

SECURITY LEGISLATION REVIEW COMMITTEE

- TERMS OF REFERENCE -

- 1. Definitions**
- “the Committee” Also known as the *Security Legislation Review Committee*, established and constituted pursuant to Section 4(3) of the *Security Legislation Amendment (Terrorism) Act 2002*
- “the PJC” In the context of this review means the Parliamentary Joint Committee on ASIO, ASIS and DSD
- “ASIO” Australian Security Intelligence Organisation
- “ASIS” Australian Secret Intelligence Service
- “DSD” Defence Signals Directorate
- “Security Acts relating to terrorism” Includes:
- *Security Legislation Amendment (Terrorism) Act 2002*;
 - *Suppression of the Financing of Terrorism Act 2002*;
 - *Criminal Code Amendment (Suppression of Terrorist Bombings) Act 2002*;
 - *Border Security Legislation Amendment Act 2002*;
 - *Telecommunications Interception Legislation Amendment Act 2002*; and
 - *Criminal Code Amendment (Terrorism) Act 2003*
- 2. Membership¹**
- a) Pursuant to Section 4(3) of the *Security Legislation Amendment (Terrorism) Act 2002*¹ the Committee shall consist of the following members:
- Mr Simon Sheller AO, Chair (Retired judicial officer – appointed by the Attorney-General);
 - The Privacy Commissioner;
 - The Commonwealth Ombudsman;
 - The Human Rights Commissioner;
 - The Inspector-General of Intelligence and Security;
 - Mr John A Davies APM OAM (law enforcement representative – appointed by the Attorney-General);
 - Ms Gillian Braddock SC (Law Council of Australia nominee); and
 - Mr Dan O’Gorman (Law Council of Australia nominee)
- 3. Authority**
- a) Pursuant to Section 4(1) of the *Security Legislation Amendment (Terrorism) Act 2002* the Committee is to review the operation, effectiveness and implications of amendments made by the *Security Legislation Amendment (Terrorism) Act 2002*,

¹ Subject to Section 4(3) of the *Security Legislation Amendment (Terrorism) Act 2002*

Suppression of the Financing of Terrorism Act 2002, Criminal Code Amendment (Suppression of Terrorist Bombings) Act 2002, Border Security Legislation Amendment Act 2002 and Telecommunications Interception Legislation Amendment Act 2002 (The Security Acts).

4. Purpose

- a) The purpose of the Committee is to undertake a public and independent review of the operation of the Security Acts relating to terrorism.

5. Duties and Procedures

- a) In particular, the Committee shall:
 - assess and review the operation, effectiveness and implications of amendments made by the following Acts:
 - *Security Legislation Amendment (Terrorism) Act 2002;*
 - *Suppression of the Financing of Terrorism Act 2002,*
 - *Criminal Code Amendment (Suppression of Terrorist Bombings) Act 2002;*
 - *Border Security Legislation Amendment Act 2002;* and
 - *Telecommunications Interception Legislation Amendment Act 2002*
 - Identify alternative approaches and mechanisms for the above legislation as appropriate;
 - provide for public submissions;
 - provide for public hearings;
 - provide a written report, within six months of commencing the review, to the Attorney-General and the PJC;
- b) The Chairman of the Committee and the secretariat shall prepare and distribute minutes for each meeting.
- c) At each Committee meeting the time, place and host for the next meeting shall be established.
- d) Each Committee member shall designate a point of contact for Committee correspondence.

6. Reporting Procedures

- a) Section 4(6) of the *Security Legislation Amendment (Terrorism) Act 2002* states that the Committee must, within six months of commencing the review, give the Attorney-General and the Parliamentary Joint Committee on ASIO, ASIS and DSD a written report of the review which includes an assessment and review of the operation, effectiveness and implications of amendments made by the Security Acts, and alternative approaches or mechanisms as appropriate.
- b) A draft report shall be made available to the Attorney-General and PJC in advance of the final report providing a reasonable

period of time for each to submit comments on the draft report.

7. Secretariat of the Committee

- a) The Attorney-General's Department shall provide secretarial support for the Committee.
- b) The secretariat and the Committee Chairman shall prepare an agenda for each meeting and distribute the agenda at least one week prior to the meeting.
- c) The secretariat and the Committee Chairman shall prepare and distribute Minutes for each meeting.
- d) The secretariat shall provide administrative support for the Chairman and the Committee as requested.
- e) The secretariat shall conduct research for the Committee as directed by the Chairman.
- f) The secretariat shall be responsible for keeping and maintaining the official files and records for the Committee
- g) The secretariat shall be responsible for securing appropriate accommodation for Committee meetings and public hearings as directed by the Chairman.

8. Funding

- a) The cost of the secretariat shall be met by the Attorney-General's Department.

ⁱ **SECURITY LEGISLATION AMENDMENT (TERRORISM) ACT 2002**
- SECT 4
Public and independent review of operation of Security Acts
relating to terrorism

- (1) The Attorney-General must cause a review of the operation, effectiveness and implications of amendments made by:
- (a) the *Security Legislation Amendment (Terrorism) Act 2002*; and
 - (b) the *Suppression of the Financing of Terrorism Act 2002*; and
 - (c) the *Criminal Code Amendment (Suppression of Terrorist Bombings) Act 2002*; and
 - (d) the *Border Security Legislation Amendment Act 2002*; and
 - (e) the *Telecommunications Interception Legislation Amendment Act 2002*; and
 - (f) the *Criminal Code Amendment (Terrorism) Act 2003*.
- (2) The review must be undertaken as soon as practicable after the third anniversary of the commencement of the amendments.
- (3) The review is to be undertaken by a committee consisting of:
- (a) up to two persons appointed by the Attorney-General, one of whom must be a retired judicial officer who shall be the Chair of the Committee; and
 - (b) the Inspector-General of Intelligence and Security; and
 - (c) the Privacy Commissioner; and
 - (d) the Human Rights Commissioner; and
 - (e) the Commonwealth Ombudsman; and
 - (f) two persons (who must hold a legal practising certificate in an Australian jurisdiction) appointed by the Attorney-General on the nomination of the Law Council of Australia.
- (4) The Attorney-General may reject a nomination made under subsection (3)(f). If the Attorney-General rejects a nomination, the Law Council of Australia may nominate another person.
- (5) The committee must provide for public submissions and public hearings as part of the review.
- (6) The committee must, within six months of commencing the review, give the Attorney-General and the Parliamentary Joint Committee on ASIO, ASIS and DSD a written report of the review which includes an assessment of matters in subsection (1), and alternative approaches or mechanisms as appropriate.
- (7) The Attorney-General must cause a copy of the report to be tabled in each House of the Parliament within 15 sitting days of that House after its receipt by the Attorney-General.

(8) Before the copy of the report is tabled in Parliament, the Attorney-General may remove information from the copy of the report if the Attorney-General is satisfied on advice from the Director-General of Security or the Commissioner of the Australian Federal Police that its inclusion may:

- (a) endanger a person's safety; or
- (b) prejudice an investigation or prosecution; or
- (c) compromise the operational activities or methodologies of the Australian Security Intelligence Organisation, the Australian Secret Intelligence Service, the Defence Signals Directorate or the Australian Federal Police.

(9) The Parliamentary Joint Committee on ASIO, ASIS and DSD must take account of the report of the review given to the Committee, when the Committee conducts its review under paragraph 29(1)(ba) of the *Intelligence Services Act 2001*.