*
25 *Act 2002*; or

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Firearms amendments Schedule 4
Transmission of firearms information and other information to ACIC Part 3

Part 3—Transmission of firearms information and other information to ACIC

Customs Act 1901

122 Section 273L

Repeal the section, substitute:

273L Transmission of firearms information and other information to ACIC

Home Affairs Secretary

- (1) The Home Affairs Secretary may disclose firearms information, or other information prescribed by the regulations for the purposes of this subsection, that is contained in one or more electronic systems under the control of the Home Affairs Secretary, to the ACIC CEO.

Note: This section constitutes an authorisation for the purposes of other laws, such as Australian Privacy Principle 6 of the *Privacy Act 1988*.

- (2) Without limiting subsection (1), the Home Affairs Secretary may disclose information mentioned in subsection (1) by arranging for the automatic transmission of that information to one or more electronic systems under the control of the ACIC CEO.

Comptroller-General of Customs

- (3) The Comptroller-General of Customs may disclose firearms information, or other information prescribed by the regulations for the purposes of this subsection, that is contained in one or more electronic systems under the control of the Comptroller-General of Customs, to the ACIC CEO.

Note 1: See subsection 4(1) for the definition of *Comptroller-General of Customs*.

Note 2: This section constitutes an authorisation for the purposes of other laws, such as Australian Privacy Principle 6 of the *Privacy Act 1988*.

EXPOSURE DRAFT

Schedule 4 Firearms amendments

Part 3 Transmission of firearms information and other information to ACIC

- 1 (4) Without limiting subsection (3), the Comptroller-General of
2 Customs may disclose information mentioned in subsection (3) by
3 arranging for the automatic transmission of that information to one
4 or more electronic systems under the control of the ACIC CEO.

5 *Firearms information*

- 6 (5) **Firearms information** is information relating to firearms or other
7 goods relating to firearms (including firearms frames, firearms
8 receivers and firearms sound suppressors). That information may
9 include the following:
10 (a) information relating to the import or export of the firearms or
11 other goods;
12 (b) information relating to licences or permits (however
13 described) for the firearms or other goods;
14 (c) personal information or other information in relation to one
15 or more persons.

16 *Other prescribed information*

- 17 (6) Information prescribed for the purposes of subsection (1) or (3)
18 must be information relating to goods that are not firearms or other
19 goods relating to firearms. That information may include the
20 following:
21 (a) information relating to the import or export of the goods;
22 (b) information relating to licences or permits (however
23 described) for the goods;
24 (c) personal information or other information in relation to one
25 or more persons.

26 *General definitions*

- 27 (7) In this section:

28 **ACIC** means the agency known as the Australian Criminal
29 Intelligence Commission established by the *Australian Crime*
30 *Commission Act 2002*.

31 **ACIC CEO** means the Chief Executive Officer of the ACIC.

EXPOSURE DRAFT

Firearms amendments **Schedule 4**
Transmission of firearms information and other information to ACIC **Part 3**

1 *Home Affairs Secretary* means the Secretary of the Department
2 administered by the Minister administering the *Australian Border*
3 *Force Act 2015*.

4 *personal information* has the same meaning as in the *Privacy Act*
5 *1988*.

6 **273M Entry and transmission of information by computer**

7 If this Act requires or permits information (including information
8 in the form of particular words) to be entered into or transmitted by
9 a computer (however described), the information may be entered
10 into or transmitted by the computer in an encoded form chosen by:

- 11 (a) except in relation to subsection 273L(2)—the
12 Comptroller-General of Customs; or
13 (b) in relation to subsection 273L(2)—the Home Affairs
14 Secretary within the meaning of section 273L.

15 **123 Application provision**

16 Section 273L of the *Customs Act 1901*, as inserted by this Part, applies
17 in relation to information disclosed on or after the commencement of
18 this item, whether the information was obtained or generated before, on
19 or after that commencement.

EXPOSURE DRAFT

Schedule 4 Firearms amendments

Part 4 Public safety tests for firearms and weapons

Part 4—Public safety tests for firearms and weapons

Division 1—Amendments

Customs (Prohibited Imports) Regulations 1956

124 Subregulation 2(1)

Insert:

fails the public safety test for firearms has the meaning given by subregulation 4FA(5).

fails the public safety test for weapons has the meaning given by subregulation 4HA(5).

passes the public safety test for firearms has the meaning given by subregulation 4FA(4).

passes the public safety test for weapons has the meaning given by subregulation 4HA(4).

public safety test for firearms means the rules made by the Minister under subregulation 4FA(6).

public safety test for weapons means the rules made by the Minister under subregulation 4HA(6).

125 At the end of subregulation 4F(1)

Add:

; and (c) if the public safety test for firearms is applied under regulation 4FA to the importation of the article—the importation of the article passes the public safety test for firearms.

126 After subregulation 4F(1)

Insert:

(1AA) Despite subregulation (1), the importation of an article that fails the public safety test for firearms is not prohibited if the importation of the article complies with the public interest test set out in item 8A,

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Firearms amendments **Schedule 4**
Public safety tests for firearms and weapons **Part 4**

1 or the national interest test set out in item 8B, of Part 1 of
2 Schedule 6.

3 **127 After regulation 4F**

4 Insert:

5 **4FA Public safety test for firearms**

6 *Minister may apply public safety test for firearms*

7 (1) At or before the importation of an article to which regulation 4F
8 applies, the Minister may assess whether the importation of the
9 article poses a risk to the health, safety or security of the public or
10 a segment of the public.

11 Note: Regulation 4F applies to the importation of firearms, firearm
12 accessories, firearm parts, firearm magazines, ammunition,
13 components of ammunition and imitations.

14 (2) To avoid doubt, the Minister does not have any obligation to
15 consider whether to assess the importation of an article under
16 subregulation (1).

17 (3) The Minister may, at any time, require the person importing the
18 article to give to the Minister any information that the Minister
19 reasonably requires for the purpose of assessing the importation of
20 the article.

