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Attorney-General's Department

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**Parliamentary Joint Committee on
Intelligence and Security**

**Inquiry into the Criminal Code Amendment (State
Sponsors of Terrorism) Bill 2025**

Attorney-General's Department Submission

Table of contents

Introduction	3
Overview of the Bill	3
Consultation	4
Key distinction between Parts 5.3 and 5.3A	5
Nexus to Australia	5
International Armed Conflict.....	5
Role of the Minister for Foreign Affairs	6
Extension of criminality	6
Delisting Mechanism	6
Defences and exceptions.....	7
Overview of each Division	7
Division 110 - Preliminary.....	7
Division 111 - State terrorist acts etc	9
Division 112 - Dealings with state sponsor of terrorism	10
Division 113 - Financing state terrorist act targeted at Australia	10
Division 114 - General provisions relating to offences	11
Consequential amendments	12
Schedule 2	12
Extending the application of Part 5.3 orders	12
Schedules 3 and 4.....	12
Consistent definition of terrorist act.....	12
Prohibited symbols	12
Mandatory minimum penalties.....	13
Foreign state immunities.....	13
Conclusion	14

Introduction

The Attorney-General's Department (the department) welcomes the opportunity to provide a submission to the Parliamentary Joint Committee on Intelligence and Security (the Committee) for its inquiry into the Criminal Code Amendment (State Sponsors of Terrorism) Bill 2025 (the Bill).

Australia continues to face a dynamic, diverse and complex security environment. The recent assessment by the Australian Security Intelligence Organisation (ASIO) that foreign state actors, specifically Iran's Islamic Revolutionary Guard Corps, had directed attacks in Australia demonstrates the lengths that foreign state entities will go to in an attempt to cause harm to Australia. Such acts are unacceptable and require an appropriate response from Government to hold these entities, and those who support them, to account. This Bill would provide a mechanism through which the Government can achieve this outcome.

Part 5.3 of the *Criminal Code Act 1995* (Criminal Code) provides a framework that enables the Australian Government to list organisations as terrorist organisations. This framework allows the Government to publicly condemn those organisations and provides for a range of offences connected with terrorist acts and certain interactions with terrorist organisations. The existing terrorism framework is not applicable to foreign state entities.

This Bill would amend the Criminal Code to allow the Government to list a foreign state entity that has engaged in a state terrorist act targeting Australia, or otherwise supported or advocated terrorist acts targeting Australia, as a state sponsor of terrorism. In doing so, the Bill creates a bespoke framework, albeit modelled off the Part 5.3 provisions, targeted at the unique threat of foreign state entities and their proxies. This will allow foreign state entities to be held to account and their actions condemned.

Overview of the Bill

The Bill would insert new Part 5.3A into the Criminal Code, which would create a framework to list a foreign state entity as a state sponsor of terrorism. The Bill would also introduce new offences within Part 5.3A which would target conduct engaged in by state sponsors of terrorism, as well as conduct engaged in by persons who assist or support these activities, or otherwise engage with state sponsors of terrorism.

The Bill would insert:

- Division 110, which would provide relevant definitions for Part 5.3A and a framework through which the Governor-General, on the advice of the Australian Federal Police (AFP) Minister and with agreement from the Minister for Foreign Affairs, could prescribe a foreign state entity by regulation as a state sponsor of terrorism. Division 110 would also provide a mechanism through which a foreign state entity listed as a state sponsor of terrorism could be declared to no longer be a state sponsor of terrorism.
- Division 111, which would provide for offences connected with state terrorist acts, including where a foreign state entity engaged in, committed, supported or prepared for such an act. Division 111 would also provide for offences where state sponsors of terrorism are supporting non-state entities to commit terrorist acts, including steps in preparation for these acts.

