



Law and Justice Legislation Amendment (Marking of Plastic Explosives) Bill 2006

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Law and Bills Digest Section

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Law and Justice Legislation Amendment (Marking of Plastic Explosives) Bill 2006

Date introduced: 7 September 2006

House: House of Representatives

Portfolio: Attorney-General

Commencement: Sections 1 to 3 of the Bill commence on the day of Royal Assent. Schedules 1, 2 and 3 of the Bill commence on the day after the end of six months from the day the Act receives Royal Assent and the date upon which the Convention comes into force. The Minister must announce in the Gazette the day on which the Convention comes into force for Australia. If the Convention does not come into force for Australia, Schedules 1, 2 and 3 will not commence.

Purpose

The Law and Justice Legislation Amendment (Marking of Plastic Explosives) Bill 2006 ('the Bill') implements Australia's obligations under the [United Nations Convention on the Marking of Plastic Explosives for the Purpose of Detection](#) (the Convention), concluded at Montreal on 1 March 1991.

This Bill proposes to insert new offences into Chapter 4 of the *Criminal Code Act 1995* (Criminal Code) entitled, 'The integrity and security of the international community and foreign governments'. Consistent with the general approach of the Criminal Code, the amendments will assemble these serious offences into the central statute.

The Bill makes it an offence to manufacture, import, export, traffic in, or possess plastic explosives which have not been marked with a detection agent as prescribed within the terms of the Technical Annex to the Convention.

The Bill however provides exemptions to the main offences, where the plastic explosives are manufactured or held in limited quantities for use in authorised research, development and testing of plastic explosives, for forensic science purposes and authorised training exercises, or where the plastic explosives are destined to be incorporated into an authorised military device within three years from the date of the Convention's entry into force for Australia. Any unmarked plastic explosives which are forfeited as a result of court proceedings, or surrendered to authorities will become the property of the Commonwealth.

The Bill has a six-month delayed commencement period which will provide Australian manufacturers with a total of 12 months in which to comply with the provisions of the Bill.

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Background

Basis of policy commitment

In October 2004, the government announced in its National Security Policy its intention to accede to the Convention.

This Convention is the last of the 13 United Nations counter-terrorism conventions to which Australia is not yet a party. The United Nations Security Council Resolution 1373 of 28 September 2001 calls upon all States to become parties as soon as possible to the relevant international conventions and protocols relating to terrorism. To date, the Convention has 128 parties including the United States of America, the United Kingdom, Canada and New Zealand.

The broad purpose of the Convention is to provide a scheme to detect plastic explosives. The Convention does this by obliging state parties to restrict the manufacture, and place controls over the use by each state party, of plastic explosives which have not been ‘marked’ with a specific chemical agent prescribed in the technical annex to the convention. The marker is a chemical vapour which can be detected by using specialised equipment.

Obligations under the Convention apply generally to “explosives” that are formulated with one or more high explosives which in their pure form have a vapour pressure less than 10-4 Pa at a temperature of 25-C, are formulated with a binder material, and are, as a mixture, malleable or flexible at normal room temperature (Article I and Technical Annex Part 1).

Article IV(6) of the Convention obliges each State Party to take necessary measures to destroy, as soon as possible, unmarked explosives, manufactured since the Convention’s entry into force for that producer State, that:

- are not incorporated as an integral part of a duly authorised military device in accordance with Part 1.2(d) of the Technical Annex, or
- are no longer manufactured or held in limited quantities, for use in authorised research, development or testing of new or modified explosives, used in training in explosives detection and/or the development of testing of explosives detection equipment or held for authorised forensic science purposes, in accordance with the other sub-paragraphs of Part 1.2 of the Technical Annex.

Extensive background on the Montreal Convention can be found in the Department of Foreign Affairs and Trade [National Interest Analysis](#)¹ (NIA) and the Joint Standing Committee on Treaties [Report](#) tabled on 14 August 2006.² The Joint Standing Committee on Treaties (the Committee) had some concerns about the exactness of the current technology but recommended that binding treaty action be taken to accede to the Convention.

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The Committee also noted that that accession to the Convention will confirm Australia's commitment to combating the global threat of terrorism, particularly in the Asia-Pacific region.

