Friday 24th October 2025 | Review of Criminal Code Amendment (State Sponsors of Terrorism) Bill 2025

Parliamentary Joint Committee on Intelligence and Security Inquiry

The Parliamentary Joint Committee on Intelligence and Security (PJCIS) has commenced a review of the **Criminal Code Amendment (State Sponsors of Terrorism) Bill 2025** (the Bill).

The Bill would

- create a new legislative framework that would enable the Governor-General to list foreign state entities as state sponsors of terrorism on the advice of the Australian Federal Police Minister, with agreement from the Foreign Affairs Minister

- create new offences which would criminalise conduct engaged in by these entities, as well as conduct engaged in by persons who would seek to assist or support these activities

- provide for appropriate defences, for example for persons who are required by law to engage with a listed entity or engage with an entity for a legitimate purpose

- make amendments to various other Commonwealth Acts to apply the law enforcement powers and other policy tools that are available in response to, or targeted at the prevention of, terrorist acts to the new provisions concerning state sponsored terrorism.

The Committee invites written submissions to the inquiry by **24 October 2025**.

About this inquiry

On 8 October 2025, the Attorney-General referred the Criminal Code Amendment (State Sponsors of Terrorism) Bill 2025 to the Committee for review and report. The Bill would amend the Criminal Code to allow the Commonwealth to list **foreign state entities** that have engaged in a state terrorist act, or otherwise supported or advocated terrorist acts targeted at Australia.

Written Submissions

Submitter	Anton Tutoveanu
Interest	Private Prosecutor
Status	Australian Citizen
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Summary

The Australian Parliament is seeking to make an informed decision about an upcoming Bill (proposed amendment) to the *Criminal Code Act 1995* (Cth).

On 8th October 2025 the Attorney-General (Michelle Rowland MP) introduced the Bill in the Lower House titled **Criminal Code Amendment (State Sponsors of Terrorism) Bill 2025**. It was referred to the Parliamentary Joint Committee on Intelligence and Security (PJCIS) for review and report.

The following contains opinion from an independent naturalised citizen having first-hand experience initiating private prosecution and administrative proceedings under the corresponding Act.

Contents

Timeline

2023	*7th October 2023* Hamas-Israel Conflict *Israel-Palestine war ensued*
2024	... *12th June 2024* Filing of private prosecution for financing terrorism pursuant to the *Criminal Code Act 1995* (Cth) ...
2025	*13 May 2025* Michelle Rowland MP was appointed Attorney-General *9th July 2025* High Court case lodgement of ***terrorist organisation*** listing and sanctions (mandamus application) *26 August 2025* Australia responds to Iranian terrorist attacks by expelling ambassador *21 September 2025* Australia recognises the State of Palestine *29th September 2025* High Court leave to file decision published[1] application available via https://1997.systems/legal/cases/2025/hca.html[2] *8th October 2025* State Sponsors of Terrorism Bill introduced and referred to Parliamentary Joint Committee on Intelligence and Security *24th October 2025* Close of inquiry submissions

[1] *In the matter of an application by Anton Tutoveanu for leave to issue or file* [2025] HCASJ 35 (29 September 2025)
[2] https://x.com/AntonTutoveanu/status/1972518287386054849

Criminal Code Act 1995 (Cth)

Relevant sections, as current in-force:

"Chapter 2—General principles of criminal responsibility

...

Part 2.7—Geographical jurisdiction

...

Division 15—Extended geographical jurisdiction

...

15.4 Extended geographical jurisdiction—category D

If a law of the Commonwealth provides that this section applies to a particular offence, the offence applies:

(a) whether or not the conduct constituting the alleged offence occurs in Australia; and

(b) whether or not a result of the conduct constituting the alleged offence occurs in Australia.

...

Chapter 5—The security of the Commonwealth

...

Part 5.3—Terrorism

Division 100—Preliminary

100.1 Definitions

(1) In this Part:

> ...
>
> ***listed terrorist organisation*** means an organisation that is specified by the regulations for the purposes of paragraph (b) of the definition of ***terrorist organisation*** in section 102.1.
>
> ...
>
> ***organisation*** means a body corporate or an unincorporated body, whether or not the body:
>
> (a) is based outside Australia; or
>
> (b) consists of persons who are not Australian citizens; or
>
> (c) is part of a larger organisation.
>
> ...
>
> ***terrorist act*** means an action or threat of action where:
>
> (a) the action falls within subsection (2) and does not fall within subsection (3); and
>
> (b) the action is done or the threat is made with the intention of advancing a political, religious or ideological cause; and
>
> (c) the action is done or the threat is made with the intention of:

(i) coercing, or influencing by intimidation, the government of the Commonwealth or a State, Territory or foreign country, or of part of a State, Territory or foreign country; or

(ii) intimidating the public or a section of the public.

*Elements of the definition of **terrorist act***

(2) Action falls within this subsection if it:

(a) causes serious harm that is physical harm to a person; or

(b) causes serious damage to property; or

(c) causes a person's death; or

(d) endangers a person's life, other than the life of the person taking the action; or

(e) creates a serious risk to the health or safety of the public or a section of the public; or

(f) seriously interferes with, seriously disrupts, or destroys, an electronic system including, but not limited to:

(i) an information system; or

(ii) a telecommunications system; or

(iii) a financial system; or

(iv) a system used for the delivery of essential government services; or

(v) a system used for, or by, an essential public utility; or

(vi) a system used for, or by, a transport system.

(3) Action falls within this subsection if it:

(a) is advocacy, protest, dissent or industrial action; and

(b) is not intended:

(i) to cause serious harm that is physical harm to a person; or

(ii) to cause a person's death; or

(iii) to endanger the life of a person, other than the person taking the action; or

(iv) to create a serious risk to the health or safety of the public or a section of the public.

...

100.4 Application of provisions

Part generally applies to all terrorist acts and preliminary acts

...

Division 101—Terrorism

...

101.1 Terrorist acts

...

101.2 Providing or receiving training connected with terrorist acts

...