21 *When importation of an article passes or fails the public safety test*
22 *for firearms*

23 (4) The importation of an article ***passes the public safety test for***
24 ***firearms*** if:

25 (a) the Minister assesses the importation of the article under
26 subregulation (1); and

27 (b) the Minister determines, in accordance with the legislative
28 instrument made under subregulation (6), that the importation
29 of the article does not pose a risk to the health, safety or
30 security of the public or a segment of the public.

31 (5) The importation of an article ***fails the public safety test for***
32 ***firearms*** if:

EXPOSURE DRAFT

Schedule 4 Firearms amendments

Part 4 Public safety tests for firearms and weapons

- 1 (a) the Minister assesses the importation of the article under
2 subregulation (1); and
3 (b) the Minister determines, in accordance with the legislative
4 instrument made under subregulation (6), that the importation
5 of the article poses a risk to the health, safety or security of
6 the public or a segment of the public.

7 Note: If the importation of an article fails the public safety test for firearms,
8 the article is generally prohibited from being imported (see
9 subregulations 4F(1) and (1AA)).

10 *Rules relating to public safety test for firearms*

- 11 (6) For the purposes of this regulation, the Minister must, by
12 legislative instrument, makes rules for and in relation to whether
13 the importation of an article to which regulation 4F applies poses a
14 risk to the health, safety or security of the public or a segment of
15 the public.

16 *Public includes emergency services personnel*

- 17 (7) To avoid doubt, a reference in this section to the public or a
18 segment of the public includes a reference to emergency services
19 personnel who serve the public.

20 **128 Subregulation 4H(1)**

21 Repeal the subregulation, substitute:

- 22 (1) Subject to subregulation (2), the importation into Australia of a
23 weapon or weapon part of the kind mentioned in an item in Part 2
24 of Schedule 13 is prohibited unless:
25 (a) the importation is in accordance with the requirements set out
26 in the item; and
27 (b) if the public safety test for weapons is applied under
28 regulation 4HA to the importation of the goods—the
29 importation of the goods passes the public safety test for
30 weapons.
31 (1A) Despite subregulation (1), the importation of goods that fail the
32 public safety test for weapons is not prohibited if the importation
33 of the goods complies with the public interest test set out in item 9,

EXPOSURE DRAFT

Firearms amendments **Schedule 4**
Public safety tests for firearms and weapons **Part 4**

1 or the national interest test set out in item 10, of Part 1 of
2 Schedule 13.

3 **129 After regulation 4H**

4 Insert:

5 **4HA Public safety test for weapons**

6 *Minister may apply public safety test for weapons*

7 (1) At or before the importation of goods to which regulation 4H
8 applies, the Minister may assess whether the importation of the
9 goods poses a risk to the health, safety or security of the public or a
10 segment of the public.

11 Note: Regulation 4H applies to the importation of weapons and weapon
12 parts.

13 (2) To avoid doubt, the Minister does not have any obligation to
14 consider whether to assess the importation of goods under
15 subregulation (1).

16 (3) The Minister may, at any time, require the person importing the
17 goods to give to the Minister any information that the Minister
18 reasonably requires for the purpose of assessing the importation of
19 the goods.

20 *When importation of goods passes or fails the public safety test for*
21 *weapons*

22 (4) The importation of goods ***passes the public safety test for weapons***
23 if:

24 (a) the Minister assesses the importation of the goods under
25 subregulation (1); and

26 (b) the Minister determines, in accordance with the legislative
27 instrument made under subregulation (6), that the importation
28 of the goods does not pose a risk to the health, safety or
29 security of the public or a segment of the public.

30 (5) The importation of goods ***fails the public safety test for weapons***
31 if:

EXPOSURE DRAFT

Schedule 4 Firearms amendments

Part 4 Public safety tests for firearms and weapons

- 1 (a) the Minister assesses the importation of the goods under
2 subregulation (1); and
3 (b) the Minister determines, in accordance with the legislative
4 instrument made under subregulation (6), that the importation
5 of the goods poses a risk to the health, safety or security of
6 the public or a segment of the public.

7 Note: If the importation of goods fails the public safety test for weapons, the
8 goods are generally prohibited from being imported (see
9 subregulations 4H(1) and (1A)).

10 *Rules relating to public safety test for weapons*

- 11 (6) For the purposes of this regulation, the Minister must, by
12 legislative instrument, makes rules for and in relation to whether
13 the importation of goods to which regulation 4H applies poses a
14 risk to the health, safety or security of the public or a segment of
15 the public.

16 *Public includes emergency services personnel*

- 17 (7) To avoid doubt, a reference in this section to the public or a
18 segment of the public includes a reference to emergency services
19 personnel who serve the public.

20 **130 Part 1 of Schedule 6**

21 After “A reference in column 3 of Part 2 of this Schedule to compliance
22 with a test means compliance in the following manner:”, insert:

23 Note: The public safety test for firearms may be applied to an article in
24 addition to the tests in this Part. If the importation of the article fails
25 the public safety test for firearms, the importation of the article will be
26 prohibited unless the Minister gives written permission for the
27 importation of the article under the public interest test or the national
28 interest test (see subregulation 4F(1AA)).

29 **131 Part 1 of Schedule 13**

30 After “A reference in column 3 of Part 2 of this Schedule to compliance
31 with a test means compliance in the following manner:”, insert:

32 Note: The public safety test for weapons may be applied to goods in addition
33 to the tests in this Part. If the importation of the goods fails the public
34 safety test for weapons, the importation of the goods will be
35 prohibited unless the Minister gives written permission for the

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1 importation of the goods under the public interest test or the national
2 interest test (see subregulation 4H(1A)).

