



New South Wales

Crimes (Serious Sex Offenders) Amendment Bill 2013

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The objects of this Bill are:

- (a) to provide for the continued supervision and detention of high risk violent offenders in appropriate cases (in addition to serious sex offenders, as is presently the case), and
- (b) to permit orders to be made for the continued supervision and detention of an adult offender convicted of an offence as a child in appropriate cases.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent to the proposed Act.

Schedule 1 Amendment of Crimes (Serious Sex Offenders) Act 2006 No 7

Extension of principal Act to high risk violent offenders

The *Crimes (Serious Sex Offenders) Act 2006* (the *principal Act*) sets out a scheme for the continued detention or supervision of serious sex offenders who pose an unacceptable risk of committing serious sex offences if not kept under supervision. The primary object of the Act is to ensure the safety and protection of the community.

The proposed amendments to the principal Act provide for a similar scheme in respect of high risk violent offenders. A high risk violent offender is a violent offender who poses an unacceptable risk of committing a serious violence offence if he or she is not kept under supervision.

A *violent offender* is a person over the age of 18 years who has at any time been sentenced to imprisonment following his or her conviction for a serious violence offence (see definition in **Schedule 1 [4]**).

Schedule 1 [5] defines *serious violence offence* as a serious indictable offence that is constituted by a person:

- (a) engaging in conduct that causes the death of another person or grievous bodily harm to another person, with the intention of causing, or while being reckless as to causing, the death of another person or grievous or actual bodily harm to another person, or
- (b) attempting to commit, or conspiring with or inciting another person to commit, an offence of a kind referred to in paragraph (a).

An offence is a serious indictable offence if it is an indictable offence punishable by imprisonment for life or for a term of 5 years or more.

Schedule 1 [6] provides for the extension of the principal Act to high risk violent offenders.

Under the proposed amendments, an extended supervision order can be made by the Supreme Court in respect of an offender only if the offender is a high risk violent offender. An offender is a high risk violent offender only if the offender is a violent offender and the Supreme Court is satisfied to a high degree of probability that the offender poses an unacceptable risk of committing a serious violence offence if he or she is not kept under supervision. The Supreme Court can make a continuing detention order in respect of the offender if the offender is a high risk violent offender and the Court is satisfied that adequate supervision will not be provided by an extended supervision order.

The proposed amendments also re-enact existing provisions relating to serious sex offenders.

Schedule 1 [7] and [21] permit the State to make an application to the Supreme Court for an extended supervision order or a continuing detention order in respect of a high risk violent offender, similar to serious sex offenders.

Schedule 1 [17] and [33] provide for the making of interim orders.

Schedule 1 [19] and [35] make it clear that an extended supervision order or continuing detention order, or an interim order, can be revoked by the Supreme Court if the Court is satisfied that circumstances have changed to render the order unnecessary.

Schedule 1 [20] and [36] require the Commissioner of Corrective Services to report to the Attorney General on whether the Commissioner considers the continuation of an extended supervision order or continuing detention order to be necessary and appropriate.

Schedule 1 [38] requires a court that sentences a person for a serious violence offence to warn the person about the application of the Act.

Schedule 1 [39] requires the Minister to review the operation of the amendments at the end of 3 years after commencement.

Schedule 1 [40] provides for savings and transitional matters. The provisions ensure that an order can be made in respect of a person who committed a qualifying offence before the commencement of the proposed amendments.

Schedule 1 [2] changes the name of the Act to the *Crimes (High Risk Offenders) Act 2006*, as a consequence of the extension of the Act to high risk violent offenders.

Schedule 1 [4] defines expressions used in the proposed amendments, and makes consequential changes to existing definitions.

Schedule 1 [1], [3], [8]–[16], [18], [22]–[32], [34] and [37] are other consequential amendments.

Extension of principal Act to offences committed as a child

At present, an extended supervision order or continuing detention order can be made in respect of a person if the person has been sentenced to imprisonment following his or her conviction of a serious sex offence. Serious sex offences committed as a child are excluded.

Under the proposed amendments, offences committed as a child are not excluded. However, orders can only be made in respect of adults.

The amendments permit an order to be made in respect of a sex offender or a violent offender. **Schedule 1 [4]** defines a *sex offender* as a person over the age of 18 years who has at any time been sentenced to imprisonment following his or her conviction of a serious sex offence. A *violent offender* is defined as a person over the age of 18 years who has at any time been sentenced to imprisonment following his or her conviction for a serious violence offence.

An offence committed as a child qualifies for the purposes of the principal Act only if the child is convicted and a sentence of imprisonment is imposed in respect of the offence. This limits the operation of the amendment to serious offences. An offence committed as a child does not qualify under the principal Act if a custodial or non-custodial penalty for the offence is imposed by the Children's Court under section 33 of the *Children (Criminal Proceedings) Act 1987*.

Schedule 2 Amendment of other legislation

Schedule 2 makes amendments to other legislation. Most of the amendments are minor changes that are consequential on the extension of the principal Act to high risk violent offenders and the change of name of the Act.