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- Division 112, which would create offences in relation to certain interactions with a state sponsor of terrorism, including directing the activities of a state sponsor of terrorism, the provision of support, funding, membership, association and recruitment.
 - Division 113, which would create offences connected with the financing of a state terrorist act targeted at Australia, including the financing of a person involved in such an act.
 - Division 114, which would provide general provisions relating to the offences in Divisions 111, 112 and 113, including the application of extended geographical jurisdiction, availability of alternative verdicts and the requirement for the Attorney-General's consent to be obtained prior to the commencement of proceedings against a person for an offence against Part 5.3A.

In addition to the establishment of the new framework, Schedule 2 of the Bill would extend the availability of control orders, preventative detention orders and post sentence orders under Part 5.3 of the Criminal Code to new Part 5.3A. Schedule 3 of the Bill would also make consequential amendments across the Commonwealth statute book to ensure the consistent treatment of offences and powers available to law enforcement and intelligence agencies. Schedule 4 of the Bill would make further amendments to Division 80 of the Criminal Code to ensure consistency in the way in which the prohibited terrorist organisation symbols offences operate. Additionally, Schedule 4 would make technical amendments to the operation of sentencing provisions in the *Crimes Act 1914* (Crimes Act).

Consultation

The Bill was developed through extensive consultation with affected Commonwealth departments. Noting the central role of the AFP Minister and the Foreign Minister in the listing process, the Department of Home Affairs and Department of Foreign Affairs and Trade, along with the Department of the Prime Minister and Cabinet, were heavily consulted on the design and scope of the amendments throughout the Bill, as were the Australian Federal Police and Australian Security Intelligence Organisation.

Consequential amendments were required to a wide range of legislation to ensure that state terrorist acts and state sponsors of terrorism are treated in a consistent manner to other terrorist acts and terrorist organisations. As a result, the Department worked closely with Treasury, Department of Defence, Department of Industry, Science and Resources, Department of Social Services and the Commonwealth Department of Public Prosecutions in the preparation of the Bill.

Noting the shared responsibility the Commonwealth has with states and territories for countering terrorism, the Commonwealth has consulted with jurisdictions on the development of the Bill. Part 5.3 of the Criminal Code relies on a referral of power from states and territories, supported by the 2004 Intergovernmental Agreement on Counter-Terrorism Laws (IGA). While the new Part 5.3A would sit outside of this agreement, states and territories have been engaged in the development of the legislation in particular due to the consequential amendments being proposed to Part 5.3 which would extend the application of various counterterrorism powers to Part 5.3A. These consequential amendments require the agreement of a majority of First Ministers.

Key distinction between Parts 5.3 and 5.3A

The Bill would create a new state sponsors of terrorism framework under Part 5.3A of the Criminal Code. While the existing terrorism framework provides a robust mechanism to list a terrorist organisation, it was not intended or designed to capture foreign state entities. Therefore, while Part 5.3A largely replicates the existing framework in Part 5.3, there are several key differences that are outlined below which are necessary to ensure the new framework is adapted to the different threat and context presented by state sponsored terrorism.

The key distinctions between the existing framework and that to be established by this Bill are:

- the nexus to Australia
- the exclusion of conduct that occurs in the context of, and in association with, an international armed conflict
- the role of the Minister for Foreign Affairs
- limiting the extension of criminality to listed entities
- the delisting mechanism, and
- additional defences.

Nexus to Australia

A terrorist organisation can be listed under current Part 5.3 where the organisation is, directly or indirectly, engaging in or otherwise supporting terrorist acts, or advocating terrorist acts. There is no statutory requirement for there to be any nexus between those acts and Australia, reflecting the global condemnation of those organisations that exist exclusively to advance a criminal objective.

The listing framework in Part 5.3A focuses instead on past activities of a foreign state entity which are targeted at Australia. Declaring a foreign government, or part of a foreign government, to be a criminal entity is so significant that it should be reserved exclusively for circumstances where those entities have sought to harm Australia, by targeting Australia, or Australians or governmental property overseas. This requirement for Australia to be targeted is also contained in the offences in Division 111 meaning that the offences extend to state sponsored terrorist acts engaging in, or prepared for, which are targeted at Australia or committed by an Australian. Similarly, the offences in Division 113 are focused on financing in relation to state terrorist acts targeted at Australia.

