



Queensland

Justice Legislation (Links to Terrorist Activity) Amendment Bill 2018



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2018

A Bill

for

An Act to amend the *Bail Act 1980*, the *Corrective Services Act 2006*, the *Penalties and Sentences Act 1992* and the *Youth Justice Act 1992* for particular purposes

[s 1]

The Parliament of Queensland enacts— 1

Part 1 Preliminary 2

Clause 1 Short title 3

This Act may be cited as the *Justice Legislation (Links to Terrorist Activity) Amendment Act 2018*. 4
5

Part 2 Amendment of Bail Act 1980 6

Clause 2 Act amended 7

This part amends the *Bail Act 1980*. 8

Note— 9

See also the amendments in schedule 1. 10

Clause 3 Amendment of s 6 (Definitions) 11

Section 6— 12

insert— 13

Commonwealth control order means a control order as defined in the Criminal Code (Cwlth), section 100.1(1). 14
15
16

terrorism offence means— 17

(a) a terrorism offence under the *Crimes Act 1914* (Cwlth); or 18
19

(b) an offence against the repealed *Crimes (Foreign Incursions and Recruitment) Act 1978* (Cwlth), sections 6 to 9; or 20
21
22

-
- (c) an offence against the *Terrorism (Community Protection) Act 2003* (Vic), section 4B; or 1
2
3
- (d) an offence against the *Crimes Act 1900* (NSW), section 310J; or 4
5
- (e) an offence against the *Criminal Law Consolidation Act 1935* (SA), section 83CA; or 6
7
8
- (f) another offence against a provision of a law of the Commonwealth or another State if the provision— 9
10
11
- (i) is prescribed by regulation; and 12
- (ii) is in relation to an activity that involves a terrorist act, or is preparatory to the carrying out of an activity that involves a terrorist act. 13
14
15
16
- terrorist act*** see the *Police Powers and Responsibilities Act 2000*, section 211. 17
18

- Clause 4 Amendment of s 7 (Power of police officer to grant bail)** 19
- (1) Section 7(2), after ‘granted bail’— 20
insert— 21
by the officer 22
- (2) Section 7(2), note 1, from ‘only’— 23
omit, insert— 24
only particular courts may grant a person bail. 25
- (3) Section 7(3), after ‘granted bail’— 26
insert— 27
by the officer 28

[s 5]

Clause 5	Amendment of s 13 (When only the Supreme Court may grant bail)	1 2
	(1) Section 13, heading, from ‘only’—	3
	<i>omit, insert—</i>	4
	only particular courts may grant bail	5
	(2) Section 13—	6
	<i>insert—</i>	7
	(2) Only a court may grant bail to a person who—	8
	(a) has previously been convicted of a terrorism offence; or	9 10
	(b) is or has been the subject of a Commonwealth control order.	11 12
	(3) For subsection (2)—	13
	convicted , of an offence, means found guilty of the offence by a court, on a plea of guilty or otherwise, whether or not a conviction is recorded.	14 15 16 17
	court does not include a justice or justices.	18
Clause 6	Amendment of s 14 (Release of persons apprehended on making deposit of money as security for appearance)	19 20
	Section 14(1A)—	21
	<i>insert—</i>	22
	<i>Notes—</i>	23
	1 See also section 13 for when only particular courts may grant a person bail.	24 25
	2 See also section 16 for when a police officer must refuse to grant bail.	26 27
Clause 7	Amendment of s 14A (Magistrates Courts may grant cash bail or permit to go at large)	28 29
	(1) Section 14A(1)—	30

insert—

1

Notes—

2

1 See also sections 16 and 16A for when a court must
refuse to grant bail.

3

4

2 See also the *Youth Justice Act 1992*, sections 48 and
48A for when a child must not be released from
custody.

5

6

7

(2) Section 14A—

8

insert—

9

(1A) However, the Magistrates Court must not permit
the defendant to go at large without bail under
subsection (1)(b) if bail must be refused under
section 16A.

10

11

12

13

Note—

14

See also the *Youth Justice Act 1992*, sections 48 and 48A
for when a child must not be released from custody.