Schedule 2.6 [7] amends the *Crimes (Administration of Sentences) Act 1999* to enable regulations to be made under that Act for the preparation and implementation of plans of management in respect of high risk violent offenders, and the provision of services and programs in respect of high risk violent offenders, by Corrective Services NSW. This will permit plans to be made, and programs to be offered, to high risk violent offenders even though they are not inmates. **Schedule 2.6 [2]** ensures that the existing regulation-making powers in relation to the management of inmates are consistent with the new regulation-making power relating to high risk violent offenders.

Schedule 2.7 [2] and [3] amend the *Crimes (Administration of Sentences) Regulation 2008* to extend to high risk violent offenders the existing scheme relating to case plans and programs for inmates.

First print



New South Wales

Crimes (Serious Sex Offenders) Amendment Bill 2013

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New South Wales

Crimes (Serious Sex Offenders) Amendment Bill 2013

No. , 2013

A Bill for

An Act to amend the *Crimes (Serious Sex Offenders) Act 2006* to provide for the supervision and detention of high risk violent offenders; to permit orders to be made against an adult convicted of an offence committed as a child; and to amend other legislation for related purposes.

| | |
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| The Legislature of New South Wales enacts: | 1 |
| 1 Name of Act | 2 |
| This Act is the <i>Crimes (Serious Sex Offenders) Amendment Act 2013</i> . | 3 |
| 2 Commencement | 4 |
| This Act commences on the date of assent to this Act. | 5 |

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|-------------------------------------|---|----|
| Schedule 1 | Amendment of Crimes (Serious Sex Offenders) Act 2006 No 7 | 1 |
| | | 2 |
| [1] Long title | | 3 |
| | Omit “serious sex offenders”. | 4 |
| | Insert instead “high risk sex offenders and high risk violent offenders”. | 5 |
| [2] Section 1 Name of Act | | 6 |
| | Omit “ <i>Serious Sex Offenders</i> ”. Insert instead “ <i>High Risk Offenders</i> ”. | 7 |
| [3] Section 3 Objects of Act | | 8 |
| | Omit “serious sex offenders” wherever occurring. | 9 |
| | Insert instead “high risk sex offenders and high risk violent offenders”. | 10 |
| [4] Section 4 Definitions | | 11 |
| | Omit the definitions of <i>continuing detention order</i> , <i>extended supervision order</i> , <i>interim detention order</i> , <i>interim supervision order</i> and <i>sex offender</i> . | 12 |
| | Insert in alphabetical order: | 13 |
| | | 14 |
| | <i>continuing detention order</i> means an order for the detention of an offender made under section 5D or 5G. | 15 |
| | | 16 |
| | <i>extended supervision order</i> means an order for the supervision of an offender made under section 5C or 5F. | 17 |
| | | 18 |
| | <i>high risk sex offender</i> —see section 5B. | 19 |
| | <i>high risk sex offender continuing detention order</i> means a continuing detention order made under section 5D. | 20 |
| | | 21 |
| | <i>high risk sex offender extended supervision order</i> means an extended supervision order made under section 5C. | 22 |
| | | 23 |
| | <i>high risk violent offender</i> —see section 5E. | 24 |
| | <i>high risk violent offender continuing detention order</i> means a continuing detention order made under section 5G. | 25 |
| | | 26 |
| | <i>high risk violent offender extended supervision order</i> means an extended supervision order made under section 5F. | 27 |
| | | 28 |
| | <i>interim detention order</i> means an interim order for the detention of an offender made under section 18A or 18B. | 29 |
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| | <i>interim supervision order</i> means an interim order for the supervision of an offender made under section 10A or 10B. | 31 |
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| | <i>offender</i> means a sex offender or a violent offender. | 33 |
| | <i>serious violence offence</i> —see section 5A. | 34 |

sex offender means a person over the age of 18 years who has at any time been sentenced to imprisonment following his or her conviction of a serious sex offence. 1
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violent offender means a person over the age of 18 years who has at any time been sentenced to imprisonment following his or her conviction for a serious violence offence. 4
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[5] Section 5A 7

Insert after section 5: 8

5A Definition of “serious violence offence” 9

(1) For the purposes of this Act, a *serious violence offence* is a serious indictable offence that is constituted by a person: 10
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(a) engaging in conduct that causes the death of another person or grievous bodily harm to another person, with the intention of causing, or while being reckless as to causing, the death of another person or grievous or actual bodily harm to another person, or 12
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(b) attempting to commit, or conspiring with or inciting another person to commit, an offence of a kind referred to in paragraph (a). 17
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(2) An offence that includes the elements referred to in subsection (1) (a) is a serious violence offence regardless of how those elements are expressed, and whether or not the offence includes other elements. 20
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(3) A *serious indictable offence* is: 24

