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Australian Government

Australian Government response to the
Parliamentary Joint Committee on Intelligence and
Security report:

Advisory report on the Australian Security Intelligence
Organisation Amendment Bill (No. 2) 2025

APRIL 2026

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The Government thanks the Parliamentary Joint Committee on Intelligence and Security ('Committee') for its review of the Australian Security Intelligence Organisation Amendment Bill (No. 2) 2025.

The Government provides the following responses to the Committee's recommendations.

Recommendations

Recommendation 1: The Committee recommends that the Explanatory Memorandum for the Bill be amended to make clear that ‘adult questioning matters’ as defined in section 34A of the *Australian Security Intelligence Organisation Act 1979* do not extend to the carrying out of Australia’s responsibilities to any foreign country in relation to those matters.

Response:

The Government **agrees** to this recommendation. The Government will amend the Explanatory Memorandum to clarify that the new proposed definition of ‘adult questioning matters’ does not extend to the carrying out of Australia’s responsibilities to any foreign country in relation to those matters, as is already the intended operation of the Bill.

Recommendation 2: The Committee recommends that the Inspector-General of Intelligence and Security (IGIS) continue to include in its annual report specific comments on its oversight activity in relation to compulsory questioning warrants; and that the IGIS brief the Committee on this matter annually as part of the Committee’s Administration and Expenditure review process.

Response:

The Government **agrees** to this recommendation. The Government acknowledges the independent role of the IGIS in providing oversight of Australian Security Intelligence Organisation’s (ASIO) activities, and notes that existing arrangements provide that the IGIS brief the Committee on a regular yearly cadence as part of the Committee’s Administration and Expenditure review process.

Recommendation 3: The Committee recommends that the *Australian Security Intelligence Organisation Act 1979* be amended so that where the prescribed authority directs the removal of the lawyer of a person subject to a compulsory questioning warrant, the prescribed authority must provide written advice (subject to clearance by ASIO for classified information) to the lawyer within a reasonable period specifying the grounds for the decision.

Response:

The Government **agrees in-principle** to this recommendation. The Government agrees that, where the prescribed authority directs that a lawyer for the subject of a questioning warrant be removed from questioning, the prescribed authority should provide written advice specifying the grounds for the decision, within a reasonable period.

The Government proposes to implement this recommendation by amending the written statement of procedures made under section 34AF of the *Australian Security Intelligence Organisation Act 1979* (Statement of Procedures). The Statement of Procedures sets out standard operational procedures in relation to the execution of a questioning warrant. The recommended requirement for advice to be provided closely aligns with complementary safeguards already contained in the Statement of Procedures.

Recommendation 4: The Committee recommends that section 34AD of the *Australian Security Intelligence Organisation Act 1979* be amended to incorporate a tiered approach to the eligibility requirements for prescribed authorities, under which the President or Deputy President of the Administrative Review Tribunal, or a King’s Counsel or Senior Counsel, may only be appointed where no former superior court judge is available.

Response:

The Government **agrees in-principle** to this recommendation. The Government agrees to introduce a tiered approach to the selection of a prescribed authority to oversee questioning under a warrant. Under this approach, a prescribed authority who is a former superior court judge will be contacted first to act in the role, before a prescribed authority who is the President or a Deputy President of the Administrative Review Tribunal or a prescribed authority who is a Senior Counsel, is contacted to act in the role, respectively. This will maintain the current appointment process for prescribed authorities, which ensures that a broader pool of qualified persons, willing and able to act in the role, is retained.

ASIO’s compulsory questioning framework previously provided for a tiered approach to the appointment of prescribed authorities. The tiered approach to appointment was removed from the framework in 2020 due to the difficulties it presented. Under the previous approach, persons who were former judges of a superior court could be appointed as a prescribed authority. Other categories of persons could be appointed to the role only if there was an insufficient number of former judges of a superior court available. This approach resulted in a shortage of suitable candidates available and willing to act as a prescribed authority for an extended period of time due to the age and tenure of former judges.

To avoid the same issues arising, the Government proposes to implement this recommendation by amending the Statement of Procedures as this matter is complementary to other matters already contained in the Statement of Procedures.

Recommendation 5: The Committee recommends that, subject to the recommendations in this report, the Australian Security Intelligence Organisation Amendment Bill (No. 2) be passed by Parliament.

Response:

The Government **notes** this recommendation.