



New South Wales

Crimes (High Risk Offenders) Amendment Bill 2017

Explanatory note

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

This Bill is cognate with the *Crimes (Sentencing Procedure) Amendment (Sentencing Options) Bill 2017*.

Overview of Bill

The *Crimes (High Risk Offenders) Act 2006* (the **Principal Act**) sets out a scheme for the making of extended supervision orders and continuing detention orders in relation to two categories of high risk offenders (high risk sex offenders and high risk violent offenders). The categories are based on whether the offender has been sentenced to imprisonment following conviction for a serious sex offence or a serious violence offence (as defined in the Principal Act). An extended supervision order imposes obligations on a high risk offender on release from custody. A continuing detention order requires a high risk offender who is in custody in a correctional centre to remain in custody at the end of a term of imprisonment or an existing continuing detention order or, if the high risk offender is the subject of a supervision order, to be taken into custody. A continuing detention order may currently be imposed on a high risk sex offender if the Supreme Court is satisfied to a high degree of probability that the offender poses an unacceptable risk of committing another serious sex offence if not detained in custody or, in the case of a sex offender the subject of an extended or interim supervision order, of breaching the order, or if altered circumstances mean that adequate supervision cannot be provided under it. A continuing detention order may currently be imposed on a high risk violent offender if the Supreme Court is satisfied to a high degree of probability that the offender poses an unacceptable risk of committing another serious violence offence if not detained in custody or, in the case of a violent offender the subject of an extended or interim supervision order, of breaching the order, or if altered circumstances mean that adequate supervision cannot be provided under it.

The object of this Bill is to amend the Principal Act as follows:

- (a) to remove the distinction between the two categories of high risk offender so that orders for the continued supervision and detention of high risk sex offenders and high risk violent offenders may be made if an offender poses a risk of committing either a serious violence offence or serious sex offence and to make consequential amendments throughout the Principal Act (**Schedule 1 [1], [3]–[8], [14], [15], [17], [21], [24], [25], [27], [30], [31], [35], [38], [41], [42], and [58]–[60]**),
- (b) by making it clear that the scheme applies to an offender sentenced to imprisonment for a serious sex offence or serious violence offence to be served by way of full-time detention or intensive correction in the community (whether or not by home detention) but not an offender given a suspended sentence or whose sentence is quashed (**Schedule 1 [10]—proposed section 4A (b)**),
- (c) to make it clear that the scheme applies to an offender serving a sentence of imprisonment for an offence against a law of the Commonwealth or another State or Territory being served concurrently or consecutively (wholly or partly) with an offence against the law of New South Wales (**Schedule 1 [15]—proposed section 5I (2) (a) (iv) and Schedule 1 [29]—proposed section 13B (2) (a) (iv)**),
- (d) to make certain offences against the laws of the Commonwealth “serious sex offences” and “offences of a sexual nature” for the purposes of the Principal Act (**Schedule 1 [11]–[13]**),
- (e) by changing the test to be applied by the Supreme Court in deciding whether or not to make a continuing detention order in respect of a high risk offender so that an order may be made if the Supreme Court is satisfied that the risk of the offender committing another serious offence would be unacceptable unless the order is imposed instead of being satisfied that adequate supervision will not be provided by an extended supervision order (**Schedule 1 [14]—proposed sections 5C and 5D and Schedule 1 [39] and [40]**),
- (f) by changing the test to be applied by the Supreme Court in deciding whether or not to make an emergency detention order in respect of a high risk offender who is the subject of an extended supervision order or interim supervision order so that the order may be made if the Supreme Court is satisfied that, because of altered circumstances, the offender poses an unacceptable and imminent risk of committing a serious offence if the order is not made instead of being satisfied that because of the altered circumstances the offender cannot be provided with adequate supervision under the extended supervision order or interim supervision order and that, without adequate supervision, the offender poses an imminent risk of committing a serious offence (**Schedule 1 [45], [46], [48] and [50]**),
- (g) by supplementing the list of matters (which is not exhaustive) to be considered by the Supreme Court in deciding whether to make an extended supervision order or continuing detention order to include whether the offender is likely to comply with the conditions of an extended supervision order and the options available in the community or in custody to reduce the risk of the offender re-offending (**Schedule 1 [22], [23], [36] and [37]**),
- (h) to emphasise that community safety is the paramount consideration for the Supreme Court in determining whether to make a continuing detention order or an extended supervision order (**Schedule 1 [18]–[20] and [32]–[34]**),
- (i) to require the Legal Aid Commission to be notified in writing if a decision is made to file an application for an emergency detention order (**Schedule 1 [49]**),
- (j) to enable a broader range of victims of serious offences and offences of a sexual nature to be able to provide victim impact statements (**Schedule 1 [57]**),
- (k) to enable victim impact statements to be made directly to the Supreme Court not only in writing (**Schedule 1 [52]–[56]**),
- (l) to the extent possible, to enable registered victims to be advised when a high risk offender is the subject of an application for an order (**Schedule 1 [51]**),