International Armed Conflict

The Bill specifies that conduct that takes place in the context of, and is associated with, an international armed conflict is not a terrorist act for the purposes of Part 5.3A.¹ This is because the actions of states in international armed conflict are regulated by international humanitarian law, with breaches of those laws already criminalised through Division 268 of the Criminal Code. This exception does not exist within the definition of terrorist acts in section 100.1 of the Criminal Code as Part 5.3 is not targeted at the conduct of state entities.

¹ Paragraph (3)(b) in the definition of *actions that are not terrorist acts*.

Role of the Minister for Foreign Affairs

Prior to the Governor-General making regulations to list a foreign state entity as a state sponsor of terrorism, the AFP Minister obtain the agreement of the Minister for Foreign Affairs to the listing.² This requirement, which does not exist in relation to listing a terrorist organisation under Part 5.3, acknowledges the unique circumstances of listing a foreign state entity as a state sponsor of terrorism. Such a listing will inevitably raise significant foreign affairs and diplomatic implications, and therefore it is important that the Foreign Minister has a central role in the decision-making process.

Extension of criminality

The terrorist organisation framework in current Division 102 of the Criminal Code operates to apply whether an organisation is listed or not. Where a terrorist organisation is not listed, the prosecution must prove in the proceedings that the organisation met the definition of a terrorist organisation.

The new framework does not operate in this way. Rather criminality only extends to foreign state entities that have been listed as state sponsors of terrorism through an active decision of Government. The unique foreign affairs and diplomatic considerations which attach to the listing of a state sponsor of terrorism mean that it is appropriately a matter for the Government to determine. The Government is best placed to determine if, based on information available, a state entity has met the threshold, and it is appropriate to list them as a state sponsor of terrorism.

Delisting Mechanism

Part 5.3A provides a process whereby the AFP Minister may make a declaration, the effect of which is to cease the listing of a state sponsor of terrorism. This is an important safeguard to ensure that listings are not permanent, recognising that circumstances and Australia's relationship with a foreign state may change over time. The AFP Minister may, by notifiable instrument, make a declaration that results in the listing ceasing to have effect if the Minister is satisfied that it is not appropriate for the entity to continue to be listed. However, before making such a declaration, the AFP Minister is required to consult with the Foreign Affairs Minister, ensuring the Minister has the full context before making any decision. The decision to make such a declaration can be on the AFP Minister's own initiative or following an application from the state to which the listed entity belongs, or the Parliamentary Joint Committee on Intelligence and Security.

This approach differs from the approach to delisting terrorist organisations in Division 102. This distinction is necessitated by the difference in the threshold for listing. In Division 102, the AFP Minister must be satisfied that a terrorist organisation is engaged in, preparing, planning, assisting in or fostering the doing of a terrorist act or advocates the doing of a terrorist act. Noting the tense of this threshold, the AFP Minister then has an ongoing obligation to be satisfied that the terrorist organisation continues to meet that threshold. As the threshold for listing a state sponsor of terrorism is focused on past activities of the foreign state entity, it would not be appropriate to have that ongoing obligation. Further, this reflects the context of state sponsors of terrorism and their ability to obscure their involvement in actions to avoid attribution.

² Paragraph 110.3(5)(a).

Defences and exceptions

The general defences in Part 2.3 of the Criminal Code apply to offences against the new Part 5.3A framework, in the same way as they apply to Part 5.3.³ In addition to these general defences and equivalent defences to those currently provided for in Part 5.3, the Bill would also provide for specific defences for offences against Divisions 112 and 113.⁴ These defences recognise the unique role of foreign state entities in the lives of individuals, and seek to address legitimate and unavoidable engagement with foreign state entities that are state sponsors of terrorism. Examples of such engagement include:

- where a person engages with a state sponsor of terrorism in relation to the provision of a service which is unrelated to terrorism and for which there are no reasonable alternatives, such as where the respective state entity is the only provider of healthcare in an area or is also the authority responsible for the issuance of visas or travel documents
- in compliance with a court order or a specific law, such as the payment of a fine, tax or levy, or
- in the course of their functions or duties as a Commonwealth, state or territory public official.

