

2013-2014-2015

The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

**Foreign Death Penalty Offences
(Preventing Information Disclosure) Bill
2015**

No. , 2015

(Mr Palmer)

**A Bill for an Act to prevent the disclosure of
information by public officials in circumstances
that may lead to the imposition of the death penalty
in foreign countries, and for related purposes**

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1 **A Bill for an Act to prevent the disclosure of**
2 **information by public officials in circumstances**
3 **that may lead to the imposition of the death penalty**
4 **in foreign countries, and for related purposes**

5 The Parliament of Australia enacts:

6 **Part 1—Preliminary**
7

8 **1 Short title**

9 This Act may be cited as the *Foreign Death Penalty Offences*
10 *(Preventing Information Disclosure) Act 2015*.

1 **Part 2—Foreign death penalty offences: preventing**
2 **information disclosure by public officials**
3

4 **7 Foreign death penalty offences—preventing information**
5 **disclosure by public officials**

6 *Offence*

- 7 (1) A person (the *defendant*) commits an offence if:
8 (a) the defendant is or was a public official; and
9 (b) the defendant directly or indirectly discloses information to
10 another person; and
11 (c) the information was obtained by the defendant, or came to
12 the defendant’s knowledge:
13 (i) in the course of the performance of his or her duties as a
14 public official; or
15 (ii) by reason of being a public official;
16 whether before or after the commencement of this section;
17 and
18 (d) the defendant is reckless as to whether the disclosure will do
19 any of the following:
20 (i) result in a person being tried in a foreign country for a
21 foreign death penalty offence;
22 (ii) assist in the investigation or prosecution of a person
23 who is being tried in a foreign country for such an
24 offence;
25 (iii) assist in the punishment of a person who has been
26 convicted in a foreign country of such an offence.

27 **Penalty:** Imprisonment for 15 years.

28 *Exception—Attorney-General certificates*

- 29 (2) Subsection (1) does not apply if the Attorney-General certifies, in
30 writing, that the disclosure is necessary to prevent, or assist in the

Section 8

- 1 investigation or prosecution of a person suspected of having
2 engaged in:
- 3 (a) a terrorist act (as defined in subsection 100.1(1) of the
4 *Criminal Code*); or
- 5 (b) an act of violence:
- 6 (i) causing a person's death; or
7 (ii) endangering a person's life.
- 8 Note: A defendant bears an evidential burden in relation to a matter in
9 subsection (2) (see subsection 13.3(3) of the *Criminal Code*).
- 10 (3) In subsection (2), a reference to a terrorist act or an act of violence
11 includes:
- 12 (a) a reference to a terrorist act or act of violence (as the case
13 requires) that does not occur; and
- 14 (b) a reference to a specific terrorist act or act of violence (as the
15 case requires); and
- 16 (c) a reference to more than one terrorist act or act of violence
17 (as the case requires).
- 18 (4) The Attorney-General must cause a copy of a certificate made
19 under subsection (2) to be published on the Department's website.
- 20 (5) A certificate made under subsection (2) is not a legislative
21 instrument.

8 Extended geographical jurisdiction

22 Section 15.4 (extended geographical jurisdiction—category D) of
23 the *Criminal Code* applies to an offence against section 7.
24

9 Mandatory minimum sentences

- 25
- 26 (1) A court must not make an order under section 19B of the *Crimes*
27 *Act 1914* (discharge of offenders without conviction) in respect of
28 a charge for an offence against section 7.
- 29 (2) If a person is convicted of an offence against section 7, the court
30 must impose a sentence of imprisonment of at least 1 year.

1 **10 Relationship with other laws**

2 (1) This Part has effect despite any other law of the Commonwealth, or
3 of a State or Territory (whether written or unwritten).

4 (2) However, subsection (1) does not apply to a provision of an Act if
5 the provision:

- 6 (a) commences after this section commences; and
7 (b) specifically states that it applies despite this Part.