3 **Division 2—Application of amendments made by this**
4 **Part**

5 ***Customs (Prohibited Imports) Regulations 1956***

6 **132 At the end of regulation 23**

7 Add:

- 8 (2) The amendments of these Regulations made by Part 4 of
9 Schedule 4 to the *Combatting Antisemitism, Hate and Extremism*
10 *Act 2026* apply in relation to:
- 11 (a) any application for permission to import goods into Australia
12 made at or after the commencement of that Part; and
 - 13 (b) any application for permission to import goods into Australia
14 made before that commencement that has not been finally
15 decided; and
 - 16 (c) any documentation given at or after that commencement to
17 facilitate the importation of goods into Australia; and
 - 18 (d) any documentation given before that commencement to
19 facilitate the importation of goods into Australia, where the
20 goods are imported into Australia on or after that
21 commencement.

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Schedule 4 Firearms amendments

Part 5 Importation of firearms

Part 5—Importation of firearms

Division 1—Assisted repeating action and straight pull repeating action firearms

Customs (Prohibited Imports) Regulations 1956

133 Subregulation 2(1)

Insert:

assisted repeating action has the meaning given by subregulation 4F(4).

straight pull repeating action has the meaning given by subregulation 4F(4).

134 Subregulation 4F(4)

Insert:

assisted repeating action: a firearm is an *assisted repeating action* firearm if:

- (a) the firearm operates with a self-opening repeating action, or a self-closing repeating action; and
- (b) the cycle of operation of the firearm is partly automated.

straight pull repeating action: a firearm is a *straight pull repeating action* firearm if the firearm is operated by movement of a bolt or handle along a single linear axis (that is, without rotation).

135 Part 2 of Schedule 6 (table item 1, column 2, paragraph (c))

Repeal the paragraph, substitute:

- (c) a rimfire rifle, other than a semi-automatic rimfire rifle or an assisted repeating action or straight pull repeating action rimfire rifle;

136 Part 2 of Schedule 6 (table item 2, column 2, paragraph (d))

Repeal the paragraph, substitute:

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Firearms amendments **Schedule 4**
Importation of firearms **Part 5**

- 1 (d) a repeating action centre fire rifle, other than an assisted repeating action or straight
2 pull repeating action centre fire rifle;

3 **137 Part 2 of Schedule 6 (table item 2, column 2,**
4 **paragraph (f))**

5 Repeal the paragraph, substitute:

- 6 (f) a repeating bolt action shotgun, other than an assisted repeating action or straight
7 pull repeating action shotgun;

8 **138 Part 2 of Schedule 6 (table item 2, column 2,**
9 **paragraph (g))**

10 After “lever action shotgun”, insert “that is not an assisted repeating
11 action or straight pull repeating action shotgun, and that is”.

12 **139 Part 2 of Schedule 6 (table item 2, column 2,**
13 **paragraph (ga))**

14 Repeal the paragraph.

15 **140 Part 2 of Schedule 6 (at the end of table item 3, column 2)**

16 Add:

17 An assisted repeating action or straight pull repeating action shotgun that is:

- 18 (a) without a firearm magazine; or
19 (b) fitted with a firearm magazine of a capacity no greater than 5 rounds.

20 An assisted repeating action or straight pull repeating action rimfire rifle that is:

- 21 (a) without a firearm magazine; or
22 (b) fitted with a firearm magazine of a capacity no greater than 10 rounds.

23 **141 Part 2 of Schedule 6 (table item 3, column 3)**

24 After “rimfire rifle”, insert “, or assisted repeating action or straight pull
25 repeating action rimfire rifle”.

26 **142 Part 2 of Schedule 6 (table item 3, column 3)**

27 After “repeating shotgun”, insert “, or assisted repeating action or
28 straight pull repeating action shotgun”.

EXPOSURE DRAFT

Schedule 4 Firearms amendments

Part 5 Importation of firearms

1 **143 Part 2 of Schedule 6 (table item 6, column 2, after**
2 **paragraph (b))**

3 Insert:

4 (ba) an assisted repeating action or straight pull repeating action rimfire rifle fitted with
5 a firearm magazine of a capacity greater than 10 rounds;

6 **144 Part 2 of Schedule 6 (table item 6, column 2,**
7 **paragraph (da))**

8 Repeal the paragraph, substitute:

9 (da) an assisted repeating action or straight pull repeating action shotgun fitted with a
10 magazine of capacity greater than 5 rounds;

11 (db) an assisted repeating action or straight pull repeating action centre fire rifle;

12 **145 Part 2 of Schedule 6 (table item 15, column 2,**
13 **paragraph (d))**

14 Repeal the paragraph, substitute:

15 (d) assisted repeating action or straight pull repeating action shotguns;

16 **146 Part 2 of Schedule 6 (table item 16, column 2, after**
17 **paragraph (c))**

18 Insert:

19 or (d) assisted repeating action or straight pull repeating action rimfire rifles; or

20 (e) assisted repeating action or straight pull repeating action centre fire rifles;

21 **147 Part 2 of Schedule 6 (cell at table item 16A, column 2)**

22 Repeal the cell, substitute:

Detachable firearm magazine (other than a firearm magazine to which item 14A, 14B or
16 applies), having a capacity of more than 15 rounds, for repeating action centre-fire
rifles, whether or not attached to a firearm.

23 **Division 2—Belt feeders**

24 ***Customs (Prohibited Imports) Regulations 1956***

25 **148 Part 2 of Schedule 6 (table item 1, column 2,**
26 **paragraph (e))**

27 After “capability”, insert “or is operated using belt-fed ammunition”.

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- 149

Part 2 of Schedule 6 (table item 2, column 2, paragraph (h))

After “capability”, insert “or is operated using belt-fed ammunition”.

150

Part 2 of Schedule 6 (table item 3, column 2, paragraph (a))

After “capability”, insert “or is operated using belt-fed ammunition”.

151

Part 2 of Schedule 6 (table item 6, column 2, paragraph (e))

After “capability”, insert “or is operated using belt-fed ammunition”.

152

Part 2 of Schedule 6 (table item 9, column 2, paragraph (d))

After “capability”, insert “or is operated using belt-fed ammunition”.