15

16

Clause 8 Amendment of s 16 (Refusal of bail)

17

(1) Section 16, heading, after ‘bail’—

18

insert—

19

generally

20

(2) Section 16(2)—

21

insert—

22

(g) any promotion by the defendant of
terrorism;

23

24

(h) any association the defendant has or has had
with—

25

26

(i) a terrorist organisation within the
meaning of the Criminal Code (Cwlth),
section 102.1(1); or

27

28

29

(ii) a person who has promoted terrorism.

30

(3) Section 16—

31

[s 9]

<i>insert—</i>	1
(2B) For subsection (2)(g) and (h)(ii), a person has promoted terrorism if the person has—	2 3
(a) carried out an activity to support the carrying out of a terrorist act; or	4 5
(b) made a statement in support of the carrying out of a terrorist act; or	6 7
(c) carried out an activity, or made a statement, to advocate the carrying out of a terrorist act or support for the carrying out of a terrorist act.	8 9 10 11
(2C) To remove any doubt, it is declared that a reference in subsection (2B) to a terrorist act—	12 13
(a) includes a terrorist act that has not happened; and	14 15
(b) is not limited to a specific terrorist act.	16
(4) Section 16(3)(b), ‘section 13’—	17
<i>omit, insert—</i>	18
section 13(1)	19
(5) Section 16(3)—	20
<i>insert—</i>	21
<i>Note—</i>	22
See also section 16A(6).	23

Clause 9	Insertion of new s 16A	24
	After section 16—	25
	<i>insert—</i>	26
	16A Refusal of bail for defendants convicted of terrorism offences or subject to Commonwealth control orders	27 28 29
	(1) This section applies in relation to a defendant if—	30

(a) the defendant—	1
(i) has previously been convicted of a terrorism offence; or	2 3
(ii) is or has been the subject of a Commonwealth control order; and	4 5
(b) the defendant is an adult.	6
(2) Despite any other provision of this Act, a court must refuse to grant bail to the defendant unless the court is satisfied exceptional circumstances exist to justify granting bail.	7 8 9 10
(3) In considering whether exceptional circumstances exist to justify granting bail to the defendant, the court may have regard to any relevant matter.	11 12 13
(4) If the court grants bail to the defendant, the order granting bail must state the reasons for the decision.	14 15 16
(5) This section does not affect the operation of section 16(1).	17 18
(6) If the defendant is charged with an offence mentioned in section 16(3)(a) to (g), section 16(3) does not apply in relation to the defendant.	19 20 21
(7) In this section—	22
<i>convicted</i> , of an offence, means found guilty of the offence by a court, on a plea of guilty or otherwise, whether or not a conviction is recorded.	23 24 25 26
Clause 10 Insertion of new s 47	27
After section 46—	28
<i>insert</i> —	29

[s 11]

47 Transitional provision for Justice Legislation (Links to Terrorist Activity) Amendment Act 2018	1
	2
	3
(1) This Act, as amended by the <i>Justice Legislation (Links to Terrorist Activity) Amendment Act 2018</i> , applies in relation to a decision made by a court or police officer on or after the commencement about whether to grant bail to a person or otherwise release the person from custody.	4
	5
	6
	7
	8
	9
(2) For subsection (1), it is irrelevant whether the offence in relation to which the decision is made happened, or the proceeding for the offence was started, before or after the commencement.	10
	11
	12
	13

Part 3	Amendment of Corrective Services Act 2006	14
		15

Clause 11 Act amended	16
This part amends the <i>Corrective Services Act 2006</i> .	17

Clause 12 Amendment of s 193 (Decision of parole board)	18
(1) Section 193(2)—	19
<i>insert—</i>	20
<i>Note—</i>	21
See also section 193C(1).	22
(2) Section 193(3)—	23
<i>insert—</i>	24
<i>Note—</i>	25
See also section 193C(2).	26