Overview of each Division

Division 110 - Preliminary

Division 110 provides operational components for the new framework, including key definitions for the new Part such as ‘terrorist act’ and a ‘state sponsor of terrorism’. New Division 110 is modelled on current Division 100.

Key definitions

Foreign state entity

The term foreign state entity is used to establish the class of entities that may, if the other circumstances are met, be listed as a state sponsor of terrorism. It is intended to capture those entities that are not capable of being listed as terrorist organisations under current Division 102. The definition of foreign state entity was designed to capture state entities however constituted, reflecting the variety of machinations of governmental bodies or authorities globally. The definition captures a government of a foreign country, or part of a foreign country, an authority of a government of a foreign country or part of a foreign country, a foreign local government body or foreign regional government body, as well as any other entity prescribed by the regulations for the purposes of the definition. The definition does not capture a country as a whole and therefore a ‘whole country’ could not be listed as a state sponsor of terrorism.

Targeted at Australia

As discussed above, the new framework is focused on terrorist acts targeted at Australia. To be targeted at Australia, the action or threat of action must fall into one of the following circumstances:

- the action is, or is threatened to be, done in Australia

³ Part 2.3 of the Criminal Code includes defences such as duress (section 10.2), self-defence (section 10.4) and lawful authority (section 10.5).

⁴ Sections 112.8 and 113.3.

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- the action is done or the threat is made with the intention of coercing or intimidating a government of Australia, or intimidating the Australia public or a section of the Australian public
 - the action causes serious physical harm or death of an Australian citizen or permanent resident, whether in Australia or overseas
 - the action seriously damages Commonwealth, State or Territory property whether in Australia or overseas, for example an embassy or consulate
 - the action endangers the life of an Australian citizen or permanent resident, whether in Australia or overseas
 - the action creates a serious risk to the health or safety of the Australia public or a section of the Australian public, or
 - the action seriously interferes with, seriously disrupts, or destroys, an electronic system that operates wholly or partly in Australia.

State terrorist act

State terrorist act is a new term in Part 5.3A. A state terrorist act is a terrorist act engaged in by a state sponsor of terrorism, or a member of a state sponsor of terrorism. Any terrorist act which involves a state sponsor of terrorism or a member of a state sponsor of terrorism is a state terrorist act, including if non-state actors are also involved in the act.

State sponsor of terrorism

A state sponsor of terrorism is a foreign state entity that is specified by the regulations for the purpose of this definition. This makes clear that a state entity which is not specified by the regulations is not a state sponsor of terrorism and therefore cannot commit a state terrorist act.

Listing a state entity as a state sponsor of terrorism

Division 110 provides the mechanism by which a foreign state entity can be listed as a state sponsor of terrorism by the Governor-General through regulations. Before the Governor-General can make regulations, the AFP Minister must be satisfied on reasonable grounds that:

- (a) the entity is a foreign state entity, and
- (b) the entity or a member of the entity has:
 - i. has directly or indirectly engaged in, prepared, planned, assisted in or fostered the doing of a terrorist act that was targeted at Australia, or
 - ii. has advocated the doing of a terrorist act that was targeted at Australia.

The AFP Minister may rely on acts that occurred prior to the commencement of the provisions to be satisfied. However, the criminal offences which are included in the new Part 5.3A would only apply to conduct which occurs, or continues to occur, after the listing of a state sponsor of terrorism under the new framework, ensuring no retrospective application of criminal law. This ensures that criminality under part 5.3A only attaches once the Government has made an active decision that an entity is appropriately classified as a state sponsor of terrorism, and ensures individuals can take necessary steps such as renouncing membership or ceasing association, to avoid any potential criminality. This does not prevent those who have engaged in criminal acts prior to the listing of a state entity as a state sponsor of terrorism from being held to account for those criminal acts under other federal, state or territory laws.

