



New South Wales

Terrorism (High Risk Offenders) Regulation 2024

under the

Terrorism (High Risk Offenders) Act 2017

Her Excellency the Governor, with the advice of the Executive Council, has made the following regulation under the *Terrorism (High Risk Offenders) Act 2017*.

MICHAEL DALEY, MP
Attorney General

Explanatory note

The object of this regulation is to repeal and remake, with some amendments, the *Terrorism (High Risk Offenders) Regulation 2018*.

This regulation prescribes the following—

- (a) the circumstances in which the Attorney General may require a person to provide the Attorney General with offender information in the person's possession or under the person's control,
- (b) the kinds of offender information the Attorney General may require a person to provide,
- (c) authorities and agencies for the purposes of the *Terrorism (High Risk Offenders) Act 2017* (***the Act***), section 4(1), definition of ***prescribed terrorism intelligence authority***,
- (d) kinds of bodies of knowledge for the purposes of the Act, section 4(1), definition of ***relevant expert***,
- (e) the kinds of persons that are qualified to provide independent and impartial representation for eligible offenders under the Act, Division 5.3 (***independent third parties***),
- (f) the duties of independent third parties.

This regulation comprises or relates to matters set out in the *Subordinate Legislation Act 1989*, Schedule 3, namely—

- (a) matters arising under legislation that is substantially uniform or complementary with legislation of the Commonwealth or another State or Territory, and
- (b) matters of a machinery nature.

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Terrorism (High Risk Offenders) Regulation 2024

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Terrorism (High Risk Offenders) Act 2017

Part 1 Preliminary

1 Name of regulation

This regulation is the *Terrorism (High Risk Offenders) Regulation 2024*.

2 Commencement

This regulation commences on the day on which it is published on the NSW legislation website.

Note— This regulation repeals and replaces the *Terrorism (High Risk Offenders) Regulation 2018*, which would otherwise be repealed on 1 September 2024 by the *Subordinate Legislation Act 1989*, section 10(2).

3 Definitions

The dictionary in Schedule 1 defines words used in this regulation.

Note— The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this regulation.

Part 2 Information about eligible offenders—the Act, s 58(1)

4 Prescribed circumstances

- (1) For the Act, section 58(1), the prescribed circumstances are that the Attorney General is satisfied—
 - (a) the person on whom the order is served is a compellable person, and
 - (b) the information is required for use in—
 - (i) determining whether or not to make an application for a declaration under the Act, section 12, or an order under the Act, Part 2 or 3, or
 - (ii) proceedings under the Act, and
 - (c) if the person is not a public authority or a public official—the eligible offender could pose an unacceptable risk of committing a future serious terrorism offence.
- (2) In this section—

compellable person—

 - (a) means a person specified in Schedule 2, but
 - (b) does not include another Australian jurisdiction or a person exercising functions for or on behalf of another Australian jurisdiction.

5 Prescribed offender information

For the Act, section 58(1), offender information is of a prescribed kind if the information—

- (a) consists of a pre-existing document, and
- (b) is of a kind specified in Schedule 3.

Part 3 Miscellaneous

6 Prescribed terrorism intelligence authorities—the Act, s 4

For the Act, section 4(1), definition of *prescribed terrorism intelligence authority*, the following are prescribed—

- (a) the Independent Commission Against Corruption,
- (b) the Inspector of the Independent Commission Against Corruption,
- (c) the Law Enforcement Conduct Commission,
- (d) the Inspector appointed under the *Law Enforcement Conduct Commission Act 2016*, section 120,
- (e) the New South Wales Crime Commission,
- (f) the NSW Police Force,
- (g) Corrective Services NSW, within the meaning of the *Crimes (Administration of Sentences) Act 1999*.