- (m) to make it clear that the Attorney General may order a person to provide financial information relating to a high risk offender and may request persons in other jurisdictions to provide certain information about an offender (**Schedule 1 [61]–[64]**),
- (n) to permit the disclosure of expert reports prepared for supporting documentation relating to applications for orders to corrective services officers and other persons responsible for the supervision (whether in custody or in the community), treatment or risk assessment of offenders and to any person in connection with the person’s functions under the Principal Act and to provide for the disclosure and use of such expert reports in certain proceedings in relation to an offender if a court determines it is in the public interest and would be informative of the offender’s mental state with respect to his or her offending (**Schedule 1 [66]—proposed section 25D**),
- (o) to enable applications for orders to be made up to 9 months (instead of 6 months) before the end of a period when an offender is in custody or under supervision (**Schedule 1 [16] and Schedule 1 [29]—proposed section 13B (3) and (5)**),
- (p) to enable the Supreme Court to defer the operation of an extended supervision order made in proceedings on an application for a continuing detention order or interim supervision order in relation to an offender in current custody for up to 7 days in certain circumstances (**Schedule 1 [26] and [28]**),
- (q) to make it clear that a failure to comply, or an alleged failure to comply, with the requirements of an extended or interim supervision order may be taken into account in determining an application for a continuing detention order (**Schedule 1 [29]—proposed section 13B (7)**),
- (r) to require sentencing courts to warn all offenders of the potential application of the Principal Act to them unless they are not present at sentencing (**Schedule 1 [65]**),
- (s) to make various minor and machinery changes to the scheme to ensure it operates effectively (for example, clarification that the term “offender in lawful custody” when used in the Principal Act includes a period when an offender who is subject to a supervision order is on remand for an offence (**Schedule 1 [9]**), clarification of the effect of suspension of an order (**Schedule 1 [43] and [44]**) and provision for the issue of evidentiary certificates—**Schedule 1 [67]**),
- (t) to make necessary savings and transitional provisions (**Schedule 1 [68]**).

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 a day or days to be appointed by proclamation.

Schedule 1 Amendment of Crimes (High Risk Offenders) Act 2006 No 7

Schedule 1 makes the amendments specifically noted in the Overview and other amendments of a consequential nature or by way of statute law revision (**Schedule 1 [2] and [47]**).

Schedule 2 Amendment of other Acts

Schedule 2.1 [1] and [2] amend section 135 of the *Crimes (Administration of Sentences) Act 1999* (as inserted by the proposed *Parole Legislation Amendment Act 2017*) to require the Parole Authority to have regard to applications for extended supervision orders or continuing detention orders that have not been determined in deciding whether or not the release of an offender is in the public interest. **Schedule 2.1 [3]** amends that section to provide that the Parole Authority must not have regard to the fact that such an application may be made.

Schedule 2.1 [4]–[7] amend the *Crimes (Administration of Sentences) Act 1999* to provide for inclusion of high risk offenders on the Victims Register kept under that Act for the purpose described in paragraph (j) of the Overview. The amendment has the effect of including within the list of victims who may be recorded in the Victims Register victims of offenders within the meaning of the Principal Act whether or not those offenders are currently serving a sentence of imprisonment for a serious offence and victims of such offenders who are currently serving a sentence of imprisonment for offences of a sexual nature, and certain persons who are family representatives of such victims.

Schedule 2.2 makes an amendment to the *Crimes (Sentencing Procedure) Act 1999* that is consequential on the amendments described in paragraph (a) of the Overview.



New South Wales

Crimes (High Risk Offenders) Amendment Bill 2017

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New South Wales

Crimes (High Risk Offenders) Amendment Bill 2017

No. , 2017

A Bill for

An Act to amend the *Crimes (High Risk Offenders) Act 2006* to make further provision with respect to the supervision and detention of high risk sex offenders and high risk violent offenders; and for other purposes.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Crimes (High Risk Offenders) Amendment Act 2017</i> .	3
2 Commencement	4
This Act commences on a day or days to be appointed by proclamation.	5