As discussed above, a significant difference between the listing mechanism for terrorist organisations in current Division 102 and the new Division 110 is the requirement to obtain the agreement of the Minister for Foreign Affairs to list an entity as a state sponsor of terrorism, prior to recommending the making of regulations. Ensuring that agreement is sought from the Minister for Foreign Affairs underscores the significant foreign policy and diplomatic implications of a regulation in respect of a state sponsor of terrorism.

Role of the Committee

Consistent with Division 102, Division 110 would provide the Committee the same mandate to review instruments in respect of state sponsors of terrorism under section 110.7 as is afforded under section 102.1A. The state sponsors of terrorism framework would allow for the Committee to review, at any time, the legislative instrument specifying an entity as a state sponsor of terrorism, and an instrument made to add, or remove, names of a state sponsor of terrorism. The Committee may also report on comments and recommendations to both Houses of the Parliament.

The Committee would also be expressly empowered to make applications to the AFP Minister, requesting a declaration delisting a state sponsor of terrorism on the basis that it is no longer appropriate for the state entity to continue to be specified as a state sponsor of terrorism.⁵ A similar mechanism does not exist in Division 102, and represents an additional safeguard on the listing of state entities, ensuring they remain appropriate.

Division 111 - State terrorist acts etc

New Division 111 would provide for offences connected with state terrorist acts or state sponsors of terrorism supporting the commission of terrorist acts (being terrorist acts committed by a person or entity other than a state sponsor of terrorism). Offences under Division 111 are modelled on the offences connected with terrorist acts under current Division 101. Offences under Division 111 capture conduct in the commission, or preparation, of a state terrorist act or terrorist act, including:

- engaging in state terrorist acts
- providing or receiving training connected with state terrorist acts or terrorist acts
- possessing things connected with state terrorist acts or terrorist acts
- collecting or making documents likely to facilitate state terrorist acts or terrorist acts, and
- other acts done in preparation for, or planning, state terrorist acts or terrorist acts.

Division 111 is separated into:

- Subdivision A which would provide for offences relating to engaging in, or preparing for, the commission of a state terrorist act, being a terrorist act involving a state sponsor of terrorism or member of a state sponsor of terrorism.⁶

⁵ Section 110.6.

⁶ Sections 111.2-111.6.

- Subdivision B which would provide for offences where a state sponsor of terrorism supports non-state entities to engage in terrorist acts, with the terrorist acts themselves otherwise covered by Division 101.⁷

The two subdivisions seek to criminalise different activities committed by state sponsors of terrorism, providing a comprehensive framework of criminalisation. Subdivision A directly targets state sponsors of terrorism, their members and non-state entities (proxies) committing a state terrorist act, or taking steps in preparation or support of such an act. However, this does not cover instances in which a state 'sponsors' or supports the commission of a terrorist act by a non-state entity, without themselves being involved. This is captured in Subdivision B which replicates many of the offences provided in Subdivision A in respect of a state sponsor of terrorism, or a member of that entity, supporting a non-state actor to commit a terrorist act.

Where the person committing the offence under Division 111 is a foreign state entity, the entity must be a state sponsor of terrorism for the offence to apply. This ensures that criminality only attaches to those entities that have been listed by the Government as a state sponsor of terrorism.

The offences under Division 111 would be punishable by maximum penalties aligning with those available for corresponding offences under Division 101.

Division 112 - Dealings with state sponsor of terrorism

The Bill would insert new Division 112 which would provide for offences in relation to certain interactions with a state sponsor of terrorism. The offences under Division 112 are modelled on the current terrorist organisation offences against Division 102. Broadly, these offences relate to dealings an individual may have with a state sponsor of terrorism, or a member of a state sponsor of terrorism, and include:

- directing the activities of a state sponsor of terrorism
- membership of a state sponsor of terrorism
- recruiting for a state sponsor of terrorism
- training involving a state sponsor of terrorism
- getting funds to, from or for a state sponsor of terrorism
- providing support to a state sponsor of terrorism, and
- associating with a state sponsor of terrorism.