7 Relevant experts—the Act, s 4

(1) For the Act, section 4(1), definition of *relevant expert*, the following are prescribed—

- (a) knowledge about the assessment of high risk offenders, including the administration of psychometric assessment instruments and recidivism issues,
- (b) knowledge about the formation and operation of terrorist groups, including recruitment practices, ideology, financing and training,
- (c) knowledge obtained as a result of being trained in the use of—
 - (i) the Violent Extremism Risk Assessment Version 2–Revised (VERA–2R) risk assessment tool, or
 - (ii) another tool or process developed specifically to assess the risk of an offender committing a terrorism offence on release into the community.

(2) In this section—

high risk offender means a person posing a risk of engaging in, or inciting other persons to engage in, activities that constitute a serious threat to the peace, order or good government of the State or another place.

terrorism offence means a terrorism offence or serious terrorism offence within the meaning of the *Crimes Act 1914* of the Commonwealth.

8 Independent third party representatives—the Act, s 59B

(1) For the Act, section 59B(2), a person is of a prescribed kind if—

- (a) the person is a retired judicial officer, or is qualified to be appointed as a judicial officer, of an Australian jurisdiction, and
- (b) the Supreme Court is satisfied that the person understands the requirements imposed by or under a law of New South Wales or the Commonwealth in relation to accessing, storing, handling and destroying the terrorism intelligence concerned, and
- (c) the Supreme Court is satisfied that the person will maintain the confidentiality of the terrorism intelligence concerned, and
- (d) if the Supreme Court requires the person to be given a security clearance at an appropriate level by the Commonwealth—the person has been given the clearance.

- (2) For the Act, section 59B(5), an independent third party must take reasonable steps to avoid any conflicts of interest, real or apparent, in connection with the exercise of the functions of an independent third party representative.

9 Repeal and savings

- (1) The *Terrorism (High Risk Offenders) Regulation 2018* is repealed.
- (2) An act, matter or thing that, immediately before the repeal of the *Terrorism (High Risk Offenders) Regulation 2018*, had effect under that regulation continues to have effect under this regulation.

Schedule 1 Dictionary

section 3

associate, of an eligible offender, means a person, other than a family member, with whom the offender has, or formerly had, a personal or business relationship.

educational institution means a school, college, university or other institution at which education or training is provided.

family member, of an eligible offender, means the following persons—

- (a) the offender's spouse,
- (b) a parent, step-parent or legal guardian of the offender or the offender's spouse,
- (c) a grandparent or step-grandparent of the offender or the offender's spouse,
- (d) a sibling, nephew, niece, uncle or aunt of the offender or the offender's spouse,
- (e) a half-sibling, step-sibling, step-nephew, step-niece, step-uncle or step-aunt of the offender or the offender's spouse,
- (f) a child or grandchild of the offender or the offender's spouse,
- (g) a step-child or step-grandchild of the offender or the offender's spouse,
- (h) the spouse of a person specified in paragraph (b), (c), (d), (e), (f) or (g).

financial institution means—

- (a) an authorised deposit-taking institution within the meaning of the *Banking Act 1959* of the Commonwealth, or
- (b) a body regulated by APRA within the meaning of the *Australian Prudential Regulation Authority Act 1998* of the Commonwealth, section 3(2)(a)–(e).

medical treatment means treatment by a medical practitioner in the course of the practice of medicine or surgery, and includes psychological or psychiatric treatment.

public authority has the same meaning as in the *Independent Commission Against Corruption Act 1988*.

public official has the same meaning as in the *Independent Commission Against Corruption Act 1988*.

relevant official, in relation to an educational, financial, religious or other institution, a club, an association or another organisation, means—

- (a) the chief executive of the organisation, or
- (b) the secretary of the organisation, or
- (c) another person, however described, responsible for the day-to-day management of the organisation.

religious institution means—

- (a) a recognised denomination within the meaning of the *Marriage Act 1961* of the Commonwealth, section 26, or
- (b) a body, organisation or office within a recognised denomination.

spouse includes a former spouse, a de facto partner and a former de facto partner.

the Act means the *Terrorism (High Risk Offenders) Act 2017*.