(a) an offence committed in New South Wales that was a serious indictable offence (within the meaning of the *Crimes Act 1900*) at the time that it was committed, or 25
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(b) an offence committed elsewhere than in New South Wales that, if committed in New South Wales, would be a serious indictable offence within the meaning of the *Crimes Act 1900* at the time that it was committed, or 28
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(c) an offence that, at the time that it was committed, was not a serious indictable offence but which was committed in circumstances that would make the offence a serious indictable offence if it were committed at the time an application for an order against the person is made under this Act. 32
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| [6] Part 1A | 1 |
| Insert after Part 1: | 2 |
| Part 1A Supervision and detention of high risk offenders | 3 |
| | 4 |
| Division 1 High risk sex offenders | 5 |
| 5B High risk sex offender | 6 |
| (1) An offender can be made the subject of a high risk sex offender extended supervision order or a high risk sex offender continuing detention order as provided for by this Act if and only if the offender is a high risk sex offender. | 7 8 9 10 |
| (2) An offender is a <i>high risk sex offender</i> if the offender is a sex offender and the Supreme Court is satisfied to a high degree of probability that the offender poses an unacceptable risk of committing a serious sex offence if he or she is not kept under supervision. | 11 12 13 14 15 |
| (3) The Supreme Court is not required to determine that the risk of a person committing a serious sex offence is more likely than not in order to determine that the person poses an unacceptable risk of committing a serious sex offence. | 16 17 18 19 |
| 5C Extended supervision orders for high risk sex offenders | 20 |
| (1) The Supreme Court may, on application under this Act, make an order for the supervision of an offender if the offender is a high risk sex offender. | 21 22 23 |
| (2) An order made under this section is an <i>extended supervision order</i> . | 24 25 |
| (3) An extended supervision order made under this section may also be referred to as a <i>high risk sex offender extended supervision order</i> . | 26 27 28 |
| 5D Continuing detention orders for high risk sex offenders | 29 |
| (1) The Supreme Court may, on application under this Act, make an order for the detention of an offender if the offender is a high risk sex offender and the Supreme Court is satisfied that adequate supervision will not be provided by an extended supervision order. | 30 31 32 33 34 |
| (2) An order made under this section is a <i>continuing detention order</i> . | 35 36 |

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| (3) | A continuing detention order made under this section may also be referred to as a <i>high risk sex offender continuing detention order</i> . | 1 2 3 |
| Division 2 High risk violent offenders | | 4 |
| 5E High risk violent offender | | 5 |
| (1) | An offender can be made the subject of a high risk violent offender extended supervision order or a high risk violent offender continuing detention order as provided for by this Act if and only if the offender is a high risk violent offender. | 6 7 8 9 |
| (2) | An offender is a <i>high risk violent offender</i> if the offender is a violent offender and the Supreme Court is satisfied to a high degree of probability that the offender poses an unacceptable risk of committing a serious violence offence if he or she is not kept under supervision. | 10 11 12 13 14 |
| (3) | The Supreme Court is not required to determine that the risk of a person committing a serious violence offence is more likely than not in order to determine that the person poses an unacceptable risk of committing a serious violence offence. | 15 16 17 18 |
| 5F Extended supervision orders for high risk violent offenders | | 19 |
| (1) | The Supreme Court may, on application under this Act, make an order for the supervision of an offender if the offender is a high risk violent offender. | 20 21 22 |
| (2) | An order made under this section is an <i>extended supervision order</i> . | 23 24 |
| (3) | An extended supervision order made under this section may also be referred to as a <i>high risk violent offender extended supervision order</i> . | 25 26 27 |
| 5G Continuing detention orders for high risk violent offenders | | 28 |
| (1) | The Supreme Court may, on application under this Act, make an order for the detention of an offender if the offender is a high risk violent offender and the Supreme Court is satisfied that adequate supervision will not be provided by an extended supervision order. | 29 30 31 32 33 |
| (2) | An order made under this section is a <i>continuing detention order</i> . | 34 35 |

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| (3) | A continuing detention order made under this section may also be referred to as a <i>high risk violent offender continuing detention order</i> . | 1 2 3 |
| [7] Part 2, Division 1 | | 4 |
| | Insert before section 6: | 5 |
| Division 1 | Application for extended supervision order | 6 |
| 5H | State may apply for order | 7 |
| | The State of New South Wales may apply to the Supreme Court for an extended supervision order against an offender. | 8 9 |
| 5I | Application for high risk sex offender extended supervision order | 10 |
| (1) | An application for a high risk sex offender extended supervision order may be made only in respect of a supervised sex offender. | 11 12 |
| (2) | A <i>supervised sex offender</i> is a sex offender who, when the application for the order is made, is in custody or under supervision (referred to in this Part as the offender's <i>current custody or supervision</i>): | 13 14 15 16 |
| (a) | while serving a sentence of imprisonment: | 17 |
| (i) | for a serious sex offence, or | 18 |
| (ii) | for an offence of a sexual nature, or | 19 |
| (iii) | for another offence which is being served concurrently or consecutively, or partly concurrently and partly consecutively, with one or more sentences of imprisonment referred to in subparagraph (i) or (ii), or | 20 21 22 23 24 |
| (b) | pursuant to an existing extended supervision order or continuing detention order. | 25 26 |
| (3) | A person is taken to be serving a sentence of imprisonment whether the sentence is being served by way of full-time detention, intensive correction in the community or home detention and whether the offender is in custody or on release on parole. | 27 28 29 30 31 |
| 5J | Application for high risk violent offender extended supervision order | 32 33 |
| (1) | An application for a high risk violent offender extended supervision order may be made only in respect of a supervised violent offender. | 34 35 36 |