Division 3—Magazines over 30 rounds

Customs (Prohibited Imports) Regulations 1956

153

Part 2 of Schedule 6 (after table item 16A)

Insert:

16B

Detachable firearm magazine having a capacity of more than 30 rounds (other than a firearm magazine to which item 14A, 14B, 15, 16 or 16A applies), whether or not attached to a firearm.

The importation must comply with at least one of the following tests:

(a) the official purposes test;

(b) the specified purposes test;

(c) the specified person test;

(d) the returned goods test.

154

Part 2 of Schedule 6 (table item 17, column 2, paragraph (a))

Omit “or 16A applies”, substitute “, 16A or 16B applies”.

No. , 2026

Combating Antisemitism, Hate and Extremism Bill 2026

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Schedule 4 Firearms amendments

Part 5 Importation of firearms

1 **Division 4—Handguns**

2 ***Customs (Prohibited Imports) Regulations 1956***

3 **155 Paragraph 4.1(c) of Part 1 of Schedule 6**

4 Repeal the paragraph.

5 **156 Subparagraph 4.1(d)(ii) of Part 1 of Schedule 6**

6 Omit “or category H”.

7 **157 Subitem 4.2 of Part 1 of Schedule 6**

8 Repeal the subitem.

9 **158 Subitem 5.1 of Part 1 of Schedule 6**

10 After “category C article”, insert “, or a category H article,”.

11 **159 Subitem 5.2 of Part 1 of Schedule 6 (note)**

12 Omit “and *restricted category C article*”, substitute “, *restricted*
13 *category C article* and *category H article*”.

14 **160 Subitem 5A.1 of Part 1 of Schedule 6**

15 After “category C article”, insert “, or a category H article,”.

16 **161 Subitem 5A.2 of Part 1 of Schedule 6 (note)**

17 Omit “and *restricted category C article*”, substitute “*restricted category*
18 *C article* and *category H article*”.

19 **162 Item 6 of Part 1 of Schedule 6 (heading)**

20 Omit “—Category C and D articles”.

21 **163 Subitem 6.1 of Part 1 of Schedule 6**

22 Omit “or Category D”, substitute “, Category D or Category H”.

23 **164 Subitem 6.2 of Part 1 of Schedule 6 (note)**

24 After “*Category D article*”, insert “, *Category H article*”.

EXPOSURE DRAFT

Firearms amendments **Schedule 4**
Importation of firearms **Part 5**

1 **165 Item 7 of Part 1 of Schedule 6**

2 Repeal the item, substitute:

3 **7. Handgun test**

4 7.1 The importation of a category H article complies with the handgun
5 test if, at or before importation, the Minister gives written
6 permission under this item for the importation of the article.

7 7.2 The Minister may give written permission for the importation of
8 the article only if the Minister is satisfied that the importer is:

9 (a) a certified buyer for the article; or

10 (b) certified for business or occupational purposes for the article;
11 or

12 (c) a certified collector for the article; or

13 (d) exempt from holding, or not required to hold, a licence for
14 the article.

15 Note: For the definitions of *category H article*, *certified buyer*, *certified for*
16 *business or occupational purposes* and *certified collector*, see Part 4.

17 **166 Part 2 of Schedule 6 (cell at table item 9, column 3)**

18 Repeal the cell, substitute:

The importation must comply with at least one of the following tests:

- (a) the official purposes test;
- (b) the specified purposes test;
- (c) the specified person test;
- (d) the sports shooter test;
- (e) the international sports shooter test;
- (f) the dealer test;
- (g) the handgun test;
- (h) the returned goods test.

If item 1A of Part 3 of this Schedule applies to the firearm—the firearm must comply with the identification requirements set out in the item.

If item 1 of Part 3 of this Schedule applies to the firearm—the firearm must comply with the safety requirements set out in the item.

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Schedule 4 Firearms amendments

Part 5 Importation of firearms

1 **167 Part 2 of Schedule 6 (table item 9B, column 3,**
2 **paragraph (d))**

3 Repeal the paragraph, substitute:

4 (d) the sports shooter test;

5 (da) the international sports shooter test;

6 **168 Part 2 of Schedule 6 (table item 9B, column 3, after**
7 **paragraph (e))**

8 Insert:

9 (ea) the handgun test;

10 **169 Part 2 of Schedule 6 (table item 10, column 3,**
11 **paragraph (d))**

12 Repeal the paragraph, substitute:

13 (d) the sports shooter test;

14 (da) the international sports shooter test;

15 (db) the dealer test;

16 (dc) the handgun test;

17 **170 Part 2 of Schedule 6 (at the end of the cell at table**
18 **item 17, column 3)**

19 Add:

20 ; (f) the sports shooter test;

21 (g) the international sports shooter test;

22 (h) the handgun test.

23 **171 At the end of subitem 3A.1 of Part 4 of Schedule 6**

24 Add:

25 ; or (c) a firearm part covered by item 10 of Part 2; or

26 (d) a firearm magazine covered by item 17 of Part 2.

1 Division 5—Frames and receivers

2 *Customs (Prohibited Imports) Regulations 1956*

3 **172 After paragraph 3E(1)(b)**

4 Insert:
5 (ba) item 2A;

6 **173 Part 2 of Schedule 6 (after table item 2)**

7 Insert:

2A	A frame or receiver of, or for, a firearm to which item 1 or 2 applies.	The importation must comply with at least one of the following tests: (a) the official purposes test; (b) the specified purposes test; (c) the specified person test; (d) the police certification test. If item 1A of Part 3 of this Schedule applies to the frame or receiver, the frame or receiver must comply with the identification requirements set out in the item.
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8 **174 Part 2 of Schedule 6 (table item 2B, column 2)**

9 After “other than”, insert “a frame or receiver, or”.

10 **175 Part 2 of Schedule 6 (after table item 3)**

11 Insert:

3A	A frame or receiver of, or for, a firearm to which item 3 applies.	For a frame or receiver or, or for, a semi-automatic rimfire rifle: (a) the importation must comply with at least one of the following tests: (i) the official purposes test; (ii) the specified purposes test;
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Schedule 4 Firearms amendments

Part 5 Importation of firearms

- (iii) the specified person test;
- (iv) the police certification test;
- (v) the dealer test;
- (vi) the returned goods test; and

- (b) if item 1A of Part 3 of this Schedule applies to the frame or receiver—the frame or receiver must comply with the identification requirements set out in the item.