101.4 Possessing things connected with terrorist acts

...

101.5 Collecting or making documents likely to facilitate terrorist acts

...

101.6 Other acts done in preparation for, or planning, terrorist acts

...

Division 102—Terrorist organisations

Subdivision A—Definitions

102.1 Definitions

(1) In this Division:

...

terrorist organisation means:

(a) an organisation that is directly or indirectly engaged in, preparing, planning, assisting in or fostering the doing of a terrorist act; or

(b) an organisation that is specified by the regulations for the purposes of this paragraph (see subsections (2), (2A) and (4B) and section 102.1AA).

...

Terrorist organisation regulations

(2) Before the Governor-General makes a regulation specifying an organisation for the purposes of paragraph (b) of the definition of ***terrorist organisation*** in this section, the AFP Minister must be satisfied on reasonable grounds that the organisation:

> (a) is directly or indirectly engaged in, preparing, planning, assisting in or fostering the doing of a terrorist act; or
>
> (b) advocates the doing of a terrorist act.

(2A) Before the Governor-General makes a regulation specifying an organisation for the purposes of paragraph (b) of the definition of ***terrorist organisation*** in this section, the AFP Minister must arrange for the Leader of the Opposition in the House of Representatives to be briefed in relation to the proposed regulation.

(4) If:

(a) an organisation is specified by regulations made for the purposes of paragraph (b) of the definition of ***terrorist organisation*** in this section; and

(b) the AFP Minister ceases to be satisfied of either of the following (as the case requires):

(i) that the organisation is directly or indirectly engaged in, preparing, planning, assisting in or fostering the doing of a terrorist act;

(ii) that the organisation advocates the doing of a terrorist act;

the AFP Minister must, by written notice published in the *Gazette*, make a declaration to the effect that the AFP Minister has ceased to be so satisfied.

(4A) The declaration must specify the day on which the Minister ceased to be so satisfied.

(4B) The regulations, to the extent to which they specify the organisation, are taken to cease to have effect on the day specified in the declaration under subsection (4A), even if that day occurred before the day on which the declaration is made.

(5) To avoid doubt, subsections (4) to (4B) do not prevent the organisation from being subsequently specified by regulations made for the purposes of paragraph (b) of the definition of ***terrorist organisation*** in this section if the AFP Minister becomes satisfied as mentioned in subsection (2).

(16) Subsection (17) applies if:

(a) an organisation (the ***listed organisation***) is specified in regulations made for the purposes of paragraph (b) of the definition of ***terrorist organisation*** in this section; and

(b) an individual or an organisation (which may be the listed organisation) makes an application (the ***de-listing application***) to the AFP Minister for a declaration under subsection (4) in relation to the listed organisation; and

(c) the de-listing application is made on the grounds that there is no basis for the AFP Minister to be satisfied that the listed organisation:

(i) is directly or indirectly engaged in, preparing, planning, assisting in or fostering the doing of a terrorist act; or

(ii) advocates the doing of a terrorist act;

as the case requires; and

(d) the AFP Minister did not receive an application from any individual or organisation under paragraph (b) of this subsection in relation to the listed organisation during the 12 months ending when the AFP Minister receives the de-listing application.

(17) The AFP Minister must, as soon as practicable after receiving the de-listing application, consider whether the listed organisation:

(a) is directly or indirectly engaged in, preparing, planning, assisting in or fostering the doing of a terrorist act; or

(b) advocates the doing of a terrorist act;

as the case requires.

Note: If the AFP Minister ceases to be satisfied of either of these (as the case requires), the AFP Minister must make a declaration under subsection (4) in relation to the listed organisation.

(18) Subsections (16) and (17) do not limit the matters that may be considered by the AFP Minister for the purposes of subsection (4).

(20) In this section, a reference to the doing of a terrorist act includes:

(a) a reference to the doing of a terrorist act, even if a terrorist act does not occur; and

(b) a reference to the doing of a specific terrorist act; and

(c) a reference to the doing of more than one terrorist act.

102.1AA Including or removing names of prescribed terrorist organisations

(1) This section applies if the AFP Minister is satisfied on reasonable grounds that:

(a) an organisation is specified in regulations made for the purposes of paragraph (b) of the definition of ***terrorist organisation*** in subsection 102.1(1); and

(b) the organisation:

(i) is referred to by another name (the ***alias***), in addition to, or instead of, a name used to specify the organisation in the regulations; or

(ii) no longer uses a name (the ***former name***) used in the regulations to specify the organisation.

(2) The AFP Minister may, by legislative instrument, amend the regulations to do either or both of the following:

(a) include the alias in the regulations if the AFP Minister is satisfied as referred to in subparagraph (1)(b)(i);

(b) remove the former name from the regulations if the AFP Minister is satisfied as referred to in subparagraph (1)(b)(ii).

(3) Amendment of regulations under subsection (2) does not prevent the further amendment or repeal of the regulations by regulations made under section 5 of this Act for the purposes of paragraph (b) of the definition of ***terrorist organisation*** in subsection 102.1(1).

(4) The AFP Minister may not, by legislative instrument made under this section, amend the regulations to remove entirely an organisation that has been prescribed.

(5) To avoid doubt, this section does not affect the power under section 5 of this Act to make regulations for the purposes of paragraph (b) of the definition of ***terrorist organisation*** in subsection 102.1(1).

102.1A Reviews by Parliamentary Joint Committee on Intelligence and Security

(1) This section applies in relation to the following legislative instruments:

(a) a regulation that specifies an organisation for the purposes of paragraph (b) of the definition of ***terrorist organisation*** in section 102.1;

(b) an instrument made under section 102.1AA.

(2) The Parliamentary Joint Committee on Intelligence and Security may:

(a) review the legislative instrument at any time; and

(b) report the Committee's comments and recommendations to each House of the Parliament.