Clause 13	Insertion of new ss 193B–193E	1
	After section 193A—	2
	<i>insert—</i>	3
	193B Deciding applications for parole orders made by prisoners with links to terrorism	4
		5
	(1) This section applies in relation to a prisoner’s application for a parole order if—	6
		7
	(a) the prisoner has, at any time, been convicted of a terrorism offence; or	8
		9
	(b) the prisoner is the subject of a Commonwealth control order; or	10
		11
	(c) the parole board is satisfied the prisoner has promoted terrorism; or	12
		13
	(d) a report in relation to the prisoner given by the commissioner under section 193E states there is a reasonable likelihood the prisoner may carry out a terrorist act and any of the following apply—	14
		15
		16
		17
		18
	(i) the prisoner has been charged with, but not convicted of, a terrorism offence;	19
		20
	(ii) the prisoner has been the subject of a Commonwealth control order;	21
		22
	(iii) the parole board is satisfied the prisoner is or has been associated with a terrorist organisation, or with a person who has promoted terrorism.	23
		24
		25
		26
	<i>Note—</i>	27
	For when a person promotes terrorism, see section 247A.	28
		29
	(2) The parole board must refuse to grant the application under section 193(1) unless the board is satisfied exceptional circumstances exist to justify granting the application.	30
		31
		32
		33
	(3) In considering whether exceptional circumstances	34

[s 13]

exist to justify granting the application, the parole board may have regard to any relevant matter. 1
2

(4) In considering a matter mentioned in subsection (1)(c) or (d)(iii), the parole board may have regard to— 3
4
5

(a) a report in relation to the matter given by the commissioner under section 193E; and 6
7

(b) any other information the board considers relevant. 8
9

(5) If the parole board decides to grant the application, the board must give the prisoner written reasons for the decision. 10
11
12

Note— 13

See also section 193(5)(a). 14

(6) To remove any doubt, it is declared that— 15

(a) this section does not limit or otherwise affect the power of the parole board to refuse the application under section 193(1); and 16
17
18
19

(b) a decision under subsection (2) that exceptional circumstances exist to justify granting the application is not a decision for section 194(1)(a) that exceptional circumstances exist in relation to the prisoner. 20
21
22
23
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193C Deferring decision to obtain information about terrorism links 26 27

(1) The parole board may defer making a decision on a prisoner's application for a parole order to obtain information the board considers necessary to determine whether section 193B applies in relation to the application. 28
29
30
31
32

(2) Despite section 193(3), if the parole board defers making a decision under subsection (1), the board 33
34

must decide the application within 200 days after 1
receiving the application. 2

**193D Parole board may ask commissioner for 3
reports about prisoners' links to terrorism 4**

The parole board may, by written notice given to 5
the commissioner, ask the commissioner to give 6
the board, for use under this division or division 5, 7
a report in relation to any of the following 8
matters— 9

- (a) whether a prisoner has, at any time, been 10
convicted of or charged with a terrorism 11
offence; 12
- (b) whether a prisoner is or has been the subject 13
of a Commonwealth control order; 14
- (c) any promotion by a prisoner of terrorism; 15
- (d) the likelihood of a prisoner carrying out a 16
terrorist act; 17
- (e) any association a prisoner has or has had 18
with— 19
 - (i) a terrorist organisation; or 20
 - (ii) a person who has promoted terrorism. 21

Note— 22
For when a person promotes terrorism, see section 23
247A. 24

193E Reports about prisoners' links to terrorism 25

- (1) The commissioner must comply with a request 26
made under section 193D by giving the parole 27
board a written report in relation to the matters the 28
subject of the request. 29
- (2) However, subsection (1) applies only to the extent 30
information in relation to the matters— 31

[s 13]

- (a) is in the commissioner’s possession; or 1
- (b) can be accessed by the commissioner 2
through an arrangement with— 3
 - (i) a law enforcement agency; or 4
 - (ii) the Australian Security Intelligence 5
Organisation under the *Australian* 6
Security Intelligence Organisation Act 7
1979 (Cwlth); or 8
 - (iii) an immigration and border protection 9
department. 10
- (3) Also, the commissioner is not required to give 11
information in relation to a matter mentioned in 12
section 193D(c), (d) or (e) if— 13
 - (a) the information is information mentioned in 14
the *Police Powers and Responsibilities Act* 15
2000, section 803(2)(a) to (e) and the 16
commissioner is satisfied that withholding 17
the information will not adversely affect 18
public safety; or 19
 - (b) the commissioner accessed the information 20
through an arrangement mentioned in 21
subsection (2)(b) and the arrangement 22
prevents the commissioner from disclosing 23
the information to the parole board. 24
- (4) If the report is in relation to a matter mentioned in 25
section 193D(a), the information in the report 26
may include a reference to, or a disclosure of, a 27
conviction mentioned in the *Criminal Law* 28
(Rehabilitation of Offenders) Act 1986, section 6. 29
- (5) If the request is in relation to a prisoner’s 30
application for a parole order— 31
 - (a) the notice given under section 193D must 32
state the day the parole board proposes to 33
hear the application (the *proposed hearing* 34
day); and 35