Schedule 1	Amendment of Crimes (High Risk Offenders) Act 2006 No 7	1
		2
[1] Section 4 Definitions		3
	Omit “section 5D or 5G” from the definition of <i>continuing detention order</i> .	4
	Insert instead “section 5C”.	5
[2] Section 4, definition of “corrective services officer”		6
	Omit the definition. Insert instead:	7
	<i>corrective services officer</i> means a correctional officer or community corrections officer within the meaning of the <i>Crimes (Administration of Sentences) Act 1999</i> .	8
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		10
[3] Section 4, definition of “extended supervision order”		11
	Omit “section 5C or 5F”. Insert instead “section 5B”.	12
[4] Section 4		13
	Omit the definitions of <i>high risk offender</i> , <i>high risk sex offender</i> , <i>high risk sex offender continuing detention order</i> , <i>high risk sex offender extended supervision order</i> , <i>high risk violent offender</i> , <i>high risk violent offender continuing detention order</i> , <i>high risk violent offender extended supervision order</i> , <i>sex offender</i> and <i>violent offender</i> .	14
		15
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		17
[5] Section 4, definition of “interim detention order”		18
	Omit “or 18B”.	19
[6] Section 4, definition of “interim supervision order”		20
	Omit “or 10B”.	21
[7] Section 4, definition of “offender”		22
	Omit the definition. Insert instead:	23
	<i>offender</i> —see section 4A.	24
[8] Section 4, definition of “serious offence”		25
	Omit the definition. Insert instead:	26
	<i>serious offence</i> means:	27
	(a) a serious sex offence, or	28
	(b) a serious violence offence.	29
[9] Section 4 (2)		30
	Insert at the end of section 4:	31
	(2) A reference in this Act to an <i>offender in lawful custody</i> includes, where used in relation to an offender who is subject to an extended supervision order or interim supervision order, a reference to the offender being in lawful custody during a period for which the offender is on remand for any offence.	32
		33
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		35

[10] Section 4A	1
Insert after section 4:	2
4A Meaning of “offender”	3
For the purposes of this Act, an <i>offender</i> is a person who:	4
(a) is of or above 18 years of age, and	5
(b) has at any time been sentenced to imprisonment (not including a suspended or quashed sentence) to be served by way of full-time detention or intensive correction in the community (whether or not subject to a home detention condition) following the person’s conviction for a serious offence.	6 7 8 9 10
[11] Section 5 Definitions of “serious sex offence” and “offence of a sexual nature”	11
Insert after section 5 (1) (b):	12
(b1) an offence against section 50BA of the <i>Crimes Act 1914</i> of the Commonwealth,	13 14
(b2) an offence against section 71.8 of the <i>Commonwealth Criminal Code</i> ,	15
(b3) an offence against section 271.4 or 271.7 of the <i>Commonwealth Criminal Code</i> ,	16 17
(b4) an offence against section 272.8 (1) or (2), 272.10 (1), 272.11 (1), 272.12 (1) or (2), 272.13 (1) or (2), 272.14 (1), 272.15 (1), 272.19 (1) or 273.7 of the <i>Commonwealth Criminal Code</i> ,	18 19 20
(b5) an offence against section 471.22 (1), 471.24, 471.25, 474.24A (1), 474.25B (1), 474.26 or 474.27 (1), (2) or (3) of the <i>Commonwealth Criminal Code</i> ,	21 22 23
[12] Section 5 (2) (h1)–(h5)	24
Insert after section 5 (2) (h):	25
(h1) an offence against section 50BB, 50BC, 50BD, 50DA or 50DB of the <i>Crimes Act 1914</i> of the Commonwealth,	26 27
(h2) an offence against section 71.12 of the <i>Commonwealth Criminal Code</i> ,	28
(h3) an offence against section 272.9 (1) or (2), 272.18 (1), 272.20 (1) or (2), 273.5 or 273.6 of the <i>Commonwealth Criminal Code</i> ,	29 30
(h4) an offence against section 471.16 (1) or (2), 471.17 (1), 471.19 (1) or (2), 471.20 (1), 471.26, 474.19 (1), 474.20 (1), 474.22 (1), 474.23 (1), 474.25A (1) or (2) or 474.27A (1) of the <i>Commonwealth Criminal Code</i> ,	31 32 33 34
(h5) an offence against section 233BAB of the <i>Customs Act 1901</i> of the Commonwealth involving items of child pornography or child abuse material,	35 36 37
[13] Section 5 (3)	38
Insert after section 5 (2):	39
(3) In this section:	40
<i>Commonwealth Criminal Code</i> means the <i>Criminal Code</i> set out in the Schedule to the <i>Criminal Code Act 1995</i> of the Commonwealth.	41 42