For a frame or receiver or, or for, a semi-automatic shotgun or pump action repeating shotgun:

- (a) the importation must comply with at least one of the following tests:
 - (i) the official purposes test;
 - (ii) the specified purposes test;
 - (iii) the specified person test;
 - (iv) the police certification test;
 - (v) the sports shooter test;
 - (vi) the international sports shooter test;
 - (vii) the dealer test;
 - (viii) the returned goods test; and
- (b) if item 1A of Part 3 of this Schedule applies to the frame or receiver—the frame or receiver must comply with the identification requirements set out in the item.

EXPOSURE DRAFT

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Part 2 of Schedule 6 (at the end of the cell at table item 4, column 2)

Add:

; or (c) a frame or receiver.
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Part 2 of Schedule 6 (after table item 6)
- 6

Insert:

6A

A frame or receiver of, or for, a firearm to which item 6 applies.

The importation must comply with at least one of the following tests:

(a) the official purposes test;

(b) the specified purposes test;

(c) the specified person test;

(d) the returned goods test;

(e) the dealer test.

If item 1A of Part 3 of this Schedule applies to the frame or receiver, the frame or receiver must comply with the identification requirements set out in the item.

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178

Part 2 of Schedule 6 (at the end of the cell at table item 7, column 2)

8

Add:

9

; or (c) a frame or receiver.

11

179

Part 2 of Schedule 6 (table item 7, column 3)

12

Omit “For a frame or receiver to which item 1A of Part 3 of this

13

Schedule applies, the frame or receiver must comply with the

14

identification requirements set out in the item.”.

15

180

Part 2 of Schedule 6 (after table item 12)

16

Insert:
- No. , 2026

Combating Antisemitism, Hate and Extremism Bill 2026

119
- EXPOSURE DRAFT

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Schedule 4 Firearms amendments

Part 5 Importation of firearms

12A	A frame or receiver of, or for, a firearm to which item 12 applies.	The importation must comply with at least one of the following tests: (a) the official purposes test; (b) the specified purposes test; (c) the returned goods test. If item 1A of Part 3 of this Schedule applies to the frame or receiver, the frame or receiver must comply with the identification requirements set out in the item.
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181 Part 2 of Schedule 6 (table item 13, column 2)

After “other than”, insert “a frame or receiver, or”.

182 Part 2 of Schedule 6 (table item 13, column 3)

Omit “For a frame or receiver to which item 1A of Part 3 of this Schedule applies, the frame or receiver must comply with the identification requirements set out in the item.”.

Division 6—Skirmish markers

Customs (Prohibited Imports) Regulations 1956

183 Subregulation 2(1)

Insert:

skirmish marker has the meaning given in subregulation 4F(4).

184 After paragraph 3E(1)(g)

Insert:

(ga) item 14B;

185 Subregulation 4F(4) (at the end of paragraph (c) of the definition of *firearm*)

Add:

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Firearms amendments **Schedule 4**
Importation of firearms **Part 5**

1 ; (xiii) a low power device that meets the requirements of a
2 projectile toy under the *Consumer Goods (Projectile*
3 *Toys) Safety Standard 2020*, as in force from time to
4 time.

5 **186 Subregulation 4F(4)**

6 Insert:

7 *skirmish marker*:

- 8 (a) means a firearm that is designed to fire plastic, polymer or
9 hydrated superabsorbent polymer balls, darts, discs or similar
10 projectiles of any material; and
11 (b) includes goods commonly known as airsoft handguns, airsoft
12 rifles, airsoft shotguns, blasters, gel blasters or gel ball
13 blasters.

14 **187 Part 2 of Schedule 6 (table item 1, column 2,** 15 **paragraph (b))**

16 Repeal the paragraph.

17 **188 Part 2 of Schedule 6 (cell at table item 1, column 3)**

18 Repeal the cell, substitute:

The importation must comply with at least one of the following tests:

- (a) the official purposes test;
(b) the specified purposes test;
(c) the specified person test;
(d) the police certification test.

If item 1A of Part 3 of this Schedule applies to the firearm—the firearm must comply with the identification requirements set out in the item.

If item 1 of Part 3 of this Schedule applies to the firearm—the firearm must comply with the safety requirements set out in the item.

19 **189 Part 2 of Schedule 6 (table item 9, column 2,** 20 **paragraph (c))**

21 Repeal the paragraph.

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Schedule 4 Firearms amendments

Part 5 Importation of firearms

1 **190 Part 2 of Schedule 6 (table item 12, column 2,**
2 **paragraph (a))**

3 Omit “or 14A”, substitute “, 14A or 14B”.

4 **191 Part 2 of Schedule 6 (after table item 14A)**

5 Insert:

14B Skirmish marker, other than a skirmish
marker:

(a) that is substantially the same in
appearance as a fully automatic
firearm; or

(b) to which a firearm accessory is
attached or is integral.

Firearm part of, or for, a skirmish
marker mentioned in this item.

Detachable firearm magazine (other
than a gravity-fed skirmish hopper)
designed exclusively for use with a
skirmish marker.

Plastic, polymer or hydratable
superabsorbent polymer balls designed
to be used as ammunition in a skirmish
marker.

The importation must comply
with the police certification test.

For a firearm, frame or receiver
to which item 1A of Part 3 of this
Schedule applies, the firearm,
frame or receiver must comply
with the identification
requirements set out in the item.

For a firearm to which item 1 of
Part 3 of this Schedule applies,
the firearm must comply with the
safety requirements set out in the
item.