The Attorney-General, the Hon. Philip Ruddock explained the impetus for the Montreal Convention:

The convention was drafted and is administered by the International Civil Aviation Organisation following the December 1998 bombing of the Pan Am Flight 103 over Lockerbie, Scotland, which claimed the lives of over 270 people. The actual bomb which caused the disaster was located in a portable radio-cassette player and contained plastic explosives set with a detonator. The bomb had passed undetected through Customs.

This is another example of the Australian Government's commitment to overcoming international terrorism'.³

The Attorney-General also noted that the requirement to mark all plastic explosives manufactured or held by legitimate sources, combined with a regime which more closely manages stocks of plastic explosives in the country, will minimise the risk of plastic explosives being diverted from legitimate sources and used for criminal activity.⁴

Financial implications

The DFAT NIA states at paragraph 33:

33. It is difficult to assess accurately the costs of accession to the Convention. The Department of Defence and ADI Limited have estimated that non-recurring costs to establish and provide the production processes amount to \$500,000.00 and the annual recurring costs amount to \$1.125 million.

The Explanatory Memorandum states that there are no financial implications arising from the offence provisions in this Bill but there are from the non-offence provisions which are 'difficult to quantify' such as the destruction of existing stocks within three years of commencement.⁵

The marking of plastic explosives with a prescribed marker or detection agent is expected to impact upon the costs of production of plastic explosives. The Convention requires that 1.0% of the most commonly used marker be incorporated into a plastic explosive. The main impact of these costs will be borne by ADI Limited, the main producer and supplier in Australia of plastic explosives, and by the Department of Defence. Further to costs, the Explanatory Memorandum states that they:

... will also be incurred in compliance with the Convention and in particular in monitoring and regulation of stocks of plastic explosives. It is expected that the

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responsibilities for these costs will be borne individually by each organisation with stocks of plastic explosives.

Costs are likely to be incurred by manufacturers and entities who store plastic explosives, in complying with the provisions requiring specific packaging and labelling of marked plastic explosives.

...Costs associated with the requirement to package and display the date of manufacture are not expected to be significant.⁶

Schedule 2 of the Bill provides generally for the Australian Customs Service to have appropriate powers to regulate, investigate, search and seize in relation to unmarked plastic explosives. The financial implications to the Australian Customs Service associated with these powers are not expected to be significant.

Main provisions

Overview

Schedule 1 provides for amendments to Division 72 of the Criminal Code. **Proposed sections 72.12 to 72.17** create new offences and defences.

Proposed sections 72.18 to 72.23 deal with authorisations and exemptions to the offences given by the responsible Minister.

Proposed sections 72.24 to 72.27 deal with forfeited and surrendered explosives and their destruction.

Proposed section 72.33 sets out the two marking requirements for plastic explosives.

Proposed section 72.36 contains definitions for terms used in the new subdivision B of Division 72.

Schedule 2 amends the *Customs Act 1901* (Customs Act) to ensure that Customs officers have appropriate powers to search and seize where necessary to facilitate the application of the legislation at Australia's borders.

Schedule 3 provides for necessary consequential amendments to the *Australian Federal Police Act 1979*, the *Australian Security Intelligence Organisation Act 1979*, the *Crimes Act 1914*, the *Foreign Evidence Act 1994*, the *Surveillance Devices Act 2004* and the *Telecommunications (Interception) Act 1979*.

Schedule 1 – Amendment to the Criminal Code

Item 8 inserts a **new Subdivision B** into Division 72 of the Criminal Code. **Proposed section 72.11** describes the purpose of Subdivision B of Division 72 of the Criminal Code,

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which is to create offences relating to the unmarked plastic explosives and to give effect to the terms of the Convention.

The *Convention on the Marking of Plastic Explosives* is defined in **proposed Definitions section 72.36** as meaning the [United Nations Convention on the Marking of Plastic Explosives for the Purpose of Detection](#), done at Montreal on 1 March 1991. The definition extends the Convention to include amendments which bind Australia. The amendment process contained in the Convention in Article 7 is set out in the Explanatory Memorandum in detail.⁷

Offences

Proposed section 72.12 creates an offence for a person to *traffic* in a substance, which is a plastic explosive and where the plastic explosive breaches a *marking requirement*. This section gives effect to Article 3.1 and Article 4.1 of the Convention. Exemptions to the offence are set out in proposed sections 72.18, 72.19, 72.20, 72.21, 72.22 or 72.23.