[14] Part 1A	1
Omit the Part. Insert instead:	2
Part 1A Supervision and detention of high risk offenders	3
5B Making of extended supervision orders—unacceptable risk	4
The Supreme Court may make an order for the supervision in the community of a person (an <i>extended supervision order</i>) if:	5
(a) the person is an offender who is serving (or who has served) a sentence of imprisonment for a serious offence either in custody or under supervision in the community, and	6
(b) the person is a supervised offender (within the meaning of section 5I), and	7
(c) an application for the order is made in accordance with section 5I, and	8
(d) the Supreme Court is satisfied to a high degree of probability that the offender poses an unacceptable risk of committing another serious offence if not kept under supervision under the order.	9
5C Making of continuing detention orders—unacceptable risk	10
The Supreme Court may make an order for the continued detention of a person (a <i>continuing detention order</i>) if:	11
(a) the person is an offender who is serving (or who has served) a sentence of imprisonment for a serious offence either in custody or under supervision in the community, and	12
(b) the person is a detained offender or supervised offender (within the meaning of section 13B), and	13
(c) an application for the order is made in accordance with section 13B, and	14
(d) the Supreme Court is satisfied to a high degree of probability that the person poses an unacceptable risk of committing another serious offence if not kept in detention under the order.	15
5D Determination of risk	16
For the purposes of this Part, the Supreme Court is not required to determine that the risk of an offender committing a serious offence is more likely than not in order to determine that there is an unacceptable risk of the person committing such an offence.	17
[15] Section 5I	18
Omit sections 5I and 5J. Insert instead:	19
5I Application for extended supervision order	20
(1) An application for an extended supervision order may be made only in respect of a supervised offender.	21
(2) A <i>supervised offender</i> is an 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>):	22
(a) while serving a sentence of imprisonment:	23
(i) for a serious offence, or	24
(ii) for an offence of a sexual nature, or	25

	(iii) for an offence under section 12, or	1
	(iv) for another offence (whether under a law of this State or another Australian jurisdiction) that is being served concurrently or consecutively, or partly concurrently and partly consecutively, with one or more sentences of imprisonment referred to in subparagraph (i), (ii) or (iii), or	2 3 4 5 6
	(b) under an existing interim supervision order, extended supervision order, interim detention order or continuing detention order.	7 8
	(3) A person is taken to be serving a sentence of imprisonment whether the sentence is being served by way of full-time detention or intensive correction in the community (whether or not subject to a home detention condition) and whether the offender is in custody or on release on parole.	9 10 11 12
[16]	Section 6 Requirements with respect to application	13
	Omit section 6 (1) and (2). Insert instead:	14
	(1) An application for an extended supervision order against an offender may not be made until the last 9 months of the offender's current custody or supervision.	15 16 17
[17]	Section 6 (3)	18
	Omit the subsection. Insert instead:	19
	(3) An application must be supported by documentation:	20
	(a) that addresses each of the matters referred to in section 9 (3), and	21
	(b) that includes a report (prepared by a qualified psychiatrist, registered psychologist or registered medical practitioner) that assesses the likelihood of the offender committing a serious offence.	22 23 24
[18]	Section 9 Determination of application for extended supervision order	25
	Insert after section 9 (1):	26
	(2) In determining whether or not to make an extended supervision order, the safety of the community must be the paramount consideration of the Supreme Court.	27 28 29
[19]	Section 9 (3)	30
	Insert "also" after "Supreme Court must".	31
[20]	Section 9 (3) (a)	32
	Omit the paragraph.	33
[21]	Section 9 (3) (c) and (d)	34
	Omit "further relevant offence" wherever occurring.	35
	Insert instead "further serious offence".	36
[22]	Section 9 (3) (e1) and (e2)	37
	Insert after section 9 (3) (e):	38
	(e1) options (if any) available if the offender is kept in custody or is in the community (whether or not under supervision) that might reduce the likelihood of the offender re-offending over time,	39 40 41

	(e2) the likelihood that the offender will comply with the obligations of an extended supervision order,	1 2
[23]	Section 9 (3) (f)	3
	Omit “the level”. Insert instead “without limiting paragraph (e2), the level”.	4
[24]	Section 9 (3) (i)	5
	Omit the paragraph. Insert instead:	6
	(i) any other information that is available as to the likelihood that the offender will commit a further serious offence.	7 8
[25]	Section 9 (4)	9
	Omit the subsection.	10
[26]	Section 10 Term of extended supervision order	11
	Insert after section 10 (1):	12
	(1AA) However the Supreme Court may, if an extended supervision order is made in proceedings on an application for a continuing detention order, defer the operation of an extended supervision order for a period of up to 7 days (the <i>deferral period</i>) if:	13 14 15 16
	(a) the Court considers that it is necessary to detain the offender for the deferral period to enable arrangements to be made for supervision of the offender in the community, and	17 18 19
	(b) it does not appear to the Court that an interim detention order can be made for the interim detention of the offender.	20 21
	(1AB) On the deferral of the operation of an extended supervision order, the Supreme Court may order that the offender concerned be detained for a specified period (not exceeding the deferral period) after the offender’s current custody expires.	22 23 24 25
	(1AC) As soon as practicable after making an order under subsection (1AB) the Supreme Court must issue a warrant for the committal of the offender for the specified period after the offender’s current custody expires.	26 27 28
	(1AD) A warrant under subsection (1AC) is sufficient authority for the offender to be kept in custody in accordance with the terms of the warrant.	29 30
[27]	Section 10A	31
	Omit sections 10A and 10B. Insert instead:	32
	10A Interim supervision order	33
	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:	34 35 36
	(a) that the offender’s current custody or supervision will expire before the proceedings are determined, and	37 38
	(b) that the matters alleged in the supporting documentation would, if proved, justify the making of an extended supervision order.	39 40