As discussed earlier in this submission, additional defences have been provided in this Division to address legitimate and unavoidable interactions with listed government bodies. The offences under Division 112 would be punishable by maximum penalties aligning with those applicable for corresponding offences under Division 102.

Division 113 - Financing state terrorist act targeted at Australia

The Bill would insert new Division 113 which would provide for offences connected with the financing of a state terrorist act that is targeted at Australia. Preventing the provision of funds for state terrorist acts is an important part of a comprehensive response to the threat of state sponsored terrorism.

⁷ Sections 111.7-111.10.

The offences in Division 113 are modelled on the current offences against Division 103. The new offences would capture:

- providing or collecting funds, reckless as to whether the funds will be used to facilitate or engage in a state terrorist act targeted at Australia, and
- making funds available to another person, or collecting funds for, or on behalf of another person, reckless as to whether the other person will use the funds to facilitate or engage in a state terrorist act targeted at Australia.

As discussed earlier in this submission, additional defences have been provided in this Division to address legitimate and unavoidable interactions with listed government bodies. The offences under Division 113 would be punishable by maximum penalties aligning with those applicable for corresponding offences under Division 103.

Division 114 - General provisions relating to offences

The Bill would insert Division 114 which would provide general provisions relating to the new offences. Consistent with Part 5.3, section 114.2 would provide that extended geographical jurisdiction category D applies to an offence against Divisions 111, 112 and 113. This has the result that, once an entity is listed as a state sponsor of terrorism, the offences in this Bill would apply whether or not the conduct or a result of the conduct constituting the alleged offence occurred in Australia. The extended jurisdiction is appropriate due to the transnational nature of state sponsored terrorism.

Section 114.3 would provide for alternative verdicts to be made where the initial offence is not made out during prosecution for offences under Divisions 111, 112 and 113, but the tier of fact is satisfied beyond reasonable doubt that the defendant is guilty of an offence against another subsection of the relevant section. Appropriate safeguards would be provided under section 114.3 to ensure that the defendant has been accorded procedural fairness in relation to a finding of guilt.

Section 114.4 would provide that the Attorney-General's consent is required to commence proceedings for offences against new Divisions 111, 112 and 113. However, a person may still be arrested, charged, remanded in custody or granted bail prior to the Attorney-General's consent being provided. The requirement to obtain the Attorney-General's consent provides an opportunity for advice from relevant agencies and Ministers on significant foreign policy and national security implications to be considered and ensures there is appropriate oversight of prosecutions. This provision also supports the operation of the extended jurisdiction in section 114.2 by ensuring there is consideration of whether a prosecution in Australia is appropriate where the conduct was engaged in offshore.

Consequential amendments

The Bill would also make consequential amendments across the Commonwealth statute book to ensure state terrorist acts and state sponsors of terrorism are treated in a consistent manner to other terrorist acts and terrorist organisations, including extending the availability of critical counterterrorism powers.

Schedule 2

Extending the application of Part 5.3 orders

The Bill would make amendments to extend the availability of Part 5.3 orders, being control orders, preventative detention orders and post sentence orders. This will provide consistency in the availability of powers for law enforcement activities to respond to, and prevent, a state terrorist act in the same manner as a terrorist act. Extending the operation of these orders recognises that the potential harm of a state terrorist act, or an act involving a state sponsor of terrorism, is equivalent to a terrorist act.

Connected with the extension of Part 5.3 orders to Part 5.3A, amendments would also be made to the Crimes Act, the *Surveillance Devices Act 2004* and the *Telecommunications (Interception and Access) Act 1979*. These amendments would ensure powers which support the monitoring and enforcement of these orders are available when they are used in relation to Part 5.3A offences.