	(b) the commissioner must give the report to the parole board at least 28 days before the proposed hearing day.	1 2 3
	(6) In this section—	4
	<i>immigration and border protection department</i> means a Commonwealth department in which any of the following laws is administered—	5 6 7
	(a) the <i>Australian Border Force Act 2015</i> (Cwlth);	8 9
	(b) the <i>Customs Act 1901</i> (Cwlth), other than parts XVB and XVC;	10 11
	(c) the <i>Migration Act 1958</i> (Cwlth).	12
Clause 14	Amendment of s 205 (Amendment, suspension or cancellation)	13 14
	Section 205(2)—	15
	<i>insert—</i>	16
	(d) suspend or cancel a parole order if the board reasonably believes the prisoner subject to the parole order poses a risk of carrying out a terrorist act.	17 18 19 20
Clause 15	Amendment of s 208A (Request for immediate suspension of parole order)	21 22
	Section 208A(1)—	23
	<i>insert—</i>	24
	(e) poses a risk of carrying out a terrorist act.	25
Clause 16	Amendment of s 208B (Parole board or prescribed board member may suspend parole order and issue warrant)	26 27
	Section 208B(2)—	28
	<i>insert—</i>	29

[s 17]

	(e) poses a risk of carrying out a terrorist act.	1
Clause 17	Amendment of s 234 (Meetings about particular matters relating to parole orders)	2 3
	Section 234(7), definition <i>prescribed prisoner</i> —	4
	<i>insert</i> —	5
	(c) a prisoner who has, at any time, been convicted of a terrorism offence; or	6 7
	(d) a prisoner the subject of a Commonwealth control order; or	8 9
	(e) a prisoner about whom the parole board has information that indicates—	10 11
	(i) the prisoner may have promoted terrorism; or	12 13
	<i>Note</i> —	14
	For when a person promotes terrorism, see section 247A.	15 16
	(ii) there is a risk the prisoner may carry out a terrorist act.	17 18
Clause 18	Insertion of new s 247A	19
	After section 247—	20
	<i>insert</i> —	21
	247A When a person promotes terrorism	22
	(1) For this chapter, a person promotes terrorism if the person—	23 24
	(a) carries out an activity to support the carrying out of a terrorist act; or	25 26
	(b) makes a statement in support of the carrying out of a terrorist act; or	27 28

	(c) carries out an activity, or makes a statement, to advocate the carrying out of a terrorist act or support for the carrying out of a terrorist act.	1 2 3 4	
	(2) To remove any doubt, it is declared that a reference in subsection (1) to a terrorist act—	5 6	
	(a) includes a terrorist act that has not happened; and	7 8	
	(b) is not limited to a specific terrorist act.	9	
Clause 19	Insertion of new ch 7A, pt 13	10	
	Chapter 7A—	11	
	<i>insert—</i>	12	
	Part 13	Transitional provisions for Justice Legislation (Links to Terrorist Activity) Amendment Act 2018	13 14 15 16 17
	490W Definition for part	18	
	In this part—	19	
	<i>amending Act</i> means the <i>Justice Legislation (Links to Terrorist Activity) Amendment Act 2018</i> .	20 21	
	490X Existing applications for parole orders or applications under s 490R	22 23	
	Sections 193B to 193E, 234 and 247A and schedule 4, as amended or inserted by the amending Act, apply in relation to the following applications—	24 25 26 27	

[s 20]