[28] Section 10C Term of interim supervision order	1
Insert after section 10C (1):	2
(1AA) However, the Supreme Court may defer the operation of an interim supervision order in relation to an offender who is in current custody for a period of up to 7 days (the <i>deferral period</i>) if:	3
(a) the Court considers that it is necessary to detain the offender for the deferral period to enable arrangements to be made for supervision of the offender in the community, and	4
(b) it does not appear to the Court that an interim detention order can be made for the interim detention of the offender.	5
(1AB) On the deferral of the operation of an interim supervision order, the Supreme Court may order that the offender concerned be detained for a specified period (not exceeding the deferral period) after the offender's current custody expires.	6
(1AC) As soon as practicable after making an order under subsection (1AB) the Supreme Court must issue a warrant for the committal of the offender for the specified period after the offender's current custody expires.	7
(1AD) A warrant under subsection (1AC) is sufficient authority for the offender to be kept in custody in accordance with the terms of the warrant.	8
[29] Section 13B	9
Omit sections 13B and 13C. Insert instead:	10
13B Application for continuing detention order	11
(1) An application for a continuing detention order may be made only in respect of:	12
(a) a detained offender, or	13
(b) a supervised offender.	14
(2) A <i>detained offender</i> is an offender who, when the application for a continuing detention order is made, is in custody (referred to in this Part as the offender's <i>current custody</i>):	15
(a) while serving a sentence of imprisonment:	16
(i) for a serious offence, or	17
(ii) for an offence of a sexual nature, or	18
(iii) for an offence under section 12, or	19
(iv) for another offence which is being served concurrently or consecutively, or partly concurrently and partly consecutively, with one or more sentences of imprisonment (whether under a law of this State or another Australian jurisdiction) referred to in subparagraph (i), (ii) or (iii), or	20
(b) under an existing continuing detention order, emergency detention order or interim detention order.	21
(3) An application for a continuing detention order in respect of a detained offender may not be made more than 9 months before:	22
(a) the end of the offender's total sentence, or	23
(b) the expiry of the existing continuing detention order, as appropriate.	24

(4)	A <i>supervised offender</i> is an offender who, when the application for a continuing detention order is made, is an offender in lawful custody or under supervision:	1
		2
		3
(a)	under an extended supervision order or an interim supervision order who:	4
		5
(i)	has been found guilty of an offence under section 12 in respect of that order, or	6
		7
(ii)	because of altered circumstances, poses an unacceptable risk of committing a serious offence if the continuing detention order is not made, or	8
		9
		10
(b)	whose obligations under an extended supervision order or an interim supervision order have been suspended, or	11
		12
(c)	under an interim detention order.	13
(5)	An application in respect of a supervised offender who is serving a sentence of imprisonment may not be made more than 9 months before the end of the person's total sentence.	14
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		16
(6)	The Supreme Court must not make a continuing detention order on an application referred to in subsection (4) (a) (ii) 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 there is an unacceptable risk of the offender committing a serious offence if the continuing detention order is not made.	17
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(7)	Without limiting the matters that the Supreme Court may take into account for the purposes of subsection (6), it may take into account the failure to comply, or an allegation that the supervised offender has failed to comply, with any requirement of an extended supervision order or interim supervision order.	23
		24
		25
		26
[30]	Section 14 Requirements with respect to application	27
	Omit section 14 (1).	28
[31]	Section 14 (3)	29
	Omit the subsection. Insert instead:	30
(3)	An application for a continuing detention order must be supported by documentation:	31
		32
(a)	that addresses each of the matters referred to in section 17 (4), and	33
(b)	that includes a report (prepared by a qualified psychiatrist, registered psychologist or registered medical practitioner) that assesses the likelihood of the offender committing a further serious offence.	34
		35
		36
[32]	Section 17 Determination of application for continuing detention order	37
	Insert after section 17 (1):	38
(2)	In determining whether or not to make a continuing detention order or extended supervision order, the safety of the community must be the paramount consideration of the Supreme Court.	39
		40
		41
[33]	Section 17 (4)	42
	Insert "also" after "Supreme Court must".	43