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| (2) | A <i>supervised violent offender</i> is a violent offender who, when the application for the order is made, is in custody or under supervision (referred to in this Part as the offender’s <i>current custody or supervision</i>): | 1 2 3 4 |
| (a) | while serving a sentence of imprisonment: | 5 |
| (i) | for a serious violence offence, or | 6 |
| (ii) | for an offence under section 12, or | 7 |
| (iii) | for another offence which is being served concurrently or consecutively, or partly concurrently and partly consecutively, with one or more sentences of imprisonment referred to in subparagraph (i) or (ii), or | 8 9 10 11 12 |
| (b) | pursuant to an existing extended supervision order or continuing detention order. | 13 14 |
| (3) | A person is taken to be serving a sentence of imprisonment whether the sentence is being served by way of full-time detention, intensive correction in the community or home detention and whether the offender is in custody or on release on parole. | 15 16 17 18 19 |
| [8] | Section 6 Requirements with respect to application | 20 |
| | Omit section 6 (1). Insert instead: | 21 |
| (1) | An application for an extended supervision order must indicate whether the extended supervision order sought is a high risk sex offender extended supervision order or a high risk violent offender extended supervision order. | 22 23 24 25 |
| [9] | Section 6 (3) (b) | 26 |
| | Omit “committing a further serious sex offence”. Insert instead: | 27 |
| | committing: | 28 |
| (i) | a further serious sex offence (in the case of an application for a high risk sex offender extended supervision order), or | 29 30 |
| (ii) | a further serious violence offence (in the case of an application for a high risk violent offender extended supervision order). | 31 32 33 |
| [10] | Section 7 Pre-trial procedures | 34 |
| | Omit “sex” from section 7 (1). | 35 |
| [11] | Section 8 Interim supervision orders | 36 |
| | Omit the section. | 37 |

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| [12] Part 2, Division 2, heading | 1 |
| Insert before section 9: | 2 |
| Division 2 Determination of application | 3 |
| [13] Section 9 Determination of application for extended supervision order | 4 |
| Omit section 9 (2) and (2A). | 5 |
| [14] Section 9 (3) (c) and (d) | 6 |
| Omit “a further serious sex offence” wherever occurring. | 7 |
| Insert instead “a further relevant offence”. | 8 |
| [15] Section 9 (3) (i) | 9 |
| Insert “(in the case of an application for a high risk sex offender extended supervision order) or serious violence offences (in the case of an application for a high risk violent offender extended supervision order)” after “offences of a sexual nature”. | 10 11 12 13 |
| [16] Section 9 (4) | 14 |
| Insert after section 9 (3): | 15 |
| (4) In this section, a <i>relevant offence</i> means: | 16 |
| (a) in the case of an application for a high risk sex offender extended supervision order—a serious sex offence, or | 17 18 |
| (b) in the case of an application for a high risk violent offender extended supervision order—a serious violence offence. | 19 20 |
| [17] Part 2, Division 3 | 21 |
| Insert after section 10: | 22 |
| Division 3 Interim supervision orders | 23 |
| 10A Interim supervision order—high risk sex offender | 24 |
| The Supreme Court may make an order for the interim supervision of an offender if, in proceedings for an extended supervision order, it appears to the Court: | 25 26 27 |
| (a) that the offender’s current custody or supervision will expire before the proceedings are determined, and | 28 29 |
| (b) that the matters alleged in the supporting documentation would, if proved, justify the making of a high risk sex offender extended supervision order. | 30 31 32 |

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| 10B | Interim supervision order—high risk violent offender | 1 |
| | The Supreme Court may make an order for the interim supervision of an offender if, in proceedings for an extended supervision order, it appears to the Court: | 2 |
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| | (a) that the offender’s current custody or supervision will expire before the proceedings are determined, and | 5 |
| | | 6 |
| | (b) that the matters alleged in the supporting documentation would, if proved, justify the making of a high risk violent offender extended supervision order. | 7 |
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| 10C | Term of interim supervision order | 10 |
| | (1) An interim supervision order commences on the day fixed in the order for its commencement (or, if no such day is fixed, as soon as it is made) and expires at the end of such period (not exceeding 28 days from the day on which it commences) as is specified in the order. | 11 |
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| | (2) An interim supervision order may be renewed from time to time, but not so as to provide for the supervision of the offender under such an order for periods totalling more than 3 months. | 16 |
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| [18] | Part 2, Division 4, heading | 19 |
| | Insert before section 11: | 20 |
| | Division 4 General | 21 |
| [19] | Section 13 Supervision order may be varied or revoked | 22 |
| | Insert after section 13 (1A): | 23 |
| | (1B) Without limiting the grounds for revoking an extended supervision order or interim supervision order, the Supreme Court may revoke an extended supervision order or interim supervision order if satisfied that circumstances have changed sufficiently to render the order unnecessary. | 24 |
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| | | 28 |
| [20] | Section 13 (3) | 29 |
| | Insert after section 13 (2): | 30 |
| | (3) The report must indicate whether the Commissioner considers the continuation of the extended supervision order to be necessary and appropriate. | 31 |
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| [21] Part 3, Division 1 | 1 |
| Insert before section 14: | 2 |
| Division 1 Application for continuing detention order | 3 |
| 13A State may apply for order | 4 |
| The State of New South Wales may apply to the Supreme Court for a continuing detention order against an offender. | 5 6 |
| 13B Application for high risk sex offender continuing detention order | 7 |
| (1) An application for a high risk sex offender continuing detention order may be made only in respect of: | 8 9 |
| (a) a detained sex offender, or | 10 |
| (b) a supervised sex offender. | 11 |
| (2) A <i>detained sex offender</i> is a sex offender who, when the application for a continuing detention order is made, is in custody in a correctional centre (referred to in this Part as the offender's <i>current custody</i>): | 12 13 14 15 |
| (a) while serving a sentence of imprisonment by way of full-time detention: | 16 17 |
| (i) for a serious sex offence, or | 18 |
| (ii) for an offence of a sexual nature, or | 19 |
| (iii) for another offence which is being served concurrently or consecutively, or partly concurrently and partly consecutively, with one or more sentences of imprisonment referred to in subparagraph (i) or (ii), or | 20 21 22 23 24 |
| (b) pursuant to an existing continuing detention order. | 25 |
| (3) An application in respect of a detained sex offender may not be made more than 6 months before: | 26 27 |
| (a) the end of the offender's total sentence, or | 28 |
| (b) the expiry of the existing continuing detention order, as appropriate. | 29 30 |
| (4) A <i>supervised sex offender</i> is a sex offender the subject of an extended supervision order or an interim supervision order who: | 31 32 |
| (a) has been found guilty of an offence under section 12 in respect of that order, or | 33 34 |