- (a) an application under section 176, 180 or 490R(4) made to the parole board, but not decided, before the commencement; 1
2
3
- (b) an application mentioned in section 490R(1) that has not been decided before the commencement. 4
5
6

490Y Application of particular provisions to parole orders 7
8

The following provisions, as amended or inserted by the amending Act, apply in relation to a parole order whether made before or after the commencement— 9
10
11
12

- (a) section 193D; 13
- (b) section 193E; 14
- (c) section 205; 15
- (d) section 208A; 16
- (e) section 208B; 17
- (f) section 234; 18
- (g) section 247A; 19
- (h) schedule 4. 20

Clause 20 Amendment of sch 4 (Dictionary) 21

- (1) Schedule 4, definition *conviction*— 22
omit. 23
- (2) Schedule 4— 24
insert— 25

Commonwealth control order means a control order as defined in the Criminal Code (Cwlth), section 100.1(1). 26
27
28

conviction, for a prescribed provision, means a 29

finding of guilt, or the acceptance of a plea of guilty, by a court, whether or not a conviction is recorded.	1 2 3
<i>prescribed provision</i> means—	4
(a) section 193B; or	5
(b) section 193D; or	6
(c) section 234(7), definition <i>prescribed prisoner</i> ; or	7 8
(d) definition <i>criminal history</i> .	9
<i>terrorism offence</i> means—	10
(a) a terrorism offence under the <i>Crimes Act 1914</i> (Cwlth); or	11 12
(b) an offence against the repealed <i>Crimes (Foreign Incursions and Recruitment) Act 1978</i> (Cwlth), sections 6 to 9; or	13 14 15
(c) an offence against the <i>Terrorism (Community Protection) Act 2003</i> (Vic), section 4B; or	16 17 18
(d) an offence against the <i>Crimes Act 1900</i> (NSW), section 310J; or	19 20
(e) an offence against the <i>Criminal Law Consolidation Act 1935</i> (SA), section 83CA; or	21 22 23
(f) another offence against a provision of a law of the Commonwealth or another State if the provision—	24 25 26
(i) is prescribed by regulation; and	27
(ii) is in relation to an activity that involves a terrorist act, or is preparatory to the carrying out of an activity that involves a terrorist act.	28 29 30 31
<i>terrorist act</i> see the <i>Police Powers and Responsibilities Act 2000</i> , section 211.	32 33

[s 21]

	<i>terrorist organisation</i> see the Criminal Code (Cwlth), section 102.1(1).	1 2
(3)	Schedule 4, definition <i>prisoner</i> , item 3, dot point 1— <i>omit.</i>	3 4
Part 4	Amendment of Penalties and Sentences Act 1992	5 6
Clause 21	Act amended This part amends the <i>Penalties and Sentences Act 1992</i> .	7 8
Clause 22	Amendment of s 160 (Definitions for div 3) Section 160, definition <i>parole eligibility date</i> , ‘section 160B(2) or (5)’— <i>omit, insert—</i> section 160B(2), (4) or (7)	9 10 11 12 13
Clause 23	Amendment of s 160B (Sentence of 3 years or less and not a serious violent offence or sexual offence) (1) Section 160B— <i>insert—</i> (3A) However, the court may fix the date the offender is eligible for parole, instead of a date for the offender to be released on parole, if— (a) the offender has, at any time, been convicted of a terrorism offence, whether or not the conviction has been recorded; or (b) the offender is the subject of a Commonwealth control order; or (c) the court is satisfied the offender has—	14 15 16 17 18 19 20 21 22 23 24 25 26

-
- (i) carried out an activity to support the carrying out of a terrorist act; or
- (ii) made a statement in support of the carrying out of a terrorist act; or
- (iii) carried out an activity, or made a statement, to advocate the carrying out of a terrorist act or support for the carrying out of a terrorist act.
- (3B) To remove any doubt, it is declared that a reference in subsection (4)(c) to a terrorist act—
- (a) includes a terrorist act that has not happened; and
- (b) is not limited to a specific terrorist act.
- (2) Section 160B(4), ‘subsection (2) or (3)’—
omit, insert—
subsection (2), (3) or (4)
- (3) Section 160B(5), ‘subsections (2) and (3)’—
omit, insert—
subsections (2), (3) and (4)
- (4) Section 160B(5), ‘subsection (6)’—
omit, insert—
subsection (8)
- (5) Section 160B(5)(b) and (6), ‘subsection (2) or (3)’—
omit, insert—
subsection (2), (3) or (4)
- (6) Section 160B(7)—
insert—
- Commonwealth control order** means a control order as defined in the Criminal Code (Cwlth), section 100.1(1).