[34] Section 17 (4) (a)	1
Omit the paragraph.	2
[35] Section 17 (4) (c) and (d)	3
Omit “further relevant offence” wherever occurring.	4
Insert instead “further serious offence”.	5
[36] Section 17 (4) (e1) and (e2)	6
Insert after section 17 (4) (e):	7
(e1) if the offender is kept in custody or is in the community (whether or not under supervision)—any options available that might reduce the likelihood of the offender re-offending over time,	8 9 10
(e2) whether it is satisfied that the offender is likely to comply with the obligations of an extended supervision order,	11 12
[37] Section 17 (4) (f)	13
Omit “the level”. Insert instead “without limiting paragraph (e2), the level”.	14
[38] Section 17 (4) (i)	15
Omit the paragraph. Insert instead:	16
(i) any other information that is available as to the likelihood that the offender will commit a further serious offence,	17 18
[39] Section 17 (4) (k)	19
Omit the paragraph. Insert instead:	20
(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 the risk of the offender committing a serious offence would be unacceptable unless a continuing detention order were made.	21 22 23 24 25 26 27
[40] Section 17 (5)	28
Omit the subsection. Insert instead:	29
(5) In determining whether or not to make a continuing detention order, the Supreme Court is not to consider the ability to take action for a breach of the order in relation to whether there is an unacceptable risk of the offender committing further serious offences.	30 31 32 33
[41] Section 18 Term of continuing detention order	34
Omit “supervised sex offender or supervised violent offender” from section 18 (1A).	35
Insert instead “supervised offender (within the meaning of section 13B (4))”.	36

[42] Section 18A	1
Omit sections 18A and 18B. Insert instead:	2
18A Interim detention order	3
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:	4
(a) that the offender’s current custody (if any) will expire before the proceedings are determined, and	5
(b) that the matters alleged in the supporting documentation would, if proved, justify the making of an extended supervision order or continuing detention order.	6
[43] Section 18C Term of interim detention order	7
Omit section 18C (1). Insert instead:	8
(1) An interim detention order in respect of an offender 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:	9
(a) at the end of such period (not exceeding 28 days from the day on which it commences) as is specified in the order, or	10
(b) if the order is suspended for any period—the period specified in paragraph (a) plus each period during which the order is suspended, or	11
(c) on the commencement of an extended supervision order made in respect of the offender.	12
[44] Section 18C (1A)	13
Insert after section 18C (1):	14
(1A) An offender’s custody under an interim detention order is suspended during any period the offender is in lawful custody, whether under this or any other Act or law.	15
[45] Section 18CA Ex parte application for emergency detention order	16
Omit “cannot be provided with adequate supervision under the extended supervision order or interim supervision order” from section 18CA (1).	17
Insert instead “poses an unacceptable and imminent risk of committing a serious offence if the emergency detention order is not made”.	18
[46] Section 18CB Making of emergency detention orders	19
Omit section 18CB (1). Insert instead:	20
(1) The Supreme Court may make an emergency detention order if it appears to the Court that the matters alleged in support of the application for the order would, if proved, establish that because of altered circumstances, the offender poses an unacceptable and imminent risk of committing a serious offence if the emergency detention order is not made.	21
[47] Section 18CC Requirements with respect to application	22
Omit “of or above the rank of Assistant Commissioner”.	23
Insert instead “of the rank of Assistant Commissioner”.	24

[48] Section 18CC (b) and (c)	1
Omit the paragraphs. Insert instead:	2
(b) the reasons why because of the altered circumstances the extended supervision order or interim supervision order to which the offender is currently subject will not prevent the offender from posing an unacceptable and imminent risk of committing a serious offence,	3 4 5 6
(c) the reasons why there are no other practicable and available means of ensuring that the offender does not pose an imminent risk of committing a serious offence (other than detention).	7 8 9
[49] Section 18CC (2)	10
Insert at the end of section 18CC:	11
(2) The State:	12
(a) must notify the Legal Aid Commission of New South Wales in writing when a decision is made to file an application in the Supreme Court for an emergency detention order in respect of an offender, and	13 14 15
(b) if requested to do so by the Commission—is to supply the Commission with a copy of the application and supporting affidavit.	16 17
[50] Section 18CD Term of emergency detention order	18
Omit section 18CD (1). Insert instead:	19
(1) An emergency detention order can be made to have effect for no longer than is reasonably necessary to enable action to be taken under this Act to ensure that the risk of the offender committing a serious offence is not unacceptable.	20 21 22
[51] Section 21A Victim statements	23
Insert “(or, if the application concerned is for an emergency detention order, as are practicable in the circumstances)” after “reasonable” in section 21A (1).	24 25
[52] Section 21A (2)	26
Omit the subsection. Insert instead:	27
(2) The notice must inform the person that the person may make a statement orally before the Supreme Court, or provide a statement in writing, about:	28 29
(a) the person’s views about the order and any conditions to which the order may be subject, and	30 31
(b) any other matters prescribed by the regulations.	32
[53] Section 21A (3A)	33
Insert after section 21A (3):	34
(3A) A statement in writing must be provided before the date specified in the notice.	35
[54] Section 21A (4)	36
Insert “in writing” after “statement”.	37