Traffic is defined in **proposed section 72.36** as including the transfer, offer for sale, invite the making of an offer to buy, possession with the intention of transferring any of it or preparing the substance for transfer with the intention of transferring any of it or believing that another person intends to transfer any of it. Preparing the substance includes packaging it or separating it into discrete units. The definition also includes transporting or delivering the substance with the intention of transferring any of it or believing that another person intends to transfer any of it, guarding or concealing it with the intention of transferring any of it or intending to assist another person to transfer any of it.

Marking requirements are provided for in **proposed section 72.33**. The Convention requires a detection agent to be introduced into a plastic explosive so as to render the explosive detectable by vapour detection means. This process is known as the ‘marking’ of the explosive.

Plastic explosive means an explosive product (including an explosive product in flexible or elastic sheet form) that is:

- (a) formulated with:
 - (i) one or more high explosives which in their pure form have a vapour pressure less than 10⁻⁴ Pa at a temperature of 25°C; and
 - (ii) a binder material; and
- (b) as a mixture, malleable or flexible at normal room temperature.

The Explanatory Memorandum states:

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The expert advice within the Department of Defence is that plastic explosives may be shaped into many different forms. It is the physical characteristic of being malleable and able to be reshaped that makes an explosive a 'plastic explosive' rather than another type of explosive.

It is generally considered that the following explosives would not fall within the definition of 'plastic explosive' within this Bill:

- explosives with a water gel base
- ammonium nitrate based explosives
- detonation cord
- explosives described as Types A, B, C and E and classified in the United Nations Recommendations on the Transport of Dangerous Goods – Model Regulations (commonly known as the UN Model Code).⁸

Proposed subsection 72.12(3) provides that strict liability is to apply to paragraphs (1)(c) and (d). The Explanatory Memorandum states:

This is appropriate because those trafficking in such dangerous substances are in an industry where it is a reasonable expectation that they enquire about the regulation requirements, including authorisation mechanisms. It would be onerous for the prosecution to prove a person was aware of the requirements. Where the person accused is mistaken, section 9.2 of the Criminal Code provides that the person is not criminally responsible.⁹

The proposed penalty for breach of this section is imprisonment of 10 years.

Proposed section 72.13 creates the offence of importing or exporting of an unmarked plastic explosive. **Proposed subsection 72.13(2)** states that the fault element for the other parts of the offence, under paragraphs 72.13(2)(a) and (b), is recklessness. The Explanatory Memorandum states:

In a prosecution for this offence, it would have to be proved beyond reasonable doubt that a person was reckless as to whether the substance was a plastic explosive and the plastic explosive breached a marking requirement. Subsection 72.13(2) has been included so as to avoid any doubt as to the fault element with respect to this offence.

This is appropriate because those trafficking in such dangerous substances are in an industry where it is a reasonable expectation that they enquire about the regulation requirements, including authorisation mechanisms. It would be onerous for the prosecution to prove a person was aware of the requirements. Where the person accused is mistaken, section 9.2 of the Criminal Code provides that the person is not criminally responsible.¹⁰

The proposed penalty for an offence under this section is 10 years imprisonment.

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Proposed section 72.14 makes it an offence to engage in the manufacture of a substance or exercise control or direction over the manufacture of a substance where the substance is a plastic explosive and the plastic explosive breaches a marking requirement (as set out in **proposed section 72.24**).

The Explanatory Memorandum states:

The aim of this section is to create an offence for an individual who is engaged in the manufacturing process as well as a person who lies behind the individual who is engaging in the manufacturing process, such as an employer, leader, manager, director, controller or another such person.¹¹

The proposed penalty for an offence under this section is 2 years imprisonment.

Proposed section 72.15 makes it an offence for a person to possess a substance which is a plastic explosive where the plastic explosive breaches the marking requirement.

The proposed penalty for an offence under this section is 2 years imprisonment.

Defences

Proposed section 72.16 sets out the defences available to a person charged with an offence against 72.12, 72.13, 72.14 or 72.15 and where the prosecution alleges that the plastic explosive breached a particular marking requirement. Proposed section 72.16 provides that in these circumstances it is a defence if the defendant proves he or she had no reasonable grounds for suspecting that the plastic explosive breached that marking requirement.