[s 24]

	<i>terrorism offence</i> means—	1
	(a) a terrorism offence under the <i>Crimes Act 1914</i> (Cwlth); or	2 3
	(b) an offence against the repealed <i>Crimes (Foreign Incursions and Recruitment) Act 1978</i> (Cwlth), sections 6 to 9; or	4 5 6
	(c) an offence against the <i>Terrorism (Community Protection) Act 2003</i> (Vic), section 4B; or	7 8 9
	(d) an offence against the <i>Crimes Act 1900</i> (NSW), section 310J; or	10 11
	(e) an offence against the <i>Criminal Law Consolidation Act 1935</i> (SA), section 83CA; or	12 13 14
	(f) another offence against a provision of a law of the Commonwealth or another State if the provision—	15 16 17
	(i) is prescribed by regulation; and	18
	(ii) is in relation to an activity that involves a terrorist act, or is preparatory to the carrying out of an activity that involves a terrorist act.	19 20 21 22
	<i>terrorist act</i> see the <i>Police Powers and Responsibilities Act 2000</i> , section 211.	23 24
(7)	Section 160B(3A) to (7)—	25
	<i>renumber</i> as section 160B(4) to (9).	26
Clause 24	Insertion of new pt 14, div 20	27
	Part 14—	28
	<i>insert</i> —	29
	Division 20	Transitional provision for
		Justice Legislation (Links
		30 31

	to Terrorist Activity)	1
	Amendment Act 2018	2
	255 Application of s 160B to sentencing offenders after commencement	3 4
	Section 160B, as amended by the <i>Justice Legislation (Links to Terrorist Activity) Amendment Act 2018</i> , applies in relation to the sentencing of an offender after the commencement whether the offence or conviction happened before or after the commencement.	5 6 7 8 9 10 11
Part 5	Amendment of Youth Justice Act 1992	12 13
Clause 25	Act amended	14
	This part amends the <i>Youth Justice Act 1992</i> .	15
	<i>Note—</i>	16
	See also the amendments in schedule 1.	17
Clause 26	Amendment of s 48 (Decisions about bail and related matters)	18 19
	(1) Section 48(1)(b)—	20
	<i>insert—</i>	21
	<i>Note—</i>	22
	For when only particular courts may grant a person bail, see the <i>Bail Act 1980</i> , section 13.	23 24
	(2) Section 48(3)—	25
	<i>insert—</i>	26
	(db) any promotion by the child of terrorism;	27

[s 26]

- (dc) any association the child has or has had with a terrorist organisation, or with a person who has promoted terrorism, that the court or officer is satisfied was entered into by the child for the purpose of supporting the organisation or person—
- (i) in the carrying out of a terrorist act; or
- (ii) in promoting terrorism;
- (3) Section 48(3)(da) to (e)—
renumber as section 48(3)(e) to (h).
- (4) Section 48—
insert—
- (3B) For subsection (3)(f) and (g), a person or organisation promotes terrorism if the person or organisation—
- (a) carries out an activity to support the carrying out of a terrorist act; or
- (b) makes a statement in support of the carrying out of a terrorist act; or
- (c) carries out an activity, or makes a statement, to advocate the carrying out of a terrorist act or support for the carrying out of a terrorist act.
- (3C) To remove any doubt, it is declared that a reference in subsection (3)(g) or (5) to a terrorist act—
- (a) includes a terrorist act that has not happened; and
- (b) is not limited to a specific terrorist act.
- (5) Section 48(7A), ‘subsection (3)(da)’—
omit, insert—
subsection (3)(e)

-
- (6) Section 48(8)— 1
insert— 2
terrorist organisation see the Criminal Code 3
(Cwlth), section 102.1(1). 4
- (7) Section 48(3A) to (8)— 5
renumber as section 48(4) to (12). 6