Review of disallowable legislative instrument—extension of disallowance period

(3) If the Committee's report on a review of a disallowable legislative instrument is tabled in a House of the Parliament under subsection (2):

(a) during the applicable disallowance period for that House; and

(b) on or after the eighth sitting day of the applicable disallowance period;

then Part 2 of Chapter 3 of the *Legislation Act 2003* has effect, in relation to that disallowable legislative instrument and that House, as if each period of 15 sitting days referred to in that Part were extended in accordance with the table:

Extension of applicable disallowance period		
Item	**If the Committee's report is tabled in that House...**	**extend the period of 15 sitting days by...**
1	on the fifteenth sitting day of the applicable disallowance period	8 sitting days of that House
2	on the fourteenth sitting day of the applicable disallowance period	7 sitting days of that House
3	on the thirteenth sitting day of the applicable disallowance period	6 sitting days of that House
4	on the twelfth sitting day of the applicable disallowance period	5 sitting days of that House
5	on the eleventh sitting day of the applicable disallowance period	4 sitting days of that House
6	on the tenth sitting day of the applicable disallowance period	3 sitting days of that House
7	on the ninth sitting day of the applicable disallowance period	2 sitting days of that House
8	on the eighth sitting day of the applicable disallowance period	1 sitting day of that House

Applicable disallowance period

(4) The ***applicable disallowance period*** for a House of the Parliament means the period of 15 sitting days of that House after the disallowable legislative instrument, or a copy of the disallowable legislative instrument, was laid before that House in accordance with section 38 of the *Legislation Act 2003*.

Subdivision B—Offences

102.2 Directing the activities of a terrorist organisation

...

102.3 Membership of a terrorist organisation

...

102.4 Recruiting for a terrorist organisation

...

102.5 Training involving a terrorist organisation

...

102.6 Getting funds to, from or for a terrorist organisation

...

102.7 Providing support to a terrorist organisation

(1) A person commits an offence if:

(a) the person intentionally provides to an organisation support or resources that would help the organisation engage in an activity described in paragraph (a) of the definition of ***terrorist organisation*** in this Division; and

(b) the organisation is a terrorist organisation; and

(c) the person knows the organisation is a terrorist organisation.

Penalty: Imprisonment for 25 years.

(2) A person commits an offence if:

(a) the person intentionally provides to an organisation support or resources that would help the organisation engage in an activity described in paragraph (a) of the definition of ***terrorist organisation*** in this Division; and

(b) the organisation is a terrorist organisation; and

(c) the person is reckless as to whether the organisation is a terrorist organisation.

Penalty: Imprisonment for 15 years.

102.8 Associating with terrorist organisations

...

Subdivision C—General provisions relating to offences

102.9 Extended geographical jurisdiction for offences

Section 15.4 (extended geographical jurisdiction—category D) applies to an offence against this Division.

...

Division 103—Financing terrorism

103.1 Financing terrorism

(1) A person commits an offence if:

(a) the person provides or collects funds; and

(b) the person is reckless as to whether the funds will be used to facilitate or engage in a terrorist act.

Penalty: Imprisonment for life.

Note: Intention is the fault element for the conduct described in paragraph (1)(a). See subsection 5.6(1).

(2) A person commits an offence under subsection (1) even if:

(a) a terrorist act does not occur; or

(b) the funds will not be used to facilitate or engage in a specific terrorist act; or

(c) the funds will be used to facilitate or engage in more than one terrorist act.

103.2 Financing a terrorist

...

103.3 Extended geographical jurisdiction for offences

Section 15.4 (extended geographical jurisdiction—category D) applies to an offence against this Division.

Division 104—Control orders

..."

History

First assented on 15th March 1995.

The Act's lifecycle spans across 30 years with over 160 passed amendments according to the Federal Register of Legislation.

In response to terrorist attacks in the United States on 11 September 2001, Part 5.3 was included via two Bills: *Suppression of the Financing of Terrorism Bill 2002 (Cth)*, *Security Legislation Amendment (Terrorism) Bill 2002 (Cth)*.

C2004C03211 C21 06 July 2002 - 07 September 2002	Chapter 5—The security of the Commonwealth Part 5.1—Treason Division 80—Treason 80.1 Treason Part 5.3—Terrorism Division 100—Preliminary 100.1 Definitions 100.2 Constitutional basis for offences Division 101—Terrorism 101.1 Terrorist acts 101.2 Providing or receiving training connected with terrorist acts 101.4 Possessing things connected with terrorist acts 101.5 Collecting or making documents likely to facilitate terrorist acts 101.6 Other acts done in preparation for, or planning, terrorist acts Division 102—Terrorist organisations Subdivision A—Definitions 102.1 Definitions Subdivision B—Offences 102.2 Directing the activities of a terrorist organisation 102.3 Membership of a terrorist organisation 102.4 Recruiting for a terrorist organisation 102.5 Training a terrorist organisation or receiving training from a terrorist organisation 102.6 Getting funds to or from a terrorist organisation 102.7 Providing support to a terrorist organisation Subdivision C—General provisions relating to offences 102.9 Extended geographical jurisdiction for offences 102.10 Alternative verdicts Division 103—Financing terrorism 103.1 Financing terrorism

The Attorney-General at the time was Daryl Williams MP.

Explanatory memorandum:

"This Schedule inserts proposed new Chapter 5 (The integrity and security of the Commonwealth) and proposed new Part 5.3 (Terrorism) into the Criminal Code. Proposed Division 103 of Part 5.3 contains a new offence directed at the financing of terrorism.

...

organisation is defined as a body corporate or an unincorporated body, whether or not it is based in Australia, consists of persons who are not Australian citizens, or is part of a larger organisation. The definition of organisation is relevant to the proscribed organisations offence in Schedule 2 to Security Legislation Amendment

(Terrorism) Bill 2002. The definition is included to defeat any argument that a group of persons is not an organisation because it does not have a particular formal attribute or structure.

terrorist act is defined to mean a specified action or threat of action that is made with the intention of advancing a political, religious or ideological cause. The types of actions covered by the definition of "terrorist act" are set out in proposed subsection 100.1(2) and include actions involving serious harm to persons, serious damage to property and interference with essential electronic systems. The new offence in proposed section 103.1 will apply to the financing of actions which fall within this definition.