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| | (b) because of altered circumstances, cannot be provided with adequate supervision under an extended supervision order or interim supervision order. | 1 2 3 |
| (5) | An application in respect of a supervised sex offender who is serving a sentence of imprisonment by way of full-time detention may not be made more than 6 months before the end of the person's total sentence. | 4 5 6 7 |
| (6) | In determining an application in respect of a person referred to in subsection (4) (b), the Supreme Court must not make a continuing detention order unless it is satisfied that circumstances have altered since the making of the extended supervision order or interim supervision order and those altered circumstances mean that adequate supervision of the offender cannot be provided under an extended supervision order or an interim supervision order. | 8 9 10 11 12 13 14 15 |
| 13C | Application for high risk violent offender continuing detention order | 16 17 |
| (1) | An application for a high risk violent offender continuing detention order may be made only in respect of: | 18 19 |
| | (a) a detained violent offender, or | 20 |
| | (b) a supervised violent offender. | 21 |
| (2) | A <i>detained violent offender</i> is a violent offender who, when the application for a continuing detention order is made, is in custody in a correctional centre (referred to in this Part as the offender's <i>current custody</i>): | 22 23 24 25 |
| | (a) while serving a sentence of imprisonment by way of full-time detention: | 26 27 |
| | (i) for a serious violence offence, or | 28 |
| | (ii) for an offence under section 12, or | 29 |
| | (iii) for another offence which is being served concurrently or consecutively, or partly concurrently and partly consecutively, with one or more sentences of imprisonment referred to in subparagraph (i) or (ii), or | 30 31 32 33 34 |
| | (b) pursuant to an existing continuing detention order. | 35 |
| (3) | An application in respect of a detained violent offender may not be made more than 6 months before: | 36 37 |
| | (a) the end of the offender's total sentence, or | 38 |

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| (b) the expiry of the existing continuing detention order, as appropriate. | 1 2 |
| (4) A <i>supervised violent offender</i> is a violent offender the subject of an extended supervision order or an interim supervision order who: | 3 4 5 |
| (a) has been found guilty of an offence under section 12 in respect of that order, or | 6 7 |
| (b) because of altered circumstances, cannot be provided with adequate supervision under an extended supervision order or interim supervision order. | 8 9 10 |
| (5) An application in respect of a supervised violent offender who is serving a sentence of imprisonment by way of full-time detention may not be made more than 6 months before the end of the person's total sentence. | 11 12 13 14 |
| (6) The Supreme Court must not make a continuing detention order on an application referred to in subsection (4) (b) unless it is satisfied that circumstances have altered since the making of the extended supervision order or interim supervision order and those altered circumstances mean that adequate supervision of the offender cannot be provided under an extended supervision order or an interim supervision order. | 15 16 17 18 19 20 21 |
| [22] Section 14 Requirements with respect to application | 22 |
| Omit section 14 (1)–(2B). Insert instead: | 23 |
| (1) An application for a continuing detention order must indicate whether the continuing detention order sought is a high risk sex offender continuing detention order or a high risk violent offender continuing detention order. | 24 25 26 27 |
| [23] Section 14 (3) | 28 |
| Omit the subsection. Insert instead: | 29 |
| (3) An application must be supported by documentation: | 30 |
| (a) that addresses each of the matters referred to in section 17 (4) (to the extent relevant to the application), and | 31 32 33 |