[55] Section 21A (4A)–(4C)	1
Insert after section 21A (4):	2
(4A) An oral statement may be made at such time during the proceedings on the application before the Supreme Court makes its decision on the application as the Supreme Court determines.	3 4 5
(4B) The Supreme Court is to hear an oral statement in the absence of the offender unless the person giving the statement consents to the offender being present.	6 7
(4C) The Supreme Court may arrange for an oral statement to be made by way of closed circuit television.	8 9
[56] Section 21A (6)	10
Insert “(other than one given in the presence of the offender in accordance with subsection 4B)” after “statement” where firstly occurring.	11 12
[57] Section 21A (8), definition of “victim”	13
Omit the definition. Insert instead:	14
<i>victim</i> of an offender means a victim who is recorded on the Victims Register in respect of the offender for the purposes of section 256 (2) (b) of the <i>Crimes (Administration of Sentences) Act 1999</i> .	15 16 17
[58] Section 24AC Functions of Assessment Committee	18
Omit “sex offenders and violent” from section 24AC (a).	19
[59] Section 24AC (b)	20
Omit “assessment and management of high risk offenders”.	21
Insert instead “assessment and management of offenders who are subject to this Act”.	22
[60] Section 24AF Inter-agency co-operation	23
Omit “assessment and management of high risk offenders” from section 24AF (1).	24
Insert instead “assessment and management of offenders who are subject to this Act”.	25
[61] Section 25 Provision of certain information to Attorney General	26
Insert “financial circumstances,” after “behaviour,” wherever occurring in section 25 (1) and (2A).	27 28
[62] Section 25 (2)	29
Omit the maximum penalty. Insert instead:	30
Maximum penalty: 100 penalty units in the case of a corporation and 100 penalty units, or imprisonment for 2 years, or both, in any other case.	31 32
[63] Section 25 (2B)	33
Insert after section 25 (2A):	34
(2B) The Attorney General may request a person in another jurisdiction to provide to the Attorney General any document, report or other information in that person’s possession, or under that person’s control, that relates to the behaviour, financial circumstances or physical or mental condition of any offender.	35 36 37 38 39

[64] Section 25 (3)	1
Omit “subsection (1) or (2A)”. Insert instead “subsection (1), (2A) or (2B)”.	2
[65] Section 25C Offenders to be warned about application of Act	3
Omit section 25C (1). Insert instead:	4
(1) A court that sentences a person for a serious offence is to cause the person to be advised of the existence of this Act and of its application to the offence unless the person is not present at the time of sentencing.	5 6 7
[66] Section 25D	8
Insert after section 25C:	9
25D Disclosure and use of application documentation	10
(1) In this section:	11
<i>disclose</i> an expert report includes the following:	12
(a) to make available,	13
(b) to disclose copies, contents or descriptions of the report.	14
<i>expert report</i> concerning an offender means a report prepared as referred to in section 6 (3) or 14 (3), or received from persons appointed under section 7 (4) or 15 (4), concerning an offender who is the subject of an application for an extended supervision order or continuing detention order.	15 16 17 18
<i>use</i> of an expert report includes use of copies, contents or descriptions of that report.	19 20
(2) The State may disclose an expert report concerning an offender:	21
(a) to a corrective services officer or any other person responsible for the supervision (whether in custody or in the community), treatment or risk assessment of the offender for use solely in providing rehabilitation, care or treatment of the offender, and	22 23 24 25
(b) to any person in connection with the exercise of the person’s functions under this Act.	26 27
(3) An expert report concerning an offender may be disclosed and used in any proceedings in respect of the offender if the court determines that:	28 29
(a) the proceedings are closely related to the proceedings under section 7 or 15 in which the expert report was used, and	30 31
(b) it is in the public interest, and	32
(c) the information would inform the court about the history of the offender’s mental state with respect to his or her offending.	33 34
(4) The disclosure and use of an expert report for a purpose referred to in subsection (2) or (3) is permitted despite this Act or any other law to the contrary or any duty of confidentiality concerning the expert report.	35 36 37
(5) This section does not authorise the further disclosure of an expert report by the person to whom it was disclosed in accordance with this section.	38 39