Proposed subsection 72.16(2) provides that if a person is charged with an offence under 72.12, 72.13 or 72.15 and the prosecution alleges that the plastic explosive breached a marking requirement, it is a defence if the defendant proves that, at the time of the alleged offence, the plastic explosive contained a detection agent and the concentration of that detection agent was not less than the *minimum manufacture concentration* for the detection agent, and the detection agent was homogeneously distributed throughout the plastic explosive.

The term *minimum manufacture concentration* is defined in **proposed section 72.33** and relates to the levels of detection agent prescribed in the Technical Annex.

Proposed section 72.17 creates an offence to be applied to a person manufacturing a substance which is a plastic explosive and for the person not to package the substance and legibly display information on the package, within 24 hours after the manufacture of the plastic explosive. Paragraph 72.17(1)(c) requires that the plastic explosive be contained, enclosed or packaged in a wrapper and that the wrapper contain particular information on it.

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The offence places the onus of ensuring compliant packaging and labelling on the manufacturer of the plastic explosive. The offence is aimed at the actual manufacturer of the plastic explosive and not the director or controller behind the manufacturing, as is the case with the ‘manufacturing’ offence in proposed section 72.14.

The proposed penalty for an offence under this section is 2 years imprisonment.

Exemptions by Ministerial Authorisation

Proposed sections 72.18 to 72.23 deal with authorisations and exemptions to the offences given by the responsible Minister.

Proposed section 72.18 provides for three categories of exemptions to the offences of trafficking, importing, exporting and possessing plastic explosives where the activities are covered by a written authorisation in force under subsection 72.18(2) given by a responsible Minister.

A ‘responsible Minister’ is defined in proposed section 72.36 as meaning either the Attorney-General or the Minister for Defence.

The three categories of exemptions are:

- for authorised research, development, testing of new or modified explosives, development or testing of explosives detection equipment, training in explosives detection and for forensic science purposes (**new paragraph 72.18(2)(a)**)
- where plastic explosives are integral to and used exclusively for defence purposes (**new paragraph 72.18(2)(b)**)
- where plastic explosives will be integral to and used exclusively for defence purposes within 3 years of manufacture (**new paragraph 72.18(2)(c)**).

A responsible Minister’s power to authorise an exemption under this section may be delegated to those particular persons referred to under the delegation power in **proposed sections 72.28 and 72.29**.

A decision by a responsible Minister to refuse to issue an authorisation or to specify a condition or restriction in an authorisation made under subsection 72.18(1) may be reviewed, upon an application, by the AAT, as provided by **proposed section 72.30**.

Proposed subsection 72.19(1) provides for exemptions to the offences of trafficking, importing, exporting and possessing unmarked plastic explosives where an authority has been issued by a responsible Minister, if the plastic explosive is used ‘exclusively for or in connection with’ defence and police purposes. **Proposed subsection 72.19(5)** is a sunset provision, providing that this section ceases to have effect at the end of 15 years after its commencement. This provision gives effect to the 15 year time limit provided under Article 4.3 of the Convention.

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An authorisation under **subsection 72.21(2)** may be given by a responsible Minister in order to allow for a 12 month period for the manufacture, or trafficking, or possession of a plastic explosive manufactured after the commencement of section 72.21. The Explanatory Memorandum states that

In considering an application for an authorisation under this subsection, and where the authorisation may affect the operation of the police service of a State or Territory, the responsible Minister or his delegate...will, in practice, consult with the relevant State or Territory that may be affected by the authorisation.¹²

The Minister's authorisation giving effect to Article 4.2 of the Convention is proposed to be extended to visiting foreign defence forces, to enable the possibility of existing stocks of plastic explosive held by the Australian Defence Force, to be used in joint military exercises.

Proposed section 72.20 allows existing stocks of plastic explosives manufactured before the Convention's entry into force and held by private industry to be used within the 3 year period.

Proposed section 72.21 allows for a 6 month transitional period to apply in order to enable manufacturers to establish protocols, operations and equipment necessary to comply with the Bill. Under this exemption, industry may, with a valid authorisation, manufacture, traffic in and possess unmarked plastic explosives manufactured after the commencement of the section, where a responsible Minister is satisfied that the plastic explosive is to be used exclusively for defence purposes (**subsection 72.21(3)**). The effect of this 6 month period and the 6 month commencement of the Bill, is that manufacturers have a total of 12 months from the day on which the Bill receives Royal Assent to comply with sections 72.12, 72.14 and 72.15 of the Bill. The section has a 12 month sunset clause (**proposed subsection 72.21(5)**).

