

Criminal Code Amendment Regulations 2003 (No. 3) 2003 No. 59

EXPLANATORY STATEMENT

STATUTORY RULES 2003 No. 59

ISSUED BY THE AUTHORITY OF THE ATTORNEY-GENERAL

Criminal Code Act 1995

CRIMINAL CODE AMENDMENT REGULATIONS 2003 (No. 3)

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

Division 102 of the Code sets out the offences in relation to terrorist organisations, which are: directing the activities of a terrorist organisation; recruiting persons to a terrorist organisation; receiving training from or providing training to a terrorist organisation; receiving funds from or making available funds, support or resources to a terrorist organisation; or being a member of a terrorist organisation that is specified in regulations.

Subsection 102.1(1) of the Code defines a 'terrorist organisation' to be either an organisation engaged in, preparing, planning, assisting in or fostering the doing of a terrorist act (paragraph (a) of the definition of 'terrorist organisation'), or an organisation specified in the regulations (paragraph (c) of the definition of 'terrorist organisation').

Part 2 of the *Criminal Code Regulations 2002* provides that the organisations mentioned in Schedule 1 are specified for the purposes of paragraph (c) of the definition of 'terrorist organisation' in subsection 102.1(1) of the Code.

The purpose of the *Criminal Code Amendment Regulations 2003 (No. 3)* is to insert into Schedule 1 of Part 2 of the *Criminal Code Regulations 2002* the organisation Al-Jihad/Egyptian Islamic Movement and its aliases 'Egyptian Al-Jihad; Egyptian Islamic Jihad; Jihad Group; New Jihad', in order to apply the offence provisions in Division 102 to persons with links to AI-Jihad/ Egyptian Islamic Movement.

Subsection 102.1(3) of the Code provides that before the Governor-General makes regulations specifying an organisation for the purposes of paragraph (c) of the definition of 'terrorist organisation' in subsection 102.1(1) of the Code, the Minister must be satisfied on reasonable grounds that: the Security Council of the United Nations has identified the organisation in a decision relating wholly or partly to terrorism, or in a mechanism under such a decision (paragraphs 102.1(3)(a)&(b)); and the organisation is engaged in, preparing, planning, assisting in or fostering the doing of a terrorist act (paragraph 102.1(3)(c)). The Attorney-General is satisfied on reasonable grounds of these matters in relation to Al-Jihad/ Egyptian Islamic Movement.

Details of the regulations are set out in Attachment A.

The regulations commenced on gazettal.

The Minute recommended that the Regulations be made in the form proposed.

Authority: Section 5 of the *Criminal Code Act 1995* and subsection 102.1(3) of the *Criminal Code Act 1995*

The details of the proposed *Criminal Code Amendment Regulations (No. 3)* follow.

Regulation 1 cites the name of the proposed regulations as *Criminal Code Amendment Regulations 2003 (No. 3)*.

Regulation 2 provides that the proposed regulations commence on gazettal.

Regulation 3 provides that proposed Schedule 1 amends the *Criminal Code Regulations 2002*.

Item 1 of Schedule 1 proposes to insert the name of the organisation Al-Jihad/Egyptian Islamic Movement and its aliases into the table in Schedule 1 of the *Criminal Code Regulations 2002*, in order to specify that organisation as a terrorist organisation for the purposes of paragraph 102.1(1)(c) of the *Criminal Code Act 1995*.