- Clause 27 Insertion of new s 48A** 7
- After section 48— 8
insert— 9
- 48A Releasing children found guilty of terrorism offences or subject to Commonwealth control orders** 10
11
12
- (1) This section applies in relation to a child in 13
custody in connection with a charge of an offence 14
if the child— 15
- (a) has previously been found guilty of a 16
terrorism offence; or 17
- (b) is or has been the subject of a 18
Commonwealth control order. 19
- (2) Despite any other provision of this Act or the *Bail* 20
Act 1980, a court must not release the child from 21
custody unless the court is satisfied exceptional 22
circumstances exist to justify releasing the child. 23
- (3) In considering whether exceptional circumstances 24
exist to justify releasing the child, the court may 25
have regard to any relevant matter. 26
- (4) If the court releases the child, the order releasing 27
the child must state the reasons for the decision. 28
- (5) This section does not affect the operation of 29
section 48(8) or (10). 30

[s 28]

Clause 28	Amendment of s 50 (Dealing with a child if court can not be promptly constituted)	1 2
(1)	Section 50—	3
	<i>insert</i> —	4
	(3A) Also—	5
	(a) subsection (2) applies subject to section 48; and	6 7
	(b) a police officer may not, under subsection (2)(a), release the child—	8 9
	(i) has previously been found guilty of a terrorism offence; or	10 11
	(ii) is or has been the subject of a Commonwealth control order; and	12 13
	(c) subsection (2)(b) applies subject to the <i>Bail Act 1980</i> , section 13.	14 15
(2)	Section 50(5), ‘subsection (4)’—	16
	<i>omit, insert</i> —	17
	subsection (5)	18
(3)	Section 50(6)—	19
	<i>omit.</i>	20
(4)	Section 50(3A) to (5)—	21
	<i>renumber</i> as section 50(4) to (6).	22
Clause 29	Insertion of new s 226A	23
	Before section 227—	24
	<i>insert</i> —	25
	226A When a child has promoted terrorism	26
	(1) For this subdivision, a child has promoted terrorism if the child—	27 28

	(a) carried out an activity to support the carrying out of a terrorist act; or	1 2
	(b) made a statement in support of the carrying out of a terrorist act; or	3 4
	(c) carried out an activity, or made a statement, to advocate the carrying out of a terrorist act or support for the carrying out of a terrorist act.	5 6 7 8
	(2) To remove any doubt, it is declared that a reference in subsection (1) to a terrorist act—	9 10
	(a) includes a terrorist act that has not happened; and	11 12
	(b) is not limited to a specific terrorist act.	13
Clause 30	Amendment of s 227 (Release of child after service of period of detention)	14 15
	(1) Section 227— <i>insert—</i>	16 17
	(2A) However, a court may not make an order under subsection (2) if—	18 19
	(a) the child has, at any time, been found guilty of a terrorism offence; or	20 21
	(b) the child is the subject of a Commonwealth control order; or	22 23
	(c) the court is satisfied the child has promoted terrorism.	24 25
	(2) Section 227(2A) and (3)— <i>renumber</i> as section 227(3) and (4).	26 27
Clause 31	Amendment of s 228 (Chief executive’s supervised release order)	28 29
	(1) Section 228(2), ‘section 227(3)’—	30

[s 32]

omit, insert— 1

section 227(4) 2

(2) Section 228(3)(b), ‘the conditions’— 3

omit, insert— 4

a condition of the supervised release order 5

Clause 32 Insertion of new s 228A 6

After section 228— 7

insert— 8

228A Supervised release orders for children with links to terrorism 9
10

(1) This section applies in relation to a supervised release order for a child if— 11
12

(a) the child has, at any time, been found guilty of a terrorism offence; or 13
14

(b) the child is the subject of a Commonwealth control order; or 15
16

(c) the chief executive is satisfied the child has promoted terrorism. 17
18

(2) The chief executive must impose any conditions on the supervised release order the chief executive considers are reasonably necessary and appropriate to reduce the risk of the child— 19
20
21
22

