

EXPLANATORY STATEMENT

Select Legislative Instrument 2006 No. 179

Issued by the authority of the Minister for Justice and Customs

Criminology Research Act 1971

Criminology Research Amendment Regulations 2006 (No. 1)

Section 51 of *Criminology Research Act 1971* (the Act) provides that the Governor-General may make regulations, not inconsistent with the Act, prescribing all matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

The Act provides, in part, for the establishment of the Criminology Research Council (the Council) as a body corporate with perpetual succession. The functions of the Council are to control and administer the Criminology Research Fund in accordance with the Act, and for that purpose, to examine, and determine the relative importance and urgency of, projects for which the expenditure of moneys from that Fund may be authorised.

The purpose of the Regulations is to specify the Attorney-General of the Australian Capital Territory and the Minister for Justice of the Northern Territory as “the appropriate Ministers” for the purposes of the Act. Section 4 of the Act provides that “the appropriate Minister” for each Australian jurisdiction is to be prescribed by regulation.

The role of the appropriate Minister under the Act is to nominate a person to the Commonwealth Attorney-General for appointment as a representative of that Minister’s State or Territory on the Council. Further, the appropriate Minister may request the Commonwealth Attorney-General to remove from the Council a member representing that State or Territory. The appropriate Minister must also approve the appointment by a member representing that Minister’s jurisdiction of a person to act as his or her deputy member.

Prior to the Regulations being made, the Criminology Research Regulations (the Principal Regulations) prescribed the appropriate Minister for each Australian State and the Northern Territory.

Amendment of arrangements relating to the Australian Capital Territory

The Act was amended by the *Crimes Legislation Enhancement Act 2003* to create a position on the Council for a representative of the Australian Capital Territory. However, prior to the making of these Regulations, no Minister of the Australian Capital Territory had been prescribed as the appropriate Minister for the purposes of the Act. The first Australian Capital Territory representative was lawfully appointed to the Council. Subsection 35(3) of the Act allows the Commonwealth Attorney-General to appoint a member for the Australian Capital Territory and subsection 35(5) provides that any defect or irregularity with the nomination of the member does not invalidate the appointment. However, an appropriate Minister for the Australian Capital Territory needed to be prescribed to allow the

Commonwealth to lawfully revoke that appointment, as the request of the appropriate Minister is an absolute condition to the lawful revocation of an appointment.

The Regulations amended the Principal Regulations to prescribe the Attorney General of the Australian Capital Territory as the appropriate Minister for that Territory.

The Government of the Australian Capital Territory has nominated the office of Attorney General as the fitting position within that Territory's ministry to assume the role of appropriate Minister.

Amendment of arrangements relating to the Northern Territory

Prior to the Regulations being made, subregulation 4(2) of the Principal Regulations prescribed the Minister for Correctional Services as the appropriate Minister for the Northern Territory. In the current ministry of the Northern Territory, there is no longer an office of the Minister for Correctional Services. The Government of the Northern Territory has requested that the Minister for Justice of that jurisdiction be prescribed as the appropriate Minister in the place of the Minister for Correctional Services. The Regulations amended the Principal Regulations to give effect to this.

The Regulations also made minor amendments to reflect more modern drafting practice, including re-naming the Principal Regulations.

Details of the Regulations are set out in the attachment.

The Regulations commenced on the day after they were registered.

The Regulations are a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

ATTACHMENT**Details of the Criminology Research Amendment Regulations 2006 (No. 1)****Regulation 1 – Name of Regulations**

This regulation provides that the title of the Regulations is the *Criminology Research Amendment Regulations 2006 (No. 1)*

Regulation 2 – Commencement

This regulation provides for the Regulations to commence on the day after they are registered on the Federal Register of Legislative Instruments.

Regulation 3 – Amendment of Criminology Research Regulations

This regulation provides that the Criminology Research Regulations (the Principal Regulations) are amended as set out in Schedule 1.

Schedule 1 – Amendments**Item [1] – regulation 1**

Regulation 1 of the Principal Regulations provides that those regulations may be cited as the Criminology Research Regulations. This item replaces regulation 1 and provides that the name of the Principal Regulations is the Criminology Research Regulations. The Office of Legislative Drafting and Publishing made this update to reflect current drafting practice.

Item [2] – regulation 3

Regulation 3 of the Principal Regulations sets out the definition for the term ‘the Act’ for the purposes of the Regulations. This item provides for a reformulation of that regulation without amendment to its substance. The Office of Legislative Drafting and Publishing made this update to reflect current drafting practice.

Item [3] – subregulation 4(2)

Subregulation 4(2) of the Principal Regulations prescribes the appropriate Minister for the Northern Territory. This item substitutes two new subregulations for subregulation 4(2). The new subregulation 4(2) prescribes the Attorney General of the Australian Capital Territory as that jurisdiction’s appropriate Minister, while the new subregulation 4(3) prescribes the Minister for Justice of the Northern Territory as the appropriate Minister for that jurisdiction.