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| | (b) that includes a report (prepared by a qualified psychiatrist, registered psychologist or registered medical practitioner) that assesses the likelihood of the offender committing: | 1 |
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| | (i) a further serious sex offence (in the case of an application for a high risk sex offender continuing detention order), or | 4 |
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| | | 6 |
| | (ii) a further serious violence offence (in the case of an application for a high risk violent offender continuing detention order). | 7 |
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| [24] | Section 15 Pre-trial procedures | 10 |
| | Omit “sex” from section 15 (1). | 11 |
| [25] | Section 16 Interim detention orders | 12 |
| | Omit the section. | 13 |
| [26] | Part 3, Division 2, heading | 14 |
| | Insert before section 17: | 15 |
| | Division 2 Determination of application | 16 |
| [27] | Section 17 Determination of application for continuing detention order | 17 |
| | Omit section 17 (2)–(3A). | 18 |
| [28] | Section 17 (4) (c) and (d) | 19 |
| | Omit “a further serious sex offence” wherever occurring. | 20 |
| | Insert instead “a further relevant offence”. | 21 |
| [29] | Section 17 (4) (i) | 22 |
| | Insert “(in the case of an application for a high risk sex offender continuing detention order) or serious violence offences (in the case of an application for a high risk violent offender continuing detention order)” after “offences of a sexual nature”. | 23 |
| | | 24 |
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| [30] | Section 17 (4) (j) and (k) | 27 |
| | Insert after section 17 (4) (i): | 28 |
| | (j) in the case of an application made on the basis that the offender has been found guilty of an offence of failing to comply with the requirements of an extended supervision order or interim supervision order—the nature of the failure to comply with those requirements and the likelihood of further failures to comply, | 29 |
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| (k) | in the case of an application made on the basis that circumstances have altered since the making of an extended supervision order or interim supervision order against the offender—whether circumstances have altered since the making of the order and whether those altered circumstances mean that adequate supervision cannot be provided under an extended supervision order or an interim supervision order. | 1 2 3 4 5 6 7 8 |
| [31] | Section 17 (5) | 9 |
| | Omit section 17 (4A)–(5). Insert instead: | 10 |
| | (5) In this section, a <i>relevant offence</i> means: | 11 |
| | (a) in the case of an application for a high risk sex offender continuing detention order—a serious sex offence, or | 12 13 |
| | (b) in the case of an application for a high risk violent offender continuing detention order—a serious violence offence. | 14 15 |
| [32] | Section 18 Term of continuing detention order | 16 |
| | Omit “made on application under section 14 (2) in respect of a person” from section 18 (1A). | 17 18 |
| | Insert instead “made on application under this Part in respect of a supervised sex offender or supervised violent offender”. | 19 20 |
| [33] | Part 3, Division 3, and Division 4, heading | 21 |
| | Insert after section 18: | 22 |
| | Division 3 Interim detention orders | 23 |
| | 18A Interim detention order—high risk sex offender | 24 |
| | The Supreme Court may make an order for the interim detention of an offender if, in proceedings on an application for a continuing detention order, it appears to the Court: | 25 26 27 |
| | (a) that the offender’s current custody (if any) will expire before the proceedings are determined, and | 28 29 |
| | (b) that the matters alleged in the supporting documentation would, if proved, justify the making of a high risk sex offender extended supervision order or a high risk sex offender continuing detention order. | 30 31 32 33 |

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| 18B | Interim detention order—high risk violent offender | 1 |
| | The Supreme Court may make an order for the interim detention of an offender if, in proceedings on an application for a continuing detention order, it appears to the Court: | 2 |
| | | 3 |
| | | 4 |
| | (a) that the offender’s current custody (if any) will expire before the proceedings are determined, and | 5 |
| | | 6 |
| | (b) that the matters alleged in the supporting documentation would, if proved, justify the making of a high risk violent offender extended supervision order or a high risk violent offender continuing detention order. | 7 |
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| 18C | Term of interim detention order | 11 |
| | (1) An interim detention order commences on the day fixed in the order for its commencement (or, if no such day is fixed, as soon as it is made) and expires at the end of such period (not exceeding 28 days from the day on which it commences) as is specified in the order. | 12 |
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| | (2) An interim detention order may be renewed from time to time, but not so as to provide for the detention of the offender under such an order for periods totalling more than 3 months. | 17 |
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| Division 4 | General | 20 |
| [34] | Section 18A Detention order causes any supervision order to cease to have effect | 21 |
| | | 22 |
| | Renumber the section as section 18D. | 23 |
| [35] | Section 19 Detention order may be varied or revoked | 24 |
| | Insert after section 19 (1A): | 25 |
| | (1B) Without limiting the grounds for revoking a continuing detention order or interim detention order, the Supreme Court may revoke a continuing detention order or interim detention order if satisfied that circumstances have changed sufficiently to render the order unnecessary. | 26 |
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| [36] | Section 19 (3) | 31 |
| | Insert after section 19 (2): | 32 |
| | (3) The report must indicate whether the Commissioner considers the continuation of the continuing detention order to be necessary and appropriate. | 33 |
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| [37] Section 25 Attorney General may require provision of certain information | 1 2 |
| Omit “sex” from section 25 (1). | 3 |
| [38] Section 25C | 4 |
| Insert after section 25B: | 5 |
| 25C Violent offenders to be warned about application of Act | 6 |
| (1) A court that sentences a person for a serious violence offence is to cause the person to be advised of the existence of this Act and of its application to the offence. | 7 8 9 |
| (2) A failure by a court to comply with this section does not affect the validity of a sentence or prevent the making of an order against a person under this Act. | 10 11 12 |
| [39] Section 32 | 13 |
| Omit the section. Insert instead: | 14 |
| 32 Review of extension of Act | 15 |
| (1) The Minister is to review the amendments made to this Act by the <i>Crimes (Serious Sex Offenders) Amendment Act 2013</i> to determine whether the policy objectives of those amendments remain valid and whether the terms of this Act, as amended, remain appropriate for securing those objectives. | 16 17 18 19 20 |
| (2) For the purposes of the review, the Minister may require the Commissioner of Corrective Services to provide information as to how the Commissioner’s functions in relation to the administration of this Act are being, and have been, exercised. | 21 22 23 24 |
| (3) The review is to be undertaken as soon as possible after the period of 3 years from the date of assent to the <i>Crimes (Serious Sex Offenders) Amendment Act 2013</i> . | 25 26 27 |
| (4) A report on the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 3 years. | 28 29 30 |