Proposed section 72.22 allows for circumstances where a member of the Australian Defence Force is unable to obtain an immediate written authorisation for the possession, importation, or trafficking in of an unmarked plastic explosive, but is able to obtain such a written authorisation within 7 days because of an emergency or any other sudden or unexpected circumstances. **Proposed subsection 72.22(2)** provides a 7 day sunset clause on the operation of an authorisation issued under subsection (1).

Proposed section 72.23 provides for the same authorisations as are set out in section 72.22, but with application for the Australian Federal Police.

Destruction of forfeited and surrendered plastic explosives

Proposed sections 72.24 to 72.27 deal with forfeited and surrendered explosives and their destruction.

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Proposed subsection 72.24(1) provides that if a court convicts a person of an offence under this Subdivision in relation to a plastic explosive or makes an order under section 19B of the Crimes Act in respect of a person charged with a offence under this Subdivision in relation to a plastic explosive, the court may order the forfeiture of the plastic explosive to the Commonwealth.

Proposed subsection 72.24(2) provides that a plastic explosive forfeited under subsection (1) becomes the property of the Commonwealth.

Proposed subsection 72.24(3) provides that a plastic explosive forfeited to the Commonwealth under subsection (1) is to be dealt with in such a manner as a responsible Minister directs.

Proposed subsection 72.24(4) provides that without limiting subsection (3), a responsible Minister may direct that a plastic explosive forfeited to the Commonwealth under subsection 72.24(1) be destroyed or used exclusively for one or more of the purposes covered by paragraph 72.18(2)(a), such as research, development or testing of new or modified explosives, development or testing of explosives detection equipment, training in explosives detection or forensic science.

Proposed section 72.25 deals with the circumstances where unmarked plastic explosives may be surrendered to the Commonwealth. The explosives can then be dealt with by the Minister in the same manner as forfeited explosives.

Proposed section 72.26 provides that a member of the Australian Defence Force may destroy an unmarked plastic explosive if the plastic explosive was obtained in the course of an operation outside Australia of the Australian Defence Force. Any activity outside Australia would also need to comply with any applicable law of another country.

Proposed section 72.27 provides that a member of the Australian Federal Police may destroy an unmarked plastic explosive if the plastic explosive was obtained in the course of an operation outside Australia of the Australian Federal Police. Any activity outside Australia would also need to comply with any applicable law of another country.

Proposed section 72.31 states that the extended Category B jurisdiction provided for in section 15.2 of the Criminal Code, applies to all the offences in this proposed Bill. Category B jurisdiction enables an offence to operate:

- when the conduct constituting the alleged offence occurs wholly or partly either in Australia, or on board an Australian aircraft or an Australian ship
- when the conduct constituting the alleged offence occurs wholly outside Australia and a result, whether or not the complete result, of that conduct occurs either in Australia, or on board an Australian aircraft or an Australian ship

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- when the conduct constituting the alleged offence occurs wholly outside Australia and the defendant is an Australian citizen, an Australian resident or a body corporate incorporated under an Australian law, and there is a corresponding offence in the law of the local jurisdiction (being the jurisdiction in which the offence was committed), or
- when the conduct constituting an alleged ancillary offence occurs wholly outside Australia, and the conduct constituting the primary offence to which that alleged ancillary offence relates occurs, or is intended to occur, wholly or partly either in Australia or on board an Australian aircraft or ship.

The operation of Category B jurisdiction is limited to capturing the conduct of those who are Australian citizens or residents at the time of the offence.

Proposed section 72.32 states that the proposed Subdivision B of Division 72 of the Criminal Code is not intended to exclude or limit the operation of any other law of the Commonwealth or of a State or Territory.

Marking requirements

Proposed section 72.33 sets out the two marking requirements for plastic explosives:

- concentration of detection agent at time of manufacture, and
- freshness.

Proposed subsection 72.33(2) provides that the first marking requirement is that at the time of manufacture of the plastic explosive, all conditions set out in the subsection were met. These conditions, set out in paragraphs 72.33(a), (b) and (c), provide that the plastic explosive contain a detection agent, that the concentration of the detection agent in the plastic explosive was not less than the minimum manufacture concentration for the detection agent and that the detection agent was homogeneously distributed throughout the plastic explosive.