Lawful advocacy, protest and dissent, and industrial action are expressly excluded from the ambit of the definition.

Proposed subsection 100.1(2) sets out the types of ***action*** referred to in the proposed subsection 100.1(1) that can constitute a "terrorist act". The types of actions listed involve serious harm, damage or disruption. A terrorist act includes action that involves serious harm to a person or serious damage to property, endangers life, creates a serious risk to the health or safety of the public or a section of the public, or is designed to seriously interfere with, seriously disrupt, or destroy, an electronic system. Electronic systems include information systems; telecommunications systems; financial systems; and systems used for essential government services, essential public utilities and transport providers.

...

This underscores the general point that Commonwealth officers, servants and agents of the Crown have no immunity from the ordinary criminal law: see, eg, *Jacobsen v Rogers* (1995) 182 CLR 572 at 587."

Second reading speech:

"One of the terrible realities of the terrorist attacks on the United States on 11 September 2001 was that those attacks were extremely well planned and financed.

Financial arrangements are central to organised terrorist activity.

Law enforcement efforts against terrorist groups must therefore target those financial arrangements.

This government is determined to ensure that our law enforcement agencies have the resources and legal tools to carry out this task.

The Suppression of the Financing of Terrorism Bill 2002 is a key component of the government's counter-terrorism legislative package.

It is designed to equip law enforcement agencies with the legislative tools to enable them to target the financing of terrorism.

This bill implements a range of obligations under international law." (Daryl Williams MP)

Explanatory memorandum:

"The Security Legislation Amendment (Terrorism) Bill 2001 (the Bill) amends the *Criminal Code Act 1995* (the Criminal Code) to combat terrorism by ensuring that there are criminal offences to deal with terrorism and membership of a terrorist organisation, or other links to a terrorist organisation, may be an offence.

The Bill inserts a series of new terrorism offences into the Criminal Code , all of which carry a penalty of life imprisonment. The offences are: engaging in a terrorist act; providing or receiving training for a terrorist act; directing organisations concerned with a terrorist act; possessing things connected with a terrorist act; collecting or making documents likely to facilitate a terrorist act; and acts in preparation for, or planning, a terrorist act. With the exception of the offence of engaging in a terrorist act, it is not necessary for a terrorist act to actually occur for a person to be prosecuted for a terrorism offence.

The Bill also includes a regime for the Attorney-General to proscribe an organisation that has a specified terrorist connection or that has endangered, or is likely to endanger, the security or integrity of the Commonwealth, and to make membership or other specified links with such an organisation an offence.

...

organisation is defined as a body corporate or an unincorporated body, whether or not it is based in Australia, consists of persons who are not Australian citizens, or is part of a larger organisation. The definition of organisation is relevant to the proscribed organisations offences in Schedule 1 to Security Legislation Amendment (Terrorism) Bill 2002. The definition was included to defeat any argument that a group of persons is not an organisation because it does not have a particular formal attribute or structure.

...

If an organisation is a body corporate and the organisation is committing, or has committed an offence against this part, that is, the terrorism offences, then proposed paragraph 102.2(1)(a) would allow the Attorney-General to declare the organisation proscribed. This could occur regardless of whether the organisation has been charged or convicted with an offence.

If a member of the organisation is committing, or has committed an offence against this Part on behalf of the organisation, then proposed paragraph 102.2(1)(b) would allow the Attorney-General to declare the organisation proscribed. Similarly, this could occur regardless of whether the member has been charged or convicted with an offence.

Proposed paragraph 102.2(1)(c) allows the Attorney-General to declare an organisation proscribed if he/she is satisfied that the declaration is reasonably appropriate to give effect to a decision of the United Nations Security Council that the organisation is an international terrorist organisation.

Proposed paragraph 102.2(1)(d) allows the Attorney-General to declare an organisation proscribed if he/she is satisfied that the organisation is likely to endanger or has endangered the security or integrity of the Commonwealth or another country.

The lawfulness of the Attorney-General's decision making process and reasoning is subject to judicial review under the *Administrative Decisions (Judicial Review) Act 1977.*

...

Category D geographical jurisdiction will be satisfied whether or not the conduct constituting the alleged offence occurs in Australia; and whether or not a result of the conduct constituting the alleged offence occurs in Australia. This jurisdiction is appropriate due to the transnational nature of terrorist activities, and to ensure that a person cannot escape prosecution or punishment based on a jurisdictional loophole."

Second reading speech:

"Since September 11 there has been a profound shift in the international security environment. This has meant that Australia's profile as a terrorist target has risen and our interests abroad face a higher level of terrorist threat. Australia needs to be well placed to respond to the new security environment in terms of our operational capabilities, infrastructure and legislative framework. This package, and other measures taken by the Government, are designed to bolster our armoury in the war against terrorism and deliver on our commitment to enhance our ability to meet the challenges of the new terrorist environment.

...

The Security Legislation Amendment (Terrorism) Bill 2002 (The Terrorism Bill)

The Terrorism Bill introduces a number of new offences for terrorist related activities that are not caught by existing legislation.

It has been prepared in response to the changed security environment since September 11.

September 11 is a stark example of the horror and devastation that can be caused by acts of terrorism.

Terrorism has the potential to destroy lives, devastate communities and threaten the national and global economy.

For these reasons this Government has re-affirmed its commitment to combating terrorism in all its forms.

We join with the international community in condemning the 11 September attacks and other terrorist activities. Other like minded countries have passed, or are in the process of passing, anti-terrorism legislation designed to assist in this fight. Consequently, counter-terrorism legislation and proposals throughout the world have been considered in the preparation of this Bill.

Terrorism offences

Schedule 1 to the Bill will establish a new general offence of engaging in a terrorist act.

Various related offences, such as providing or receiving training for terrorist acts, directing organisations concerned with terrorist acts, and possessing things connected with terrorist acts, are also included in the Bill.

All terrorism offences will carry a maximum penalty of life imprisonment.

