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Schedule 7—Sedition

Crimes Act 1914

1 Paragraph 4J(7)(b)

Omit “section 80.1 or 91.1”, substitute “Division 80 or section 91.1”.

2 Sections 24A to 24E

Repeal the sections.

3 Paragraph 30A(1)(b)

Omit “as defined in section 24A”, substitute “(see subsection (3))”.

4 At the end of section 30A

Add:

(3) In this section:

sedition intention means an intention to effect any of the following purposes:

- (a) to bring the Sovereign into hatred or contempt;
- (b) to urge disaffection against the following:
 - (i) the Constitution;
 - (ii) the Government of the Commonwealth;
 - (iii) either House of the Parliament;
- (c) to urge another person to attempt, otherwise than by lawful means, to procure a change to any matter established by law in the Commonwealth;
- (d) to promote feelings of ill-will or hostility between different groups so as to threaten the peace, order and good government of the Commonwealth.

Criminal Code Act 1995

5 Part 5.1 of the *Criminal Code* (heading)

Repeal the heading, substitute:

1 **Part 5.1—Treason and sediton**

2 **6 Division 80 of the *Criminal Code* (heading)**

3 Repeal the heading, substitute:

4 **Division 80—Treason and sediton**

5 **7 Before section 80.1 of the *Criminal Code***

6 Insert:

7 **80.1A Definition of *organisation***

8 In this Division:

9 ***organisation* means:**

10 (a) a body corporate; or

11 (b) an unincorporated body;

12 whether or not the body is based outside Australia, consists of
13 persons who are not Australian citizens, or is part of a larger
14 organisation.

15 **8 Subsection 80.1(1A) of the *Criminal Code* (note)**

16 Omit “Note”, substitute “Note 1”.

17 **9 At the end of subsection 80.1(1A) of the *Criminal Code***

18 Add:

19 Note 2: There is a defence in section 80.3 for acts done in good faith.

20 **10 Subsections 80.1(3), (4), (6) and (7) of the *Criminal Code***

21 Repeal the subsections.

22 **11 Subsection 80.1(8) of the *Criminal Code* (definition of
23 *organisation*)**

24 Repeal the definition.

25 **12 At the end of Division 80 of the *Criminal Code***

26 Add:

1 **80.2 Sedition**

2 *Urging the overthrow of the Constitution or Government*

- 3 (1) A person commits an offence if the person urges another person to
4 overthrow by force or violence:
5 (a) the Constitution; or
6 (b) the Government of the Commonwealth, a State or a
7 Territory; or
8 (c) the lawful authority of the Government of the
9 Commonwealth.

10 Penalty: Imprisonment for 7 years.

- 11 (2) Recklessness applies to paragraphs (1)(a), (b) and (c).

12 *Urging interference in Parliamentary elections*

- 13 (3) A person commits an offence if the person urges another person to
14 interfere by force or violence with lawful processes for an election
15 of a member or members of a House of the Parliament.

16 Penalty: Imprisonment for 7 years.

- 17 (4) Recklessness applies to the element of the offence that it is lawful
18 processes for an election of a member or members of a House of
19 the Parliament that the first-mentioned person urges the other
20 person to interfere with.

21 *Urging violence within the community*

- 22 (5) A person commits an offence if:
23 (a) the person urges a group or groups (whether distinguished by
24 race, religion, nationality or political opinion) to use force or
25 violence against another group or other groups (as so
26 distinguished); and
27 (b) the use of the force or violence would threaten the peace,
28 order and good government of the Commonwealth.

29 Penalty: Imprisonment for 7 years.

- 30 (6) Recklessness applies to the element of the offence that it is a group
31 or groups that are distinguished by race, religion, nationality or

1 political opinion that the first-mentioned person urges the other
2 person to use force or violence against.

3 *Urging a person to assist the enemy*

- 4 (7) A person commits an offence if:
5 (a) the person urges another person to engage in conduct; and
6 (b) the first-mentioned person intends the conduct to assist, by
7 any means whatever, an organisation or country; and
8 (c) the organisation or country is:
9 (i) at war with the Commonwealth, whether or not the
10 existence of a state of war has been declared; and
11 (ii) specified by Proclamation made for the purpose of
12 paragraph 80.1(1)(e) to be an enemy at war with the
13 Commonwealth.

14 Penalty: Imprisonment for 7 years.

15 *Urging a person to assist those engaged in armed hostilities*

- 16 (8) A person commits an offence if:
17 (a) the person urges another person to engage in conduct; and
18 (b) the first-mentioned person intends the conduct to assist, by
19 any means whatever, an organisation or country; and
20 (c) the organisation or country is engaged in armed hostilities
21 against the Australian Defence Force.

