

## APPENDIX 3

### SUMMARY OF AMENDMENTS

Schedule number	Item number	Offence or provision	Current	Summary of proposed amendment
1 (Criminal Code Act)	1,2	Offence of Sedition		Repeal
	3,4	Definition of 'terrorist act'	<p><b>terrorist act</b> means an action or threat of action where:</p> <p>(a) the action falls within subsection (2) and does not fall within subsection (3); and</p> <p>(b) the action is done or the threat is made with the intention of advancing a political, religious or ideological cause; and</p> <p>(c) the action is done or the threat is made with the intention of either</p> <ul style="list-style-type: none"> <li>• coercing, or influencing by intimidation, the government of the Commonwealth or a State, Territory or foreign country, or of part of a State, Territory or foreign country; or</li> </ul>	<p><b>terrorist act</b> means an action where:</p> <p>(a) the action falls within subsection (2) and does not fall within subsection (3) or subsection (3A); and</p> <p>(b) the action is done with the intention of:</p> <ul style="list-style-type: none"> <li>• coercing, or influencing by intimidation, the government of the Commonwealth or a State, Territory or foreign country, or of part of a State, Territory or foreign country; or</li> <li>• intimidating the public or a section of the public.</li> </ul> <p><b>(2)</b> Action falls within this subsection if it:</p> <p>(a) causes a person's death; or</p> <p>(b) endangers a person's life, other than</p>

			<ul style="list-style-type: none"> <li>• intimidating the public or a section of the public.</li> </ul> <p>(2) Action falls within this subsection if it:</p> <p>(a) causes serious harm that is physical harm to a person; or</p> <p>(b) causes serious damage to property; or</p> <p>(c) causes a person’s death; or</p> <p>(d) endangers a person’s life, other than the life of the person taking the action; or</p> <p>(e) creates a serious risk to the health or safety of the public or a section of the public; or</p> <p>(f) seriously interferes with, seriously disrupts, or destroys, an electronic system including, but not limited to:</p> <p>(i) an information system; or</p> <p>(ii) a telecommunications system; or</p> <p>(iii) a financial system; or</p> <p>(iv) a system used for the delivery of</p>	<p>the person taking the action; or</p> <p>(c) causes serious harm that is physical harm to a person; or</p> <p>(d) involves taking a person hostage; or</p> <p>(e) creates a serious risk to the health or safety of the public or a section of the public.</p> <p>(3) Action falls within this subsection if it:</p> <p>(a) is advocacy, protest, dissent or industrial action; and (b) is not intended:</p> <ul style="list-style-type: none"> <li>• to cause serious harm that is physical harm to a person; or</li> <li>• to cause a person’s death; or</li> <li>• to endanger the life of a person, other than the person taking the action; or</li> <li>• to involve taking a person hostage.</li> </ul> <p>(3A) Action falls within this subsection if it takes place in the context of, and is associated with, an armed conflict (whether or not an international armed conflict).</p>
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			<p>essential government services; or</p> <p>(v) a system used for, or by, an essential public utility; or</p> <p>(vi) a system used for, or by, a transport system.</p> <p><b>(3)</b> Action falls within this subsection if it:</p> <p>(a) is advocacy, protest, dissent or industrial action; and</p> <p>(b) is not intended:</p> <ul style="list-style-type: none"> <li>• to cause serious harm that is physical harm to a person; or</li> <li>• to cause a person’s death; or</li> <li>• to endanger the life of a person, other than the person taking the action; or</li> <li>• to create a serious risk to the health or safety of the public or a section of the public.</li> </ul>	
	5	Possession of things connected with a	Possession of things connected with the preparation for, the engagement of a	Repeal