`Terrorist act' is defined to mean a politically, religiously or ideologically motivated act that involves serious harm to a person, serious damage to property, endangering a person's life, creating a serious health or public safety risk or seriously interfering with an electronic system.

This definition is intended to capture such acts as suicide bombings, chemical or biological attacks, threats of violence and attacks on infrastructure.

To reflect the severity of these offences, they will attract a maximum penalty of life imprisonment.

At the same time, this Bill protects the existing rights of law-abiding Australians.

The Bill makes it clear that a terrorist attack does not include lawful advocacy, protest, dissent or industrial action.

...

Proscribed Organisations Provisions

Schedule 1 to the Bill also contains proscribed organisations provisions to be inserted into the Criminal Code.

These provisions provide an effective and accountable mechanism for the Government to outlaw terrorist organisations and organisations that threaten the integrity and security of Australia or another country.

The proposed provisions give the Attorney-General the power to make a written declaration that one or more organisations are proscribed. However, objective, reasonable grounds must be made out before an organisation may be proscribed.

The Attorney General must be satisfied, on reasonable grounds, of one or more of the following matters.

First, that the organisation was committing or had committed a Commonwealth terrorism offence.

Second, that a member of the organisation was committing or had committed a Commonwealth terrorism offence on behalf of the organisation.

Third, that the declaration is appropriate to give effect to a finding of the United Nations Security Council that the organisation is an international terrorist organisation.

Fourth, that the organisation is likely to endanger, or has endangered the security or integrity of the Commonwealth or another country.

The Attorney-General will have an express power to rescind such a declaration.

A declaration of a proscribed organisation will not take effect until gazetted and will be the subject of a notification in newspapers circulating in each State and mainland Territory.

The Attorney-General's decision to proscribe an organisation is subject to judicial review under the *Administrative Decisions (Judicial Review) Act* 1977.

It will be an offence to direct the activities of, receive funds from, make funds available to, be a member of, provide training to, train with, or assist a proscribed organisation.

The maximum penalty will be 25 years imprisonment.

There are two defences to ensure that those who are genuinely innocent of any complicity will not be convicted. The defendant will have to establish the defence on the balance of probabilities.

Placing the onus on the defendant is justified by the need for strong measures to combat organisations of this kind, and the fact that a declaration that an organisation is a proscribed organisation will not be made lightly.

It will be a defence to prove no knowledge and no recklessness as to the existence of any of the grounds on which the organisation could potentially have been proscribed.

...

Summary

No country has ever been immune to the threat of terrorism. While there is no known specific threat of terrorism in Australia at present, we must ensure that we are as well prepared as possible to deal with the new international security environment. Terrorist forces, through violent and intimidatory methods, are actively working to undermine democracy and the rights of people throughout the world.

We must direct all available resources, including the might of the law, at protecting our community and ensuring that those responsible for threatening our security are brought to justice. And we must do so as swiftly as possible. The Howard Government emphatically rejects any suggestion that because we have not experienced any direct terrorist threat in Australia since September 11 this package of legislation is not justified or is an over-reaction. We are actively involved in the war against terrorism. We cannot assume that we are not at risk of a terrorist attack. We cannot afford to become complacent. And we should never forget the devastation of September 11. The Howard Government takes very seriously the responsibility to protect Australia against terrorism. We will be seeking to bring this important package of legislation on for debate as soon as possible.

This package of counter-terrorism legislation delivers on the Howard Government's commitment to ensure we are in the best possible position to protect Australians against the evils of terrorism." (Peter Slipper MP)

Purpose

The *Criminal Code Act 1995* (Cth) is utilised everyday by police officers, prosecutors, judges, informants and other public officials.

There is no value in Parliament's efforts without an accompanying effective legal justice and court system.

Case Law

Prosecutions of Commonwealth offences (such as in the *Criminal Code Act 1995* (Cth)) are initiated in the jurisdiction of state criminal courts.

Charges brought under the Act in New South Wales would commence in the Local Court of NSW.

- R v Salim Mehajer [2018] NSWLC 11
- R v Khawaja [2020] NSWDC 718
- R (Cth) v Dakkak [2022] NSWDC 181
- R (Cth) v Jakovac [2022] NSWDC 579
- R v Biber [2023] NSWDC 292
- UL-HAQUE v REGINA [2006] NSWCCA 241

Commonwealth of Australia Constitution Act (Cth)

"Chapter I.—The Parliament.

...

Part V.—Powers of the Parliament.

51. Legislative powers of the Parliament.

The Parliament shall, subject to this Constitution, have power to make laws for the peace, order, and good government of the Commonwealth with respect to:— "

Criminal Code Amendment (State Sponsors of Terrorism) Bill 2025

Inception

The Attorney-General (Michelle Rowland MP) is trying to amend the *Criminal Code Act 1995* (Cth) purportedly in response to the Iranian Islamic Revolutionary Guard Corps' recent antisemitic attacks.[3]

On 8th October 2025 the Bill was introduced.[4]

Explanatory memorandum:

"The existing legislation for responding to, preventing and managing terrorist threats requires amendment to comprehensively address the evolving threat posed by **foreign state entities** who, directly or indirectly, seek to engage in terrorist acts targeting Australia.

The ability to list certain organisations as terrorist organisations, as provided for by Division 102 of the Criminal Code Act 1995 (Criminal Code), provides the Australian Government with a valuable tool for publicly condemning those organisations as well as putting the public on notice that certain dealings with those organisations are criminal offences. However, *the application of this framework does not currently extend to foreign state entities who engage in terrorist acts targeting Australia.*

...

The Bill would amend the Criminal Code to allow the Commonwealth to list foreign state entities that have engaged in a state terrorist act, or otherwise supported or advocated terrorist acts targeted at Australia. ... The Bill would also create new offences which would criminalise conduct engaged in by these entities, as well as conduct engaged in by persons who would seek to assist or support these activities. It would also provide for appropriate defences, for example for persons who are required by law to engage with a listed entity or engage with an entity for a legitimate purpose."