Schedule 2 Compellable persons

section 4(1), definition of “compellable person”

- 1 The Director of Public Prosecutions
- 2 The Commissioner of Corrective Services
- 3 The Commissioner of Police
- 4 The Commissioner for the New South Wales Crime Commission
- 5 The Secretary of the State Parole Authority
- 6 The Secretary of the department in which the Act is administered
- 7 The executive officer and registrar of the Serious Offenders Review Council
- 8 The Secretary of the department in which the *Health Services Act 1997* is administered
- 9 The Chief Executive of the Justice Health and Forensic Mental Health Network
- 10 The Commissioner of Victims Rights
- 11 The Executive Director of the part of the department in which the *Children (Detention Centres) Act 1987* is administered, known as Youth Justice
- 12 A relevant official of the Serious Young Offenders Review Panel
- 13 The principal registrar of the Civil and Administrative Tribunal
- 14 The registrar of the Mental Health Review Tribunal
- 15 The Children’s Guardian
- 16 A police officer
- 17 The Secretary of the department in which the *Transport Administration Act 1988* is administered
- 18 The Secretary of the department in which the *Education Act 1990* is administered
- 19 A financial institution
- 20 An associate or family member of the eligible offender
- 21 A carriage service provider within the meaning of the *Telecommunications Act 1997* of the Commonwealth
- 22 An internet service provider within the meaning of the *Telecommunications Act 1997* of the Commonwealth
- 23 A medical practitioner, or former medical practitioner, involved in providing medical treatment of the eligible offender, whether currently or previously
- 24 A relevant official of an educational institution
- 25 A relevant official of a religious institution

- 26** A relevant official of a club, association or other organisation of which the eligible offender is or has been a member
- 27** An employer or former employer of the eligible offender
- 28** A chief executive of a statutory health organisation within the meaning of the *Health Services Act 1997*
- 29** A licensee within the meaning of the *Private Health Facilities Act 2007*
- 30** A chief executive officer, within the meaning of the *Public Health Act 2010*, of a public hospital

Schedule 3 Kinds of offender information

section 5(b)

- 1 Psychological or other medical reports about the eligible offender, including documents about treatment programs in which the eligible offender has participated
- 2 Custodial records about the eligible offender, including documents containing information about intervention programs in which the eligible offender has participated
- 3 Parole and community supervision records about the eligible offender
- 4 Reports, records or other documents about applications for compensation made in respect of the eligible offender
- 5 Reports, records or other documents about the eligible offender's criminal history, including—
 - (a) prior convictions, and
 - (b) findings of guilt in relation to offences committed in New South Wales or elsewhere, and
 - (c) sentencing remarks
- 6 Reports, records or other documents about data and telephone usage and call charges of the eligible offender
- 7 Reports, records or other documents containing information about the eligible offender's membership, or the membership of associates of the eligible offender, in a club, association or other organisation
- 8 Reports, records or other documents about the eligible offender's educational history, including the offender's behaviour at an educational institution
- 9 Reports, records or other documents containing information about the eligible offender's work and employment history, including the offender's behaviour at work
- 10 Reports, records or other documents containing information about the religious beliefs or ideologies of the eligible offender or associates of the eligible offender
- 11 Reports, records or other documents containing financial information relevant to offences committed, or the funding of actual or potential terrorism activities, by the eligible offender
- 12 Reports, records or other documents containing information about the behaviour or patterns of behaviour of the eligible offender while in custody
- 13 Letters or correspondence of the eligible offender to an associate or family member
- 14 Books, magazines, pamphlets or other publications possessed by the eligible offender containing material advocating support for engaging in terrorist acts
- 15 Information about material posted on the internet, including on social media websites, by the eligible offender advocating support for engaging in terrorist acts
- 16 Reports, records or other documents containing information about the participation of the eligible offender in programs or intervention plans for the assistance of individuals identified as being at risk of engaging in violent extremism