

EXPLANATORY STATEMENT

Select Legislative Instrument 2012 No. 40

Issued by the authority of the Minister for Justice

Criminal Code Act 1995

Criminal Code Amendment Regulation 2012 (No. 5)

Statement of Compatibility with Human Rights

On the basis that legislative instrument does not engage any human rights it is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Purpose

Section 5 of the *Criminal Code Act 1995* (the Act) provides that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed, or prescribing matters necessary or convenient to be prescribed for carrying out or giving effect to the Act.

On 9 April 2011 the *Criminal Code Amendment Regulations 2011 (No.1)* (Interim Regulations) commenced, prescribing four drugs and one precursor (and threshold quantities) to be subject to Part 9.1 of the Act.

Sections 301.1, 301.2 and 301.3 of the Act provide that a drug or precursor must not be prescribed in Interim Regulations for a period that exceeds, or for periods that in total exceed, 12 months. In accordance with the Act, these Interim Regulations expire on the 8 April 2012.

The purpose of the Regulation is to repeal the Interim Regulations.

Consultation on the Regulation was unnecessary as it is of a machinery nature and its only purpose is to give effect to a mandatory expiry requirement in the Act. The Australian Federal Police, Australian Customs and Border Protection Service, Australian Crime Commission, Commonwealth Director of Public Prosecutions, and the Commonwealth Department of Health and Aging are aware of this requirement.

The Act specified no conditions that needed to be satisfied before the power to repeal the Interim Regulations could be exercised.

The Regulation is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

The Regulation commences on 9 April 2012.

Authority: Section 5 of the *Criminal Code Act 1995*