

Appendix 4

Jurisdiction	Structure	Activities/Objectives
<i>United Nations Convention against Transnational Organised Crime</i>	3 or more persons	committing serious crime or Convention offences <u>in order to</u> obtain a financial or material benefit
<i>Canadian Criminal Code</i>	3 or more persons	facilitating/committing one or more serious offences <u>likely to result in</u> material (including financial) benefit to the group or its members
<i>China Criminal Law 1997</i>	3 or more persons	committing joint crimes
<i>Hong Kong Serious and Organised Crime Ordinance</i>	2 or more persons + substantial planning and organisation	planning specified offences <u>or</u> committing specified offences <u>and involves</u> loss of life or serious harm to a person (or substantial risk of such loss/harm) or serious loss of liberty of a person
<i>Macau Organised Crime Law 1997</i>	'constituted organisation'	agreement to commit one or more specified offences to obtain advantages or other illicit benefits
<i>New South Wales Crimes Act 1990</i>	3 or more persons	obtaining material benefit from serious indictable offences <u>or</u> committing serious violence offences
<i>New Zealand Crimes Act 1961</i>	3 or more persons	obtaining material benefit from offences punishable by at least four years imprisonment <u>or</u> committing serious violence offences punishable by at least 10 years imprisonment
South Australian Serious and Organised Crime (Control) Bill	3 or more persons	organisation represents a risk to public safety and order <u>and</u> organises, plans, facilitates, supports or engages in serious criminal activity
United States RICO legislation	refers to the concept of an enterprise, which is broadly defined as any group of individuals who are associated in fact.	

* Note: these elements are included in the definition of 'serious and organised crime' in the *Australian Crime Commission Act 2002* (Cth). See paragraph 63 below.

Past offences of specific kinds	United States RICO legislation requires that the prosecution prove a pattern of racketeering activity linking past offences of kinds specified in the legislation to the enterprise (eg group) under investigation.
Criminal activity in this instance	The more serious 'organised crime' offences in the Canadian <i>Criminal Code</i> link the organisation to criminal activity by requiring evidence of the commission of an indictable offence by the accused.
The criminal purposes of the group	The New Zealand <i>Crimes Act 1961</i> does not require any substantive offence to be committed, rather the group must simply have come together to commit a proscribed activity. The common intention of the group must be to commit either offences for material benefit punishable by four or more years imprisonment or serious violent offences.
	The New South Wales <i>Crimes Act 1900</i> is based closely on the New Zealand model, requiring the same sort of common purpose connection to criminal activities.
The threat of future crime or misconduct	The South Australian Serious and Organised Crime (Control) Bill provides an extra avenue for law enforcement to target criminal groups. In addition to capturing organisations that engage in activities relating to serious criminal activity, there is also the opportunity for the South Australian Attorney-General to declare an organisation as a future risk to public safety. At this stage there is no further guidance as to what factors can be used to determine this risk and what sort of connection to crime needs to be satisfied.

Jurisdiction	crimes of X years imprisonment	listing specific offences	combination
<i>United Nations Convention against Transnational Organised Crime</i>			Convention offences (eg laundering proceeds of crime, corruption of public officials and obstruction of justice) <u>or</u> offences with a penalty of at least 4 years imprisonment
<i>Canadian Criminal Code</i>	offences with a penalty of at least 5 years imprisonment (+ others by Regulation)		
<i>China Criminal Law 1997</i>	not limited to any particular type of crime		
<i>Hong Kong Serious and Organised Crime Ordinance</i>		range of crime types including: murder, kidnapping, drugs, forgery, firearms, robbery and copyright infringement	
<i>Macau Organised Crime Law 1997</i>		21 different crime types including: murder, kidnapping, loan sharking, extortion, fraud and robbery	
<i>New South Wales Crimes Act 1990</i>	serious indictable offences with a penalty of at least 5 years imprisonment <u>or</u> serious violence offences with a penalty of at least 10 years or more imprisonment		
<i>New Zealand Crimes Act 1961</i>	offences with a penalty of at least 4 years imprisonment <u>or</u> violent offences with a penalty of at least 10 years imprisonment		
<i>South Australian Serious and Organised Crime (Control) Bill</i>	indictable offences		
United States RICO legislation		range of federal and state offences including murder, kidnapping, gambling, arson, robbery, bribery, extortion and illicit drugs	