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| [40] Schedule 2 Savings, transitional and other provisions | 1 |
| Insert after Part 6: | 2 |
| Part 7 Provisions consequent on enactment of Crimes (Serious Sex Offenders) Amendment Act 2013 | 3 |
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| 10 Definition | 6 |
| In this Part: | 7 |
| <i>amending Act</i> means the <i>Crimes (Serious Sex Offenders) Amendment Act 2013</i> . | 8 |
| | 9 |
| 11 Extension of scheme | 10 |
| The amendments made to this Act by the amending Act extend: | 11 |
| (a) to offences committed before the date of assent to that Act, and | 12 |
| | 13 |
| (b) to persons serving a sentence of imprisonment that commenced before the date of assent to that Act. | 14 |
| | 15 |
| 12 Saving of existing orders | 16 |
| (1) An extended supervision order made under section 9 or 17 before the amendments made by the amending Act, and in force immediately before the commencement of those amendments, is taken to be an extended supervision order under section 5C. | 17 |
| | 18 |
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| (2) An interim supervision order made under section 8 before the repeal of that section by the amending Act, and in force immediately before that repeal, is taken to be an interim supervision order under section 10A. | 21 |
| | 22 |
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| (3) A continuing detention order made under section 17 before the amendments made by the amending Act, and in force immediately before the commencement of those amendments, is taken to be a continuing detention order under section 5D. | 25 |
| | 26 |
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| (4) An interim detention order made under section 16 before the repeal of that section by the amending Act, and in force immediately before that repeal, is taken to be an interim detention order under section 18A. | 29 |
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| Schedule 2 | Amendment of other legislation | 1 |
| 2.1 | Bail Act 1978 No 161 | 2 |
| | Section 8F Presumption against bail for breach of extended supervision orders or interim supervision orders | 3 |
| | Omit “ <i>Crimes (Serious Sex Offenders) Act 2006</i> ” from section 8F (1). | 4 |
| | Insert instead “ <i>Crimes (High Risk Offenders) Act 2006</i> ”. | 5 |
| 2.2 | Births, Deaths and Marriages Registration Act 1995 No 62 | 6 |
| | Section 25F Definitions | 7 |
| | Omit “ <i>Crimes (Serious Sex Offenders) Act 2006</i> ” from paragraph (a) of the definition of <i>supervision order</i> . | 8 |
| | Insert instead “ <i>Crimes (High Risk Offenders) Act 2006</i> ”. | 9 |
| 2.3 | Child Protection (Offenders Prohibition Orders) Act 2004 No 46 | 10 |
| | Section 16B Commissioner of Police may apply for orders | 11 |
| | Omit “ <i>Crimes (Serious Sex Offenders) Act 2006</i> ” from section 16B (b) (i). | 12 |
| | Insert instead “ <i>Crimes (High Risk Offenders) Act 2006</i> ”. | 13 |
| 2.4 | Child Protection (Offenders Registration) Act 2000 No 42 | 14 |
| | Section 15 Suspension and extension of reporting obligations | 15 |
| | Omit “ <i>Crimes (Serious Sex Offenders) Act 2006</i> ” from section 15 (1) (d). | 16 |
| | Insert instead “ <i>Crimes (High Risk Offenders) Act 2006</i> ”. | 17 |
| 2.5 | Child Protection (Offenders Registration) Regulation 2009 | 18 |
| | Clause 19 Supervising authorities | 19 |
| | Omit “ <i>Crimes (Serious Sex Offenders) Act 2006</i> ” from clause 19 (c) (v). | 20 |
| | Insert instead “ <i>Crimes (High Risk Offenders) Act 2006</i> ”. | 21 |
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| 2.6 Crimes (Administration of Sentences) Act 1999 No 93 | 1 |
| [1] Section 4 Application of Part | 2 |
| Omit “ <i>Crimes (Serious Sex Offenders) Act 2006</i> ” from section 4 (1) (c1). | 3 |
| Insert instead “ <i>Crimes (High Risk Offenders) Act 2006</i> ”. | 4 |
| [2] Section 79 Regulations | 5 |
| Insert after section 79 (b): | 6 |
| (b1) the preparation and implementation of plans of | 7 |
| management in respect of inmates, and the provision of | 8 |
| services and programs in respect of inmates, | 9 |
| Note. See also section 271A. | 10 |
| [3] Section 126 Eligibility for release on parole | 11 |
| Omit “ <i>Crimes (Serious Sex Offenders) Act 2006</i> ” from section 126 (4). | 12 |
| Insert instead “ <i>Crimes (High Risk Offenders) Act 2006</i> ”. | 13 |
| [4] Section 160A Relationship of parole orders to high risk offender orders | 14 |
| Omit “ <i>Crimes (Serious Sex Offenders) Act 2006</i> ” wherever occurring. | 15 |
| Insert instead “ <i>Crimes (High Risk Offenders) Act 2006</i> ”. | 16 |
| [5] Section 235G Functions of Departmental compliance and monitoring officers | 17 |
| Omit “ <i>Crimes (Serious Sex Offenders) Act 2006</i> ” from section 235G (2) (b). | 18 |
| Insert instead “ <i>Crimes (High Risk Offenders) Act 2006</i> ”. | 19 |
| [6] Section 235G (6) (e) | 20 |
| Omit the paragraph. Insert instead: | 21 |
| (e) a person who is the subject of an extended supervision | 22 |
| order or interim supervision order under the <i>Crimes (High</i> | 23 |
| <i>Risk Offenders) Act 2006</i> . | 24 |
| | 25 |
| [7] Section 271A | 26 |
| Insert after section 271: | 27 |
| 271A Regulations relating to high risk violent offenders under the Crimes (High Risk Offenders) Act 2006 | 28 |
| | 29 |
| (1) The regulations may provide for the preparation and | 30 |
| implementation of plans of management in respect of persons | 31 |
| who are high risk violent offenders, and the provision of services | 32 |