Schedules 3 and 4

Consistent definition of terrorist act

The Bill seeks to ensure consistency in the treatment of terrorist acts and terrorist organisations, and state terrorist acts and state sponsors of terrorism across the statute book. To achieve this, the Bill would make amendments to definitions across a number of Acts. In most cases, these definitions relate to the definition of a terrorist act, which is often defined with reference to the definition in section 100.1 of the Criminal Code. This Bill would introduce a new definition of a terrorist act in the Crimes Act,⁸ which in turn would be used as a definition in other Commonwealth legislation.⁹

Prohibited symbols

The Bill would amend Division 80 of the Criminal Code to expand the definition of a prohibited terrorist organisation symbol to capture symbols used by a state sponsor of terrorism, or a member of a state sponsor of terrorism to identify the state sponsor of terrorism or any part of the state sponsor of terrorism. However, the provision expressly excludes the flag of a country or part of a country be regarded as a prohibited terrorist organisation symbol, noting the important role flags play for citizens generally. This definition is used in the offences of public display or trade in prohibited symbols, and the amendment would criminalise such conduct in relation to the symbol of a state sponsor of terrorism, and ensure police have appropriate powers to respond to the display of these symbols.

⁸ Item 17, Schedule 3.

⁹ See items 5, 10, 28, 44, 63, 65, 66, 67, 68, 70 and 72 of Schedule 2.

Mandatory minimum penalties

The Bill would provide for mandatory minimum penalties for offences against Divisions 111, 112 and 113. Minimum mandatory penalties are provided for in section 16AAA of the Crimes Act, and apply to certain serious Commonwealth offences, including terrorism offences. Including mandatory minimum penalties for the new offences, in a manner aligned with existing terrorism offences, would ensure consistency of penalties between the offences in respect of terrorist acts and terrorist organisations and the offences in respect of state terrorist acts and state sponsors of terrorism.

Mandatory minimum penalties seek to achieve a legitimate outcome of ensuring sentences for serious Commonwealth offences reflect the gravity of those offences, and the harm suffered by victims. However, they do not restrict the court from considering all the circumstances when fixing a non-parole period. This includes consideration of the nature of the offence, circumstances of the victim and any loss, injury or damage resulting from the offence. Additionally, there are safeguards in the application of mandatory minimum penalties which ensure that they do not apply to persons aged under 18 years when the offence was committed and that pleading guilty or cooperating with law enforcement in the investigation of the offence or a related offence can be considered by the court.¹⁰ The Bill would make amendments to section 16AAC of the Crimes Act to ensure these safeguards are applicable to offences under Part 5.3A.

Schedule 4 would make further amendments to section 16AAA to renumber table item 1F to 1AA.¹¹ This is a minor amendment to correct an inconsistency within the table and the application of mandatory minimum penalties.

Foreign state immunities

Consistent with customary international law, the *Foreign State Immunities Act 1985* (FSI Act) provides that foreign states (including their executive government, departments and organs) are immune from the jurisdiction of Australian courts in civil proceedings, subject to limited exceptions. The Bill would amend the FSI Act to create an additional exception to immunity for state terrorism, to enabling civil proceedings, such as those for a control order under Division 104 of the Criminal Code, to be brought in Australia against persons who may otherwise benefit from immunity under the FSI Act.¹² This additional exception would be limited to civil proceedings concerning state terrorism. To appropriately limit the application of this exception, the Bill would include a new definition of 'state terrorism' in the FSI Act that refers to definitions in the Criminal Code.¹³

The FSI Act does not provide immunity from the criminal jurisdiction of Australian courts, except for incumbent Heads of State and their spouse. The Bill would not amend the immunities provided to Heads of State and their spouse, or diplomatic immunities provided under the *Diplomatic Privileges and Immunities Act 1967*.

¹⁰ *Crimes Act 1914* section 16AAC.

¹¹ Items 1 and 2, Schedule 4.

¹² Items 49 and 50, Schedule 3.

¹³ Item 48, Schedule 3.

Conclusion

The department thanks the Committee for the opportunity to provide a submission for its inquiry into the Bill. It is essential that Australia's counterterrorism framework remains robust and adapts to meet the evolving threat of state sponsored terrorism. The Bill is a necessary step in responding to malign foreign state actors that seek to coerce or intimidate our Government and community.