Proposed subsection 72.33(3) provides that the second marking requirement is that less than ten years have elapsed since the manufacture of the plastic explosive.

Proposed subsection 72.34(1) provides a table setting out the name of the prescribed chemical ‘detection agent’ and the ‘minimum manufacture concentration’ for each detection agent. The ‘minimum manufacture concentration’ for each detection agent is the minimum percentage concentration of the detection agent by mass as prescribed in Part 2 of the Technical Annex.

Proposed section 72.35 provides for the presumptions to be made in a prosecution for an offence against this Subdivision.

Proposed section 72.36 contains definitions specific to the proposed Subdivision B of Division 72 of the Criminal Code.

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Schedule 2 – Amendment to the *Customs Act 1901*

Item 1 inserts the definition of ‘unmarked plastic explosive’ into subsection 4(1) of the Customs Act which provides for definitions of terms used in that Act.

Item 2 inserts a **new sub paragraph (baa)** after paragraph (b) of the definition of Customs-related law in section 4B of the Customs Act. The effect of this amendment is to include the new offences under 72.13 of the Criminal Code providing for the importing or exporting of unmarked plastic explosives, in the definition of Customs-related law.

Item 3 makes a technical amendment to **paragraph (c)** of the definition of ‘offence’ under subsection 183UA(1) of the Customs Act. The effect of this item is to provide Customs officers with specific powers over the import and export of unmarked plastic explosives.

Item 4 inserts **proposed subsection 183UA(2AA)** which provides that for the purposes of Part XII of the Customs Act which deals with powers of customs officers, an offence against section 6 of the Crimes Act that relates to an offence against the proposed section 72.13 of the Criminal Code, is taken to be an offence against proposed section 72.13 of the Criminal Code.

Therefore, a person who has committed an offence of being an accessory after the fact under section 6 of the Crimes Act is taken to have committed an offence of importing or exporting unmarked plastic explosives.

Item 5 inserts a **new paragraph (aa)** after subsection 183UA(3)(a) of the Customs Act. The purpose of the proposed subsection 183UA(3)(aa) is to ensure that whenever a power under Part XII of the Customs Act is extended to apply to offences under section 72.13 of the Criminal Code, that power will also extend to apply to offences under sections 141.1, 142.1, 142.2 or 149.1 of the Criminal Code that relate to a section 72.13 offence. Sections 141.1, 142.1, 142.2 or 149.1 of the Criminal Code contain offences of bribery of a Commonwealth public official, corrupting benefits given to or received by a Commonwealth public official, abuse of public office and obstruction of Commonwealth public officials.

The effect of this item is to make it an offence for a person committing these offences in relation to the import or export of unmarked plastic explosives, to have committed an offence under proposed section 72.13 of the Criminal Code of importing or exporting unmarked plastic explosives.

Items 6 – 20 aim to broaden the scope of the regulatory powers in Subdivision B of Division 1 of Part XII of the Customs Act to enable the investigation of a possible offence under section 72.13 of the Criminal Code. These powers include the ability for a Commander of a Commonwealth ship or aircraft or a Customs officer to deal with ships, aircrafts or individuals.

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Schedule 3—Consequential amendments

Schedule 3 provides for necessary consequential amendments to the *Australian Federal Police Act 1979*, the *Australian Security Intelligence Organisation Act 1979*, the *Crimes Act 1914*, the *Foreign Evidence Act 1994*, the *Surveillance Devices Act 2004* and the *Telecommunications (Interception) Act 1979*.

Endnotes

1. [2005] ATNIA 18.
 2. Report 75: Treaties tabled on 11 October, 28 February and 28 March 2006.
 3. Attorney-General, 'Australia tightens controls on plastic explosives', media release 169/2006, 7 September 2006.
 4. The Hon Philip Ruddock, *Debates*, House of Representatives, 7 September 2006, p. 1.
 5. Explanatory Memorandum, p. 3.
 6. Explanatory Memorandum, p. 3.
 7. Explanatory Memorandum, p. 27.
 8. Explanatory Memorandum, pp.28-29.
 9. Explanatory Memorandum, p.8.
 10. Explanatory Memorandum, p. 9.
 11. Explanatory Memorandum, p. 27.
 12. Explanatory Memorandum, p. 16.
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