6 **192 Part 2 of Schedule 6 (table items 15 and 16, column 2)**

7 After “item 14A”, insert “or 14B”.

8 **193 Part 2 of Schedule 6 (table item 17, column 2,**
9 **paragraph (a))**

10 After “item 14A,”, insert “14B,”.

11 **Division 7—Proof of citizenship**

12 ***Customs (Prohibited Imports) Regulations 1956***

13 **194 At the end of subitem 3.2 of Part 1 of Schedule 6**

14 Add:

1 ; and (c) the importer has produced evidence that the importer is an
2 Australian citizen.

3 **Division 8—Firearm sound suppressors**

4 ***Customs (Prohibited Imports) Regulations 1956***

5 **195 Part 2 of Schedule 6 (at the end of the cell at table**
6 **item 11, column 2)**

7 Add “, other than a firearm accessory to which item 13A applies”.

8 **196 Part 2 of Schedule 6 (after table item 13)**

9 Insert:

13A	A firearm accessory that is a silencer, sound moderator, sound suppressor or any other device designed to reduce, or capable of reducing, the noise of discharge of a firearm.	The importation must comply with at least one of the following tests: (a) the official purposes test; (b) the specified purposes test; (c) the returned goods test. The firearm accessory must comply with the identification requirements set out in item 1AA of Part 3 of this Schedule.
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10 **197 Part 2 of Schedule 6 (at the end of the cell at table**
11 **item 14, column 2)**

12 Add “, other than a firearm accessory to which item 13A applies”.

13 **198 After item 1A of Part 3 of Schedule 6**

14 Insert:

15 **1AA. Identification requirements for silencers, sound moderators**
16 **and sound suppressors**

17 (1) A firearm accessory that is a silencer, sound moderator, sound
18 suppressor or any other device designed to reduce, or capable of
19 reducing, the noise of discharge of a firearm complies with the
20 identification requirements if the firearm accessory is:

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Schedule 4 Firearms amendments

Part 5 Importation of firearms

- 1 (a) visually inspected by a Collector; and
2 (b) found by the Collector to:
3 (i) have a unique serial number that consists only of Arabic
4 numerals, English letters, or punctuation marks; and
5 (ii) display the serial number in accordance with
6 subitem (2).
7 (2) For the purposes of subparagraph (1)(b)(ii), the serial number must
8 be:
9 (a) easily recognisable as the serial number for the firearm
10 accessory; and
11 (b) legible; and
12 (c) able to be read without the use of any device or tool; and
13 (d) displayed on the external surface of the firearm accessory.

Division 9—Speed loaders

Customs (Prohibited Imports) Regulations 1956

199 Subregulation 4F(4) (before paragraph (f) of the definition of firearm accessory)

18 Insert:

- 19 (d) a device that holds multiple rounds of ammunition, other than
20 ammunition mentioned in item 14A or 14B of Part 2 of
21 Schedule 6, in alignment for the purpose of quickly reloading
22 a firearm, a cylinder or a firearm magazine;

Division 10—Application of amendments made by this Part

Customs (Prohibited Imports) Regulations 1956

200 At the end of regulation 23

27 Add:

- 28 (3) The amendments of these Regulations made by Part 5 of
29 Schedule 4 to the *Combatting Antisemitism, Hate and Extremism*
30 *Act 2026* apply in relation to:

EXPOSURE DRAFT

Firearms amendments **Schedule 4**
Importation of firearms **Part 5**

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- (a)

any application for permission to import goods into Australia made at or after the commencement of that Part; and
- (b)

any application for permission to import goods into Australia made before that commencement that has not been finally decided; and
- (c)

any documentation given at or after that commencement to facilitate the importation of goods into Australia; and
- (d)

any documentation given before that commencement to facilitate the importation of goods into Australia, where the goods are imported into Australia on or after that commencement.

EXPOSURE DRAFT

Schedule 4 Firearms amendments

Part 6 Approved forms for police certification for firearms imports

Part 6—Approved forms for police certification for firearms imports

Division 1—Amendments

Customs (Prohibited Imports) Regulations 1956

201 At the end of item 4 of Part 1 of Schedule 6

Add:

4.2 For the purposes of paragraph 4.1(a), a statement made in approved form B709D or B709DA has no effect in relation to the importation of an article on or after the day this subitem commences (regardless of whether the statement was given to the importer before that day).

Note: This subitem was inserted by Part 6 of Schedule 4 to the *Combatting Antisemitism, Hate and Extremism Act 2026*.

202 Paragraph 1.2(b) of Part 4 of Schedule 6

Omit “law; and”, substitute “law.”.

203 Paragraph 1.2(c) of Part 4 of Schedule 6

Repeal the paragraph.

204 Paragraph 1A.2(d) of Part 4 of Schedule 6

Omit “article; and”, substitute “article.”.

205 Paragraph 1A.2(e) of Part 4 of Schedule 6

Repeal the paragraph.

206 Item 6 of Part 1 of Schedule 13

Before “The importation”, insert “6.1”.

207 At the end of item 6 of Part 1 of Schedule 13

Add:

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Firearms amendments **Schedule 4**
Approved forms for police certification for firearms imports **Part 6**

1 6.2 For the purposes of subitem 6.1, a statement made in approved
2 form B709X has no effect in relation to the importation of a good
3 on or after the day this subitem commences (regardless of whether
4 the statement was given to the importer before that day).

5 Note: This subitem was inserted by Part 6 of Schedule 4 to the *Combatting*
6 *Antisemitism, Hate and Extremism Act 2026*.

7 **Division 2—Application provisions**

8 *Customs (Prohibited Imports) Regulations 1956*

9 **208 At the end of regulation 23**

10 Add:

- 11 (4) The amendments of these Regulations made by Part 6 of
12 Schedule 4 to the *Combatting Antisemitism, Hate and Extremism*
13 *Act 2026* apply in relation to:
- 14 (a) any documentation given at or after the commencement of
15 that Part to facilitate the importation of goods into Australia;
16 and
- 17 (b) any documentation given before that commencement to
18 facilitate the importation of goods into Australia, where the
19 goods are imported into Australia on or after that
20 commencement.