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| and programs in respect of those persons, by Corrective Services NSW. | 1 |
| (2) The regulations may confer functions on the Review Council in respect of high risk violent offenders. | 2 3 4 |
| (3) A person is a high risk violent offender if the person is the subject of: | 5 6 |
| (a) a high risk violent offender extended supervision order under the <i>Crimes (High Risk Offenders) Act 2006</i> , or | 7 8 |
| (b) a high risk violent offender continuing detention order under that Act, or | 9 10 |
| (c) an interim supervision order made under section 10B of that Act, or | 11 12 |
| (d) an interim detention order made under section 18B of that Act. | 13 14 |
| 2.7 Crimes (Administration of Sentences) Regulation 2008 | 15 |
| [1] Clause 12 Placement of inmates | 16 |
| Omit “ <i>Crimes (Serious Sex Offenders) Act 2006</i> ” from clause 12 (1) (g). | 17 |
| Insert instead “ <i>Crimes (High Risk Offenders) Act 2006</i> ”. | 18 |
| [2] Clause 21AA | 19 |
| Insert after clause 21: | 20 |
| 21AA Case plans for high risk violent offenders | 21 |
| (1) This Division applies, with any necessary modifications, in respect of high risk violent offenders who are not inmates in the same way as it applies in respect of convicted inmates. | 22 23 24 |
| (2) For that purpose: | 25 |
| (a) a reference to an inmate includes a reference to a high risk violent offender, and | 26 27 |
| (b) a reference to the sentencing court includes a reference to the Supreme Court, and | 28 29 |
| (c) clause 13 (2) does not apply, and | 30 |
| (d) clause 16 applies as if the high risk violent offender were a serious offender. | 31 32 |
| (3) In this clause, high risk violent offender has the meaning given by section 271A of the Act. | 33 34 |

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| [3] Clause 58A | 1 |
| Insert after clause 58: | 2 |
| 58A High risk violent offenders | 3 |
| (1) This Division applies, with any necessary modifications, in respect of high risk violent offenders who are not inmates in the same way as it applies in respect of inmates. | 4 5 6 |
| (2) For that purpose, a reference to an inmate includes a reference to a high risk violent offender. | 7 8 |
| (3) In this clause, <i>high risk violent offender</i> has the meaning given by section 271A of the Act. | 9 10 |
| 2.8 Crimes (Appeal and Review) Act 2001 No 120 | 11 |
| Section 89 Previously convicted persons eligible to apply for review of conviction under this Division | 12 13 |
| Omit “ <i>Crimes (Serious Sex Offenders) Act 2006</i> ” from section 89 (5) (b). | 14 |
| Insert instead “ <i>Crimes (High Risk Offenders) Act 2006</i> ”. | 15 |
| 2.9 Crimes (Sentencing Procedure) Act 1999 No 92 | 16 |
| [1] Section 24A Mandatory requirements for supervision and other prohibitions to be disregarded in sentencing | 17 18 |
| Omit “or the <i>Crimes (Serious Sex Offenders) Act 2006</i> ” from section 24A (1) (b). | 19 20 |
| [2] Section 24A (1) (d) | 21 |
| Insert at the end of section 24A (1) (c): | 22 |
| , or | 23 |
| (d) has or may become the subject of an order under the <i>Crimes (High Risk Offenders) Act 2006</i> (whether as a high risk sex offender or as a high risk violent offender). | 24 25 26 |
| 2.10 Jury Act 1977 No 18 | 27 |
| Schedule 1 Persons excluded from jury service (as substituted by the Jury Amendment Act 2010) | 28 29 |
| Omit “ <i>Crimes (Serious Sex Offenders) Act 2006</i> ” from clause 4 (1) (c). | 30 |
| Insert instead “ <i>Crimes (High Risk Offenders) Act 2006</i> ”. | 31 |

2.11 Jury Amendment Act 2010 No 55

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Schedule 1 Amendment of Jury Act 1977 No 18

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Omit “*Crimes (Serious Sex Offenders) Act 2006*” from Schedule 1 [22]
(proposed clause 4 (1) (c)).

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Insert instead “*Crimes (High Risk Offenders) Act 2006*”.

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