



Australian Government

Australian Government response to the Parliamentary Joint Committee
on Intelligence and Security report:
Advisory Report on the Crimes and Other Legislation Amendment
(Omnibus No. 1) Bill 2024

OCTOBER 2024

Introduction

The Government thanks the Parliamentary Joint Committee on Intelligence and Security (the Committee) for its review of the Crimes and Other Legislation Amendment (Omnibus No.1) Bill 2024, and is pleased to provide the following response to the Committee's recommendations.

Recommendation One

The Committee recommends that the Bill be amended to provide that the definition of 'prescribed investigation' in section 5(1) of the *Telecommunications (Interception and Access) Act 1979* include, for the purposes of the Parliamentary Inspector of the Crime and Corruption Commission (WA), an investigation that the Parliamentary Inspector is conducting in the performance of the Parliamentary Inspector's functions under the *Corruption, Crime and Misconduct Act 2003* (WA).

The Government **accepts** this recommendation and has introduced amendments to Schedule 5 of the Bill to implement this recommendation.

Recommendation Two

The Committee recommends that, as part of the proposed electronic surveillance reforms or other future reforms to the *Telecommunications (Interception and Access) Act 1979*, the Government consider whether state-based oversight bodies should be given access to stored communications and telecommunications data held by the agencies within their jurisdiction, in addition to the access to lawfully intercepted information and interception warrant information conferred by the Bill.

The Government **accepts** this recommendation.

The Government will consider oversight arrangements for Commonwealth, state and territory law enforcement, integrity and anti-corruption agencies holistically as part of the electronic surveillance reform process. This will include consideration of the appropriate oversight body or bodies to oversee those agencies' use of electronic surveillance powers under a new Act, as well as arrangements to ensure effective oversight of those agencies' broader activities.

Recommendation Three

The Committee recommends that, as part of future reforms, the Government consider amending sections 110A, 176A, 187 and 187AA of the *Telecommunications (Interception and Access) Act 1979* to:

- require that if a Minister makes a declaration by legislative instrument declaring an entity to be an 'enforcement agency' or a 'criminal law enforcement agency', or amending the data retention obligations placed on carriers and carriage service providers, the declaration must be referred to the Parliamentary Joint Committee on Intelligence and Security for review and report within the parliamentary disallowance period;
- retain the existing provision that such declarations cease to have effect after 40 sitting days of either House; and
- remove the existing requirement within each of these sections for amendments to the primary legislation to be referred to the Committee.

The Government **accepts** this recommendation.

The Government will consider mechanisms to ensure appropriate parliamentary oversight of legislative instruments made under sections 110A, 176A, 187 and 187AA of the TIA Act that authorise new agencies to exercise powers or alter the nature of substantive powers or regulatory obligations, as part of the broader electronic surveillance reform. As part of this consideration, the Government will have regard to this recommendation of the Committee, and the specialised advice it may be able to provide the Parliament as part of the Parliament's consideration of disallowable instruments.

Recommendation Four

The Committee recommends that, subject to implementation of the recommendations in this report, the Crimes and Other Legislation Amendment (Omnibus No. 1) Bill 2024 be passed by the Parliament.

The Government **accepts** this recommendation.