EXPOSURE DRAFT

Schedule 4 Firearms amendments

Part 7 Offences relating to use of carriage service for firearms and explosives manufacture material

1 **Part 7—Offences relating to use of carriage service**
2 **for firearms and explosives manufacture**
3 **material**

4 **Division 1—Main amendments**

5 *Criminal Code Act 1995*

6 **209 After Subdivision HA of Division 474 of the *Criminal***
7 ***Code***

8 Insert:

9 **Subdivision HB—Offences relating to use of carriage service**
10 **for firearms and explosives manufacture material**

11 **474.45F Meaning of *firearms and explosives manufacture material***

- 12 (1) *Firearms and explosives manufacture material* is material that:
- 13 (a) provides instructions on the manufacture or modification of:
- 14 (i) a firearm, firearm accessory, firearm part, firearm
- 15 magazine, ammunition or component of ammunition; or
- 16 (ii) an explosive or other lethal device; or
- 17 (b) supports or facilitates the manufacture or modification of:
- 18 (i) a firearm, firearm accessory, firearm part, firearm
- 19 magazine, ammunition or component of ammunition; or
- 20 (ii) an explosive or other lethal device.
- 21 (2) To avoid doubt, material may be intended to do a thing covered by
- 22 paragraph (1)(a) or (b) even if the material is also intended, or
- 23 mainly intended, to do one or more other things.
- 24 (3) Material is also *firearms and explosives manufacture material* if:
- 25 (a) it is reasonable to consider the material together with other
- 26 material; and
- 27 (b) were all of the material to be taken to be a single item of
- 28 material, it would constitute firearms and explosives
- 29 manufacture material under subsection (1).
-

EXPOSURE DRAFT

Firearms amendments **Schedule 4**
Offences relating to use of carriage service for firearms and explosives manufacture
material **Part 7**

- (4) To avoid doubt, material may be firearms and explosives manufacture material even if it would not be possible to use the material to manufacture or modify:
- (a) a functional firearm, functional firearm accessory, functional firearm part, functional firearm magazine, functional ammunition or functional component of ammunition; or
 - (b) a functional explosive or other lethal device.

Other definitions

- (5) In this Subdivision:

component of ammunition has the same meaning as in the *Customs (Prohibited Imports) Regulations 1956*.

explosive or other lethal device has the same meaning as in the Convention referred to in section 72.1.

firearm has the same meaning as in the *Customs (Prohibited Imports) Regulations 1956*.

firearm accessory has the same meaning as in the *Customs (Prohibited Imports) Regulations 1956*.

firearm magazine has the same meaning as in the *Customs (Prohibited Imports) Regulations 1956*.

firearm part has the same meaning as in the *Customs (Prohibited Imports) Regulations 1956*.

474.45G Using a carriage service for firearms and explosives manufacture material

- (1) A person (the **first person**) commits an offence if:
- (a) the first person:
 - (i) accesses material; or
 - (ii) causes material, or an electronic link that can be used to access material, to be transmitted to the first person or another person; or

EXPOSURE DRAFT

Schedule 4 Firearms amendments

Part 7 Offences relating to use of carriage service for firearms and explosives manufacture material

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- 1 (iii) transmits, makes available, publishes, distributes,
2 advertises, or promotes, material or an electronic link
3 that can be used to access material; or
4 (iv) solicits material or an electronic link that can be used to
5 access material; and
6 (b) the first person does so using a carriage service; and
7 (c) the material is firearms and explosives manufacture material.

8 Penalty: Imprisonment for 5 years.

- 9 (2) To avoid doubt, the following are the fault elements for the
10 physical elements of an offence against subsection (1):
11 (a) intention is the fault element for the conduct referred to in
12 paragraph (1)(a);
13 (b) recklessness is the fault element for the circumstance referred
14 to in paragraph (1)(c).
15 (3) Absolute liability applies to paragraph (1)(b).

16 **474.45H Possessing or controlling firearms and explosives**
17 **manufacture material obtained or accessed using a**
18 **carriage service**

- 19 (1) A person commits an offence if:
20 (a) the person has possession or control of material; and
21 (b) the material is in the form of data held in a computer or
22 contained in a data storage device; and
23 (c) the person used a carriage service to obtain or access the
24 material; and
25 (d) the material is firearms and explosives manufacture material.

26 Penalty: Imprisonment for 5 years.

- 27 (2) To avoid doubt, the following are the fault elements for the
28 physical elements of an offence against subsection (1):
29 (a) intention is the fault element for the conduct referred to in
30 paragraph (1)(a);
31 (b) recklessness is the fault element for the circumstance referred
32 to in paragraph (1)(d).

EXPOSURE DRAFT

Firearms amendments **Schedule 4**
Offences relating to use of carriage service for firearms and explosives manufacture material **Part 7**

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- 1 (3) Strict liability applies to paragraph (1)(b).
2 (4) Absolute liability applies to paragraph (1)(c).
3 (5) If the prosecution proves beyond reasonable doubt the matters
4 mentioned in paragraphs (1)(a), (b) and (d), then it is presumed,
5 unless the person proves to the contrary, that the person:
6 (a) obtained or accessed the material; and
7 (b) used a carriage service to obtain or access the material.
8 Note: A defendant bears a legal burden in relation to the matters in this
9 subsection: see section 13.4.