		terrorist act	person in, or assistance in, a terrorist act. Recklessness in respect of a connection between a possession and the uses for which it is intended is also an offence, as is possession or recklessness even if a terrorist act does not occur.	
	7	Definition of 'terrorist organisation'		
	6, 8	Proscription of an organisation	Minister must be satisfied on reasonable grounds that an organisation is directly or indirectly engaged in, preparing, planning, assisting in or fostering the doing of a terrorist act (even where such an act has not occurred or will not occur), or are advocating the doing of such an act. Must brief Leader of the Opposition on proposed regulation. 'Sunset' clause limiting the listing of an organisation by regulation to no more than 2 years, but can be subsequently re-listed. Listed organisation or individual may make application to be de-listed, and that the Minister must consider the application. The Minister may take any matter into consideration when considering the application to be de-listed.	Minister must ensure the organisation is notified, if it is practical to do so, of proposed listing and the right to oppose it. Minister must also publish a notice that the regulation has been made and the consequences of the listing for the members of the organisation. The Minister must also be satisfied on reasonable grounds that the organisation is directly or indirectly engaged in preparing, planning, assisting in the doing of a terrorist act or advocates the doing of a terrorist act. The decision to list would be reviewable by the Administrative Appeals Tribunal. Minister required to seek advice and take into account recommendations of an Advisory Committee in making listing decision. Advisory Committee empowered to publicise its role, engage in public consultations or do anything else it considers necessary in carrying out its

				function. Committee would consist of at least 5 members appointed by the Minister, holding office on a part-time basis for a specified period of no more than 3 years.
	10	Training	Strict liability offence of receiving training from, or providing training to, a terrorist organisation, regardless of knowledge of that fact.	Offence if training is given or received when the organisation is known to be a terrorist organisation, or when the person is reckless about whether the organisation is a terrorist organisation.
	11–15	Support	Offence where a person intentionally provides support to an organisation they know to be a terrorist organisation, or they intentionally provide support to a terrorist organisation and are reckless about whether it is such an organisation.	The support provided would be required to be 'material support', excluding the mere publication of views which appear favourable to the organisation.
	16	Association	Offence where a person intentionally associates on 2 or more occasions with a member or promoter of a terrorist organisation, where the association provides support to the organisation, and that the person intends for that support to take place. Separate offence, requiring only 1 occasion of association, where a person has previously been	Repeal

			convicted under the section.	
2 (Crimes Act)	1	Presumption against bail	Bail authority should grant bail only in 'exceptional circumstances' when the charge is a terrorism, treason, sedition, treachery offence, or a commonwealth offence causing death, regardless of intention to do so.	Repeal
	2-7	Powers of detention	The maximum period of detention of a person detained in relation to a terrorism offence may be extended, by a Magistrate, Justice of the Peace, of Federal Court Judge, for any 'reasonable time' during which questioning is 'reasonably suspended or delayed'. The extension period is uncapped by the legislation.  Detainees are not specifically required to be informed of their rights.	The maximum period of detention may be extended for specific purposes already listed in the legislation, and only by a Federal Court Judge. The person must also be informed of their rights at all material times.
3 (ASIO)	1-4	Detention and questioning	Minister may only authorise request for warrant to detain and question a person previously the subject of a similar warrant when satisfied that new or materially different information is at hand to justify new warrant.	Would require that second offence be committed, after release from first detention period, before new warrant could be authorised by Minister or issued by authority. Questioning of the person under the second warrant must not relate to the offence about which the first

				warrant was sought.
	5,7	Period of detention	Maximum 168 hours	Maximum 24 hours
	6	Outside contact	A person detained under this part of the Act may not contact anyone while in custody	Repeal
	8	Legal representative	Detained person may be questioned without legal representative	Repeal
	9	Undue disruption	Parent, guardian or other representative of a detained person may be removed from questioning if conduct deemed unduly disruptive	Repeal
	10	Disclosure of information	Offence where previously detained person discloses operational information they learned through the issue of a warrant, within 2 years of the warrant being in force	Repeal
	11	Information for legal representatives	Regulations may be made to regulate access to information by the legal representative of a person seeking a remedy in relation to a warrant issued under the Act.	Repeal
4 (NSI Act)	1	Entire Act	Relates to disclosure of information during Commonwealth criminal or any	Repeal

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			civil proceedings where the disclosure is likely to prejudice Australia's national security.	
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