Second reading speech:

"Our national security frameworks for responding to terrorism are strong and have served us well to date. However—in recognition that terrorism has generally not been the purview of state actors—**it has long been understood that the existing listing framework does not apply to a body politic.**

...

The Criminal Code Amendment (State Sponsors of Terrorism) Bill 2025, which I introduce today, does exactly that.

...

This new framework is supported by the introduction of a range of criminal offences, mirroring those that exist for terrorism and in relation to terrorist organisations currently.

...

Critically, law enforcement and intelligence agencies will be provided with the same powers to respond to, and prevent, state-sponsored terrorism as they currently have in relation to terrorism."

Media Release

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[3] https://www.foreignminister.gov.au/minister/penny-wong/media-release/response-iranian-attacks
[4] https://www.youtube.com/live/8UakVmuWVaI?si=e67tFkJShAvVlTdX&t=1943

8 October 2025

Television interview – Sky Newsday with Kieran Gilbert

GILBERT: Yes, indeed. Well, the other legislation that I want to talk to you about is strengthening the counter-terrorism framework, a piece that you've introduced to Parliament, basically following up on the listing of the Iranian Revolutionary Guard. Is that what we're seeing today?

ROWLAND: That is correct. As you'll be aware, Kieran, some six weeks ago the Government made an announcement based on advice received from ASIO that the Iranian Revolutionary Guard Corps was in fact behind two antisemitic terrorist attacks on Australian soil. This crossed a line. The Government made it very clear that we would be amending our criminal laws to ensure that the state-sponsored acts of terror were caught by our criminal justice system. We have taken the time to ensure that we get that framework right.

GILBERT: Were you surprised that wasn't already in place? Because when I was reading through the details of that legislation that you introduced this week, I was shocked that we hadn't already got that as part of our response.

ROWLAND: Well, I think we need to be clear too, Kieran. As the Independent National Security Legislation Monitor has pointed out, the definition of terrorism in Australia has basically stayed the same for about 20 years, since 9/11. We are having a separate review of that definition that's being conducted independently by the INSLM. But it does point to the fact that our security environment has changed and we are fortunate in this country to have the best security and intelligence organisations in the world who can properly advise us on how to respond. We have done that as a government. This should receive support right across the Parliament because this may have been an attack on the Jewish community, but it was an attack on all Australians.

Public Hearings

16th October 2025

Public Hearing

Ms Samios: The Attorney-General's Department welcomes the opportunity to appear before the committee as part of the review of the Criminal Code Amendment (State Sponsors of Terrorism) Bill 2025. ... The Criminal Code contains an existing framework under part 5.3 to list certain organisations as terrorist organisations. The framework remains an invaluable tool to publicly condemn those organisations and criminalise conduct connected with terrorist acts and interactions with listed organisations. **It does not apply to foreign state entities.** This bill would amend the Criminal Code to create a specific state sponsors of terrorism framework under new part 5.3A to deal with state terrorist acts and state sponsors of terrorism. The framework would replicate and adapt the existing terrorism framework provided by part 5.3 to enable the Australian government to list a foreign state entity as a state sponsor of terrorism. ... The bill was developed in close consultation with the Department of Home Affairs, the Department of Foreign Affairs and Trade, the Australian Federal Police and ASIO. The departments of the Prime Minister and Cabinet; Treasury; Defence; and Industry, Science and Resources were also consulted throughout the development of the bill ... The Attorney-General's Department administers the Criminal Code Act 1995 and is responsible for the development of the bill. The Department of Home Affairs would be responsible for supporting the AFP minister in making any decisions under this framework.

...

Mr Muffett: Really what this bill is addressing is an issue with the current framework which deals with terrorist acts and terrorist organisations. Currently, that framework, in part 5.3 of the Criminal Code, does not allow an organ of a nation-state to be listed as a terrorist organisation; it's really dealing with the acts of non-state entities. Given the recent events, there is a clear need to deal with the threat posed by nation-states targeting Australia and looking to engage in terrorist acts towards Australia. This regime sits parallel to the existing terrorism framework and creates a framework through which terrorist acts engaged in by state actors are criminalised. It also provides a framework for the listing of state entities as state sponsors of terrorism—which is the language we use in this framework, which is the equivalent of a terrorist organisation—to allow them to be listed, and, therefore, certain actions in relation to those entities are criminalised. ...

Mr WALLACE: You spoke earlier about the structure, and I'm particularly keen to explore why the bill was structured in the way it was. We will basically have two parallel systems running, if this bill proceeds. I'm keen to understand why that process was undertaken rather than trying to include state-sponsored terrorism in the existing structure—does that make sense?

Mr Muffett: ... At the moment, we have a framework for dealing with terrorist acts and terrorist organisations being those that relate to non-state actors. In this new situation where we have state actors engaging in terrorism targeted at Australia, it's really ensuring that, irrespective of whether it is a non-state actor or a state actor, there are appropriate criminal offences that apply. That's why there are a lot of parallels between the two, but the second part deals with the uniqueness of a state actor.

...

Mr WALLACE: Okay. Under this regime, in an instance where an Australian was killed or harmed in Gaza, for example, could the IDF be listed as a listed terrorist organisation?

Mr Muffett: I'm not comfortable commenting on a particular factual circumstance. What I can say is, if there is a foreign military that is not engaging in an international armed conflict but engages in a terrorist act and that terrorist act causes serious physical harm to an Australian citizen, it would be open to the AFP minister to be satisfied of that.

...

Comparison

After Part 5.3 append Part 5.3A.