[67] Section 28A	1
Insert after section 28:	2
28A Evidentiary certificates	3
A certificate issued by the Commissioner of Corrective Services NSW that states that an extended supervision order imposed on a specified offender was suspended under section 10 and the date of the expiry of the order in accordance with that section is admissible in any legal proceedings and is evidence of the facts so stated.	4 5 6 7 8
[68] Schedule 2 Savings, transitional and other provisions	9
Insert after Part 9:	10
Part 10 Provisions consequent on enactment of Crimes (High Risk Offenders) Amendment Act 2017	11 12
16 Definition	13
In this Part:	14
<i>amending Act</i> means the <i>Crimes (High Risk Offenders) Amendment Act 2017</i> .	15
17 Extension of scheme	16
The amendments made to this Act by the amending Act extend:	17
(a) to offences (of this or any other jurisdiction) committed before the commencement of the amendments, and	18 19
(b) to an offender serving a sentence of imprisonment that commenced before the commencement of the amendments, and	20 21
(c) to persons subject to an extended supervision order, interim supervision order, continuing detention order or interim detention order immediately before the commencement of the amendments.	22 23 24
18 Victim statements	25
Section 21A, as in force immediately before its amendment by the amending Act, continues to apply in respect of any notice given or required to be given under that section and any victim statement received by the Supreme Court before the commencement of the amendments.	26 27 28 29
19 Applications	30
(1) An application duly made under Part 2 or 3 of this Act as in force immediately before the amendments made to provisions of those Parts by the amending Act is taken to have been duly made under those Parts as amended.	31 32 33
(2) The amendments made by the amending Act apply to and in respect of proceedings in relation to an application made under Part 2 or 3 of this Act but not determined before the commencement of the amendments.	34 35 36

Schedule 2	Amendment of other Acts	1
2.1	Crimes (Administration of Sentences) Act 1999 No 93	2
[1]	Section 135 General duty of Parole Authority relating to release of offender (as inserted by the Parole Legislation Amendment Act 2017)	3 4
	Insert after section 135 (3) (h) and renumber section 135 (3) (i) as section 135 (3) (j):	5
	(i) that an application for an extended supervision order or continuing detention order in respect of the offender has been made under the <i>Crimes (High Risk Offenders) Act 2006</i> that has not been determined,	6 7 8
[2]	Section 135 (4) (as inserted by the Parole Legislation Amendment Act 2017)	9
	Omit “(i)”. Insert instead “(j)”.	10
[3]	Section 135 (as inserted by the Parole Legislation Amendment Act 2017)	11
	Insert after section 135 (6) and renumber section 135 (7) and (8) as section 135 (8) and (9), respectively:	12 13
	(7) The Parole Authority must not have regard to the fact that an application for an extended supervision order or continuing detention order in respect of the offender may be made under the <i>Crimes (High Risk Offenders) Act 2006</i> .	14 15 16
[4]	Section 256 Victims Register	17
	Omit section 256 (2). Insert instead:	18
	(2) There are to be recorded in the Victims Register:	19
	(a) the names of victims of offenders within the meaning of this Act who have requested that they be given notice of the possible parole of the offender concerned, and	20 21 22
	(b) the names of victims of high risk offenders who have requested that they be given notice if an application for an order is made in respect of the high risk offender concerned under the <i>Crimes (High Risk Offenders) Act 2006</i> .	23 24 25 26
[5]	Section 256 (4)	27
	Insert “or the <i>Crimes (High Risk Offenders) Act 2006</i> ” after “this Act” wherever occurring.	28
[6]	Section 256 (4AA)	29
	Insert after section 256 (4):	30
	(4AA) A regulation under subsection (4) must not be inconsistent with section 21A of the <i>Crimes (High Risk Offenders) Act 2006</i> .	31 32
[7]	Section 256 (5)	33
	Omit the subsection. Insert instead:	34
	(5) For the purposes of this section:	35
	high risk offender means an offender referred to in paragraph (b) or (c) of the definition of victim .	36 37
	offence of a sexual nature means an offence of a sexual nature within the meaning of the <i>Crimes (High Risk Offenders) Act 2006</i> .	38 39
	serious offence means a serious offence within the meaning of the <i>Crimes (High Risk Offenders) Act 2006</i> .	40 41

victim means:

- (a) in relation to an offender within the meaning of this Act—a victim of an offence for which the offender has been sentenced or of any offence taken into account under Division 3 of Part 3 of the *Crimes (Sentencing Procedure) Act 1999*, or
 - (b) in relation to a person who is an offender within the meaning of the *Crimes (High Risk Offenders) Act 2006* who is serving, or has at any time served, a sentence of imprisonment by way of full-time detention or intensive correction in the community (whether or not subject to a home detention condition) for a serious offence—a victim of that serious offence, or
 - (c) in relation to an offender referred to in paragraph (b) who is serving a sentence of imprisonment by way of full-time detention or intensive correction in the community (whether or not subject to a home detention condition) for an offence of a sexual nature—a victim of that offence of a sexual nature, or
 - (d) a family representative of a victim referred to in paragraph (a), (b) or (c) (if the victim is dead or under any incapacity or in such circumstances as may be prescribed by the regulations),
- and includes a person who suffers actual physical bodily harm, mental illness or nervous shock, or whose property is deliberately taken, destroyed or damaged, as a direct result of an act committed, or apparently committed, by the offender or high risk offender in the course of an offence.

2.2 Crimes (Sentencing Procedure) Act 1999 No 92

Section 24A Mandatory requirements for supervision and other prohibitions to be disregarded in sentencing

Omit “(whether as a high risk sex offender or as a high risk violent offender)” from section 24A (1) (d).