22 Penalty: Imprisonment for 7 years.

23 *Defence*

- 24 (9) Subsections (7) and (8) do not apply to engagement in conduct by
25 way of, or for the purposes of, the provision of aid of a
26 humanitarian nature.

27 Note 1: A defendant bears an evidential burden in relation to the matter in
28 subsection (9). See subsection 13.3(3).

29 Note 2: There is a defence in section 80.3 for acts done in good faith.

30 **80.3 Defence for acts done in good faith**

- 31 (1) Sections 80.1 and 80.2 do not apply to a person who:
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- 1 (a) tries in good faith to show that any of the following persons
2 are mistaken in any of his or her counsels, policies or actions:
3 (i) the Sovereign;
4 (ii) the Governor-General;
5 (iii) the Governor of a State;
6 (iv) the Administrator of a Territory;
7 (v) an adviser of any of the above;
8 (vi) a person responsible for the government of another
9 country; or
10 (b) points out in good faith errors or defects in the following,
11 with a view to reforming those errors or defects:
12 (i) the Government of the Commonwealth, a State or a
13 Territory;
14 (ii) the Constitution;
15 (iii) legislation of the Commonwealth, a State or a Territory
16 or another country;
17 (iv) the administration of justice of or in the
18 Commonwealth, a State, a Territory or another country;
19 or
20 (c) urges in good faith another person to attempt to lawfully
21 procure a change to any matter established by law in the
22 Commonwealth, a State, a Territory or another country; or
23 (d) points out in good faith any matters that are producing, or
24 have a tendency to produce, feelings of ill-will or hostility
25 between different groups, in order to bring about the removal
26 of those matters; or
27 (e) does anything in good faith in connection with an industrial
28 dispute or an industrial matter.
29 Note: A defendant bears an evidential burden in relation to the matter in
30 subsection (1). See subsection 13.3(3).
31 (2) In considering a defence under subsection (1), the Court may have
32 regard to any relevant matter, including whether the acts were
33 done:
34 (a) for a purpose intended to be prejudicial to the safety or
35 defence of the Commonwealth; or
36 (b) with the intention of assisting an enemy:
37 (i) at war with the Commonwealth; and

- 1 (ii) specified by Proclamation made for the purpose of
2 paragraph 80.1(1)(e) to be an enemy at war with the
3 Commonwealth; or
4 (c) with the intention of assisting another country, or an
5 organisation, that is engaged in armed hostilities against the
6 Australian Defence Force; or
7 (d) with the intention of assisting a proclaimed enemy of a
8 proclaimed country (within the meaning of subsection
9 24AA(4) of the *Crimes Act 1914*); or
10 (e) with the intention of assisting persons specified in paragraphs
11 24AA(2)(a) and (b) of the *Crimes Act 1914*; or
12 (f) with the intention of causing violence or creating public
13 disorder or a public disturbance.

14 **80.4 Extended geographical jurisdiction for offences**

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

17 **80.5 Attorney-General's consent required**

- 18 (1) Proceedings for an offence against this Division must not be
19 commenced without the Attorney-General's written consent.
20 (2) Despite subsection (1):
21 (a) a person may be arrested for an offence against this Division;
22 or
23 (b) a warrant for the arrest of a person for such an offence may
24 be issued and executed;
25 and the person may be charged, and may be remanded in custody
26 or on bail, but:
27 (c) no further proceedings may be taken until that consent has
28 been obtained; and
29 (d) the person must be discharged if proceedings are not
30 continued within a reasonable time.

31 **80.6 Division not intended to exclude State or Territory law**

32 It is the intention of the Parliament that this Division is not to apply
33 to the exclusion of a law of a State or a Territory to the extent that
34 the law is capable of operating concurrently with this Division.

1 ***Migration Act 1958***

2 **13 Subparagraph 203(1)(c)(i)**

3 Omit "24C,".

4 **14 Subparagraph 203(1)(c)(ia)**

5 Omit "section 80.1", substitute "Division 80".

6 ***Surveillance Devices Act 2004***

7 **15 Subparagraph 30(1)(a)(v)**

8 Repeal the subparagraph.

9 **16 Subparagraph 30(1)(a)(vi)**

10 Omit ", 80.1".

11 **17 Subparagraph 30(1)(a)(vii)**

12 Repeal the subparagraph.

13 **18 Subparagraph 30(1)(a)(viii)**

14 After "Division", insert "72, 101, 102, 103 or".