Part 5.3—Terrorism

Division 100—Preliminary
- 100.1 Definitions
- 100.2 Referring States
- 100.3 Constitutional basis for the operation of this Part
- 100.4 Application of provisions
- 100.5 Application of *Acts Interpretation Act 1901*
- 100.6 Concurrent operation intended
- 100.7 Regulations may modify operation of this Part to deal with interaction between this Part and State and Territory laws
- 100.8 Approval for changes to or affecting this Part

Division 101—Terrorism
- 101.1 Terrorist acts
- 101.2 Providing or receiving training connected with terrorist acts
- 101.4 Possessing things connected with terrorist acts
- 101.5 Collecting or making documents likely to facilitate terrorist acts
- 101.6 Other acts done in preparation for, or planning, terrorist acts

Division 102—Terrorist organisations
- **Subdivision A—Definitions**
  - 102.1 Definitions
  - 102.1AA Including or removing names of prescribed terrorist organisations
  - 102.1A Reviews by Parliamentary Joint Committee on Intelligence and Security
- **Subdivision B—Offences**
  - 102.2 Directing the activities of a terrorist organisation
  - 102.3 Membership of a terrorist organisation
  - 102.4 Recruiting for a terrorist organisation
  - 102.5 Training involving a terrorist organisation
  - 102.6 Getting funds to, from or for a terrorist organisation
  - 102.7 Providing support to a terrorist organisation
  - 102.8 Associating with terrorist organisations
- **Subdivision C—General provisions relating to offences**
  - 102.9 Extended geographical jurisdiction for offences
  - 102.10 Alternative verdicts

Division 103—Financing terrorism
- 103.1 Financing terrorism
- 103.2 Financing a terrorist

Part 5.3A—State sponsors of terrorism

Division 110—Preliminary
- **Subdivision A—Definitions**
  - 110.1 Definitions
  - 110.2 When a terrorist act is targeted at Australia
- **Subdivision B—State sponsors of terrorism**
  - 110.3 Meaning of state sponsor of terrorism
  - 110.4 Including or removing names of specified state sponsor of terrorism
  - 110.5 Declaration in relation to a state sponsor of terrorism
  - 110.6 Application for declaration
  - 110.7 Reviews by Parliamentary Joint Committee on Intelligence and Security
- **Subdivision C—Interaction with State and Territory laws**
  - 110.8 Concurrent operation intended
  - 110.9 Regulations may modify operation of this Part to deal with interaction between this Part and State and Territory laws

Division 111—State terrorist acts etc.
- **Subdivision A—Activities relating to state terrorist acts**
  - 111.1 Meaning of state terrorist act
  - 111.2 Engaging in state terrorist acts
  - 111.3 Providing or receiving training connected with state terrorist acts
  - 111.4 Possessing things connected with state terrorist acts
  - 111.5 Collecting or making documents likely to facilitate state terrorist acts
  - 111.6 Other acts done in preparation for, or planning, state terrorist acts
- **Subdivision B—Activities of state sponsor of terrorism relating to terrorist acts engaged in by others**
  - 111.7 Providing or receiving training connected with terrorist acts
  - 111.8 Possessing things connected with terrorist acts
  - 111.9 Collecting or making documents likely to facilitate terrorist acts
  - 111.10 Other acts done in preparation for, or planning, terrorist acts

Division 112—Dealings with state sponsor of terrorism
- 112.1 Directing the activities of a state sponsor of terrorism
- 112.2 Membership of a state sponsor of terrorism

Substantial Changes

The addition of Part 5.3A—State sponsors of terrorism:

1. Introduces new definitions ***foreign state entity***, ***state sponsor of terrorism***, ***state terrorist act***.
2. Distinguishes when a terrorist act is ***targeted at Australia*** (s 110.2).
3. Provisions for listing ***state sponsor of terrorism*** (s 110.3) and de-listing (ss 110.4, 110.5, 110.6).
4. Duplicates existing offences with the additional criteria of ***state sponsor of terrorism*** (ie. s 112.6).

Redundancies

It is submitted that the amendment is not required because the definition of ***foreign state entity*** is already encompassed by the current definition ***organisation*** (s 100.1)[5].

[5] "body corporate or an unincorporated body"

Legislative Principles

Commonwealth Constitution s 51:

> "... Parliament shall ... make laws for the peace, order, and good government ...".

Legislation Act 2003 (Cth)

Acts Interpretation Act 1901 (Cth)

Parliamentary Counsel Act 1970 (Cth)

Drafting directions from the Office of Parliamentary Counsel (OPC)

  Legislation approval process

  Reducing Complexity in Legislation

  Legal advice on issues arising during drafting

Recommendations

Advice on Bill is likely in-fact useless and increases complexity.

Issues

1. Attorney-General's consent.
2. The encompassing definition of ***terrorist organisation*** under the current framework.
3. "Extra offences"
4. Surveillance and intelligence gathering (material operation).
5. Mandamus for listing ***terrorist organisation*** as an absolute public duty.

How much it costs to continue

> *Committee work is an important part of the duties of a parliamentarian and generally makes considerable demands on their time, both when parliament is meeting and at other times.*[6]

Questions on notice

When did the Attorney-General begin drafting the Bill?

How long did it take to draft this Bill?

Who has represented "the existing listing framework does not apply to a body politic"?

State all resources engaged in with for the drafting and preparation of this Bill.

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[6] https://www.aph.gov.au/Parliamentary_Business/Committees/House/Making_a_submission

Exhibit A - Sample Court Attendance Notice (NSW)

The following 7 pages of NSW issued Court Attendance Notice form (**sample charge**).

Section **102.7 Providing support to a terrorist organisation** pursuant to *Criminal Code Act 1995* (Cth).

For Generic Use
Court/Service Copy

Court Attendance Notice

Details of Court Listing

The Court Attendance Notice has been listed before the Local/~~Children's Court~~ on

Date:

Place:

Time:

Details of Defendant

Defendant:

Address:

Sex:

Date of Birth:

Details of Prosecutor

Prosecutor:

Department/Organisation:

Address:

Telephone:

Date of Issue of Court Attendance Notice:

Details of Offence

Description of Offence: Providing support to a terrorist organisation

Time & Date of Offence:

Place of Offence:

Short Particulars:

Statutory Provision Describing Offence:

Criminal Code Act 1995 (Cth)

Chapter 5—The security of the Commonwealth

...

Part 5.3—Terrorism

...

Division 102—Terrorist organisations

...