(a) carrying out a terrorist act; or 23

(b) promoting terrorism. 24

Examples of conditions that may be imposed— 25

- a condition that prohibits the child from being at a stated place 26
27

- a condition that prohibits the child from communicating with a stated person 28
29

- a condition that imposes a curfew on the child 30

(3) This section does not limit or otherwise affect the 31

	power of the chief executive to impose a condition on the supervised release order under section 228(3)(a).	1 2 3
	(4) Failure to comply with subsection (2) does not affect the validity of the supervised release order.	4 5
Clause 33	Insertion of new pt 11, div 17	6
	Part 11—	7
	<i>insert—</i>	8
	Division 17 Transitional provisions for Justice Legislation (Links to Terrorist Activity) Amendment Act 2018	9 10 11 12
	393 Definition for division	13
	In this division—	14
	<i>amending Act</i> means the <i>Justice Legislation (Links to Terrorist Activity) Amendment Act 2018</i> .	15 16
	394 Application of particular provisions to decisions about release made on or after commencement	17 18 19
	(1) Sections 48, 48A and 50 and schedule 4, as amended or inserted by the amending Act, apply in relation to a decision made by a court or police officer on or after the commencement about whether to grant bail to a child or otherwise release the child from custody.	20 21 22 23 24 25
	(2) For subsection (1), it is irrelevant whether the offence in relation to which the decision is made happened, or the proceeding for the offence was started, before or after the commencement.	26 27 28 29

[s 34]

395 Application of particular provisions to sentencing children after commencement 1
2

Sections 226A and 227 and schedule 4, as 3
amended or inserted by the amending Act, apply 4
in relation to the sentencing of a child after the 5
commencement whether the offence or 6
conviction happened before or after the 7
commencement. 8

Clause 34 Amendment of sch 4 (Dictionary) 9

Schedule 4— 10

insert— 11

Commonwealth control order means a control 12
order as defined in the Criminal Code (Cwlth), 13
section 100.1(1). 14

terrorism offence means— 15

(a) a terrorism offence under the *Crimes Act* 16
1914 (Cwlth); or 17

(b) an offence against the repealed *Crimes* 18
(Foreign Incursions and Recruitment) Act 19
1978 (Cwlth), sections 6 to 9; or 20

(c) an offence against the *Terrorism* 21
(Community Protection) Act 2003 (Vic), 22
section 4B; or 23

(d) an offence against the *Crimes Act 1900* 24
(NSW), section 310J; or 25

(e) an offence against the *Criminal Law* 26
Consolidation Act 1935 (SA), section 27
83CA; or 28

(f) another offence against a provision of a law 29
of the Commonwealth or another State if the 30
provision— 31

(i) is prescribed by regulation; and 32

[s 35]

- (ii) is in relation to an activity that involves 1
a terrorist act, or is preparatory to the 2
carrying out of an activity that involves 3
a terrorist act. 4

terrorist act see the *Police Powers and* 5
Responsibilities Act 2000, section 211. 6

Part 6 **Other amendments** 7

- Clause 35** **Legislation amended** 8
Schedule 1 amends the legislation it mentions. 9

Schedule 1	Other amendments	1
	section 35	2
Bail Act 1980		3
1	Section 19B(7), ‘sections 13, 16 and 17(1A)’—	4
	<i>omit, insert—</i>	5
	sections 13, 16, 16A and 17(1A)	6
2	Section 19B(7), ‘section 48’—	7
	<i>omit, insert—</i>	8
	sections 48 and 48A	9
3	Section 19C(6), ‘sections 16 and 17(1A)’—	10
	<i>omit, insert—</i>	11
	sections 16, 16A and 17(1A)	12
4	Section 19C(6), ‘section 48’—	13
	<i>omit, insert—</i>	14
	sections 48 and 48A	15
5	Section 20(3B), ‘section 13’—	16
	<i>omit, insert—</i>	17
	section 13(1)	18

Youth Justice Act 1992	1
1 Section 59(3), ‘section 13’—	2
<i>omit, insert—</i>	3
section 13(1)	4
2 Sections 289(c)(i) and 301A(1)(b)(i), ‘section 48(3)(da)’—	5
<i>omit, insert—</i>	6
section 48(3)(e)	7

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