10 **474.45J Defences in respect of firearms and explosives manufacture** 11 **material**

12 *State or Territory licences or permits*

- 13 (1) Subsection 474.45G(1) or 474.45H(1) does not apply to engaging
14 in conduct by a person in relation to material if:
15 (a) either:
16 (i) the person (the **business owner**) carries on a business in
17 relation to firearms, firearm accessories, firearm parts,
18 firearm magazines, ammunition, components of
19 ammunition or explosives or other lethal devices; or
20 (ii) the person performs work for such a business; and
21 (b) the business owner holds a licence or permit (however
22 described):
23 (i) that was granted by a State or a Territory or an authority
24 of a State or a Territory; and
25 (ii) that authorises the manufacture, repair, maintenance or
26 modification of those firearms, firearm accessories,
27 firearm parts, firearm magazines, ammunition,
28 components of ammunition or explosives or other lethal
29 devices; and
30 (iii) that is in force; and
31 (c) the material relates to those firearms, firearm accessories,
32 firearm parts, firearm magazines, ammunition, components
33 of ammunition or explosives or other lethal devices; and

EXPOSURE DRAFT

Schedule 4 Firearms amendments

Part 7 Offences relating to use of carriage service for firearms and explosives manufacture material

- 1 (d) the conduct is in connection with the carrying on of that
2 business.

3 Note: A defendant bears an evidential burden in relation to the matters in
4 this subsection (see subsection 13.3(3)).

5 *Other exceptions*

- 6 (2) Subsection 474.45G(1) or 474.45H(1) does not apply to engaging
7 in conduct in relation to material if:

- 8 (a) the conduct is necessary for enforcing a law of:
9 (i) the Commonwealth; or
10 (ii) a State; or
11 (iii) a Territory; or
12 (iv) a foreign country; or
13 (v) a part of a foreign country; or
14 (b) the conduct is necessary for monitoring compliance with, or
15 investigating a contravention of, a law of:
16 (i) the Commonwealth; or
17 (ii) a State; or
18 (iii) a Territory; or
19 (iv) a foreign country; or
20 (v) a part of a foreign country; or
21 (c) the conduct is for the purposes of proceedings in a court or
22 tribunal; or
23 (d) both:
24 (i) the conduct is necessary for, or of assistance in,
25 conducting scientific, academic or historical research;
26 and
27 (ii) the conduct is reasonable in the circumstances for the
28 purpose of conducting that scientific, academic or
29 historical research; or
30 (e) both:
31 (i) the conduct is in connection with the performance by a
32 public official of the official's duties or functions; and
33 (ii) the conduct is reasonable in the circumstances for the
34 purpose of the public official performing that duty or
35 function; or
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EXPOSURE DRAFT

Firearms amendments **Schedule 4**
Offences relating to use of carriage service for firearms and explosives manufacture material **Part 7**

(f) both:

- (i) the conduct is in connection with an individual assisting a public official in relation to the performance of the public official's duties or functions; and
- (ii) the conduct is reasonable in the circumstances for the purpose of the individual assisting the public official in relation to the performance of the public official's duties or functions.

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

Functions

- (3) The references in this section to function or functions do not, by implication, affect the meaning of the expressions duty or duties when used in any other provision of this Code.

210 Subsections 475.1A(1) and (2) of the *Criminal Code*

After "HA", insert ", HB".

211 Dictionary in the *Criminal Code*

Insert:

firearms and explosives manufacture material has the meaning given by section 474.45F.

212 Transitional provision

For the purposes of paragraph 474.45H(1)(c) of the *Criminal Code*, it does not matter whether the person obtained or accessed the material before, on or after the commencement of this item.

Division 2—Consequential amendments

Crimes Act 1914

213 At the end of subsection 15GE(3)

Add:

- ; (g) Subdivision HB of Division 474 (Use of carriage service for firearms and explosives manufacture material).

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Schedule 4 Firearms amendments

Part 8 Ammunition equipment

Part 8—Ammunition equipment

Division 1—Amendments

Customs (Prohibited Imports) Regulations 1956

214 Subregulation 2(1)

Insert:

ammunition equipment has the meaning given by subregulation 4F(4).

215 At the end of subregulation 3E(1)

Add:

; (k) item 23A.

216 Subregulation 4F(4)

Insert:

ammunition equipment means an item that is designed:

- (a) to be worn on any part of the body; and
- (b) for the specific purpose of allowing the wearer to readily access ammunition to increase the speed of reloading; and
- (c) to hold more than 30 rounds of ammunition, other than ammunition mentioned in item 14A or 14B of Part 2 of Schedule 6.

Note: Ammunition equipment does not include items that can carry ammunition but were not designed for that purpose. For example, an ordinary backpack would not be ammunition equipment.

217 Part 2 of Schedule 6 (after table item 23)

Insert:

23A Ammunition equipment.

The importation must comply with at least one of the following tests:

- (a) the official purposes test;
- (b) the specified purposes test;

- (c) the specified person test;
- (d) the sports shooter test;
- (e) the international sports shooter test;
- (f) the dealer test;
- (g) the handgun test;
- (h) the returned goods test.

1 **Division 2—Application of amendments made by this**
2 **Part**

3 ***Customs (Prohibited Imports) Regulations 1956***

4 **218 At the end of regulation 23**

5 Add:

- 6 (5) The amendments of these Regulations made by Part 8 of
7 Schedule 4 to the *Combatting Antisemitism, Hate and Extremism*
8 *Act 2026* apply in relation to:
- 9 (a) any application for permission to import goods into Australia
10 made at or after the commencement of that Part; and
 - 11 (b) any documentation given at or after that commencement to
12 facilitate the importation of goods into Australia.

Schedule 5—Transitional rules

1 Transitional rules

- (1) The Minister administering the *Australian Federal Police Act 1979*, or the Minister administering the *Administrative Review Tribunal Act 2024*, may, by legislative instrument, make rules prescribing matters of a transitional nature (including prescribing any saving or application provisions) relating to the amendments or repeals made by this Act.
- (2) Subsection 12(2) (retrospective application of legislative instruments) of the *Legislation Act 2003* does not apply in relation to rules made under this item before the end of the period of 12 months starting on the day this item commences.
- (3) To avoid doubt, the rules may not do the following:
- (a) create an offence or civil penalty;
 - (b) provide powers of:
 - (i) arrest or detention; or
 - (ii) entry, search or seizure;
 - (c) impose a tax;
 - (d) set an amount to be appropriated from the Consolidated Revenue Fund under an appropriation in this Act;
 - (e) directly amend the text of this Act.