Subdivision B—Offences

...

102.7 Providing support to a terrorist organisation

(1) A person commits an offence if:

(a) the person intentionally provides to an organisation support or resources that would help the organisation engage in an activity described in paragraph (a) of the definition of ***terrorist organisation*** in this Division; and

(b) the organisation is a terrorist organisation; and

(c) the person knows the organisation is a terrorist organisation.

Penalty: Imprisonment for 25 years.

(2) A person commits an offence if:

(a) the person intentionally provides to an organisation support or resources that would help the organisation engage in an activity described in paragraph (a) of the definition of ***terrorist organisation*** in this Division; and

(b) the organisation is a terrorist organisation; and

(c) the person is reckless as to whether the organisation is a terrorist organisation.

Penalty: Imprisonment for 15 years.

Law Part Code: 51425

Signature of Prosecutor:

(Signature not required if prosecutor is a police officer or public officer)

Signature of Registrar:

(Signature not required if prosecutor is a police officer or public officer)

Statement of Service:

I (name):

Of (occupation):

Did serve a copy of this Court Attendance Notice on the defendant on in the following manner: (tick below)

☐ By handing it to the accused person

☐ By handing it to a person at the accused persons usual place of residence or place of business who is apparently of or above the age of 16 years.

☐ By forwarding it to the officer in charge of the correctional centre at by hand/post/fax or other (specify):

☐ By post/fax or electronic transmission to the person’s residential address (Summary offences only). Please specify:

☐ I have not served a copy of this Court Attendance Notice on the defendant

Signature:
Name:

Witness Signature:
Name:

Court Registry Use Only

Payment Stamp

Date Court Attendance Notice Filed:
Place of Filing:
(if different from place of first listing)
Court Reference Number:
Fees: (circle) Paid/Waived/Remitted/Exempt

For Generic Use
Defendant Copy

Court Attendance Notice

Details of Court Listing

The Court Attendance Notice has been listed before the Local/~~Children's Court~~ on

Date:

Time:

Place:

Defendant:

Address:

Sex:

Date of Birth:

Prosecutor:

Department/Organisation:

Address:

Telephone:

Date of Issue of Court Attendance Notice:

Details of Offence

Description of Offence: Providing support to a terrorist organisation

Time & Date of Offence:

Place of Offence:

Short Particulars:

Statutory Provision Describing Offence:

Criminal Code Act 1995 (Cth)

Chapter 5—The security of the Commonwealth

...

Part 5.3—Terrorism

...

Division 102—Terrorist organisations

...

Subdivision B—Offences

...

102.7 Providing support to a terrorist organisation

(1) A person commits an offence if:

(a) the person intentionally provides to an organisation support or resources that would help the organisation engage in an activity described in paragraph (a) of the definition of ***terrorist organisation*** in this Division; and

(b) the organisation is a terrorist organisation; and

(c) the person knows the organisation is a terrorist organisation.

Penalty: Imprisonment for 25 years.

(2) A person commits an offence if:

(a) the person intentionally provides to an organisation support or resources that would help the organisation engage in an activity described in paragraph (a) of the definition of ***terrorist organisation*** in this Division; and

(b) the organisation is a terrorist organisation; and

(c) the person is reckless as to whether the organisation is a terrorist organisation.

Penalty: Imprisonment for 15 years.

Law Part Code: 51425

Signature of Prosecutor:

(Signature not required if prosecutor is a police officer or public officer)

Signature of Registrar:

(Signature not required if prosecutor is a police officer or public officer)

Information for the Defendant

1. You should obtain legal advice immediately about your rights regarding this Court Attendance Notice. You may wish to contact a legal practitioner, LawAccess NSW (1300 888 529), or the Legal Aid Commission if you require assistance. On your first date of appearance at Court, you should be in a position to advise the court, if required, whether you wish to plead guilty or not guilty to the alleged offence/s.
2. If you have a physical impairment, or require an interpreter to assist you at Court, please advise the Local Court at which you are to appear as soon as possible.
3. If you have been charged by the Police, then the Police Officer responsible for investigating the alleged offence/s will, on request, make arrangement for a language interpreter to assist you at Court.
4. Failure to appear may result in your arrest or in the matter being dealt with in your absence.

Exhibit B - Australian Government Department of Finance Glossary "Body Corporate"

Published definition

Australian Government
Department of Finance

24/10/2025

Body corporate

A legal entity, other than a body politic or a natural person. It includes a statutory corporation, a company and an incorporated association.

Exhibit C - High Court Application for Constitutional or Other Writ

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First page of lodgement dated 9th July 2025

Form 12 – Application for a constitutional or other writ
Note: see rule 25.01.1.

IN THE HIGH COURT OF AUSTRALIA
CANBERRA REGISTRY

BETWEEN: ANTON TUTOVEANU
Plaintiff

and

COMMONWEALTH OF AUSTRALIA
Defendant

APPLICATION FOR A CONSTITUTIONAL OR OTHER WRIT

The plaintiff applies for the relief set out in Part I below on the grounds set out in Part II below

Part I: [*The precise orders sought, including any extension of time sought.*]

1. The Commonwealth of Australia is to comply with the *Criminal Code Act 1995* (Cth) in response to the international conflict between the State of Israel, Palestinian territories and other Middle-Eastern countries as of 2025.
2. The Governor-General and AFP Minister are to specify all ***terrorist organisation*** in regulations made for the purposes of paragraph (b) of the definition of ***terrorist organisation*** in Part 5.3 of *Criminal Code Act 1995* (Cth).
3. The Governor-General and Minister for Foreign Affairs and Trade are to make regulations sanctioning all ***terrorist organisation*** under the *Autonomous Sanctions Act 2011* (Cth) to specifically comply with:
   a. s 102.7 of *Criminal Code Act 1995* (Cth) by ensuring subjects of the Commonwealth do not provide support to ***terrorist organisation***.
   b. s 103.1 of *Criminal Code Act 1995* (Cth) by ensuring subjects of the Commonwealth do not finance ***terrorist organisation***.