

## Introduction

### Previous inquiry and report

- 1.1 In May 2012, the then Attorney-General, the Hon Nicola Roxon MP asked the Parliamentary Joint Committee on Intelligence and Security (the Committee) of the previous Parliament to inquire into a number of potential reforms to Australia's national security legislation.
- 1.2 The Attorney-General subsequently provided a discussion paper to the Committee outlining reforms the Australian Government was considering, as well as some on which the Government sought the views of the Committee.<sup>1</sup> The reforms canvassed three areas: interception of communications and access to data under the *Telecommunication (Interception and Access) Act 1979*; reform of the telecommunications security aspects of the *Telecommunications Act 1979* and other relevant legislation; and reform of the *Australian Security Intelligence Organisation Act 1979* (ASIO Act) and the *Intelligence Services Act 2001* (IS Act).
- 1.3 The Committee's report, entitled *Report of the Inquiry into Potential Reforms of Australia's National Security Legislation*, was presented to the Parliament

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<sup>1</sup> Attorney-General's Department, *Equipping Australia against Emerging and Evolving Threats*, July 2012.

in June 2013. The report included a total of 43 recommendations in regard to the possible reforms that were outlined in the discussion paper. The report is available on the Committee's website at [www.aph.gov.au/pjicis](http://www.aph.gov.au/pjicis).

## The Bill and its referral

- 1.4 On 16 July 2014, the Attorney-General, Senator the Hon George Brandis QC, introduced the National Security Legislation Amendment Bill (No. 1) 2014 (the Bill) into the Senate. In his second reading speech, the Attorney-General described the Bill as a 'package of targeted reforms to modernise and improve the legislative framework governing the activities of the Australian Intelligence Community' to ensure that it 'keeps pace with the contemporary, evolving security environment'.<sup>2</sup>
- 1.5 The Attorney-General added that the Bill was 'just the first step in the Government's commitment to maintaining and, where necessary, improving Australia's already strong national security laws', noting that a 'comprehensive review of these laws' was underway that would respond to recent reviews and address any gaps identified.<sup>3</sup>
- 1.6 On the same day, the Attorney-General wrote to the Committee to refer the provisions of the Bill for inquiry and request it report by 8 September 2014. He further requested that the Committee should, as far as possible, conduct its inquiry in public.
- 1.7 In the letter, the Attorney-General informed the Committee that the Bill would implement the Government's response to Chapter 4 of the *Report of the Inquiry into Potential Reforms of Australia's National Security Legislation*, which related to reforms to the ASIO Act and the IS Act.

## Inquiry objectives and scope

- 1.8 The intent of the inquiry was not to debate or revisit the previous Committee's recommendations or the policy intent behind the Bill. Instead, the Committee's objectives in conducting its inquiry were to examine:

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2 Senator the Hon George Brandis QC, Attorney-General, *Senate Hansard*, 16 July 2014, p. 65.

3 Senator the Hon George Brandis QC, Attorney-General, *Senate Hansard*, 16 July 2014, p. 67.

- whether the measures contained in the Bill appropriately implement the recommendations made by the previous Committee and the policy objectives laid out by the Government;
  - whether the Bill incorporates adequate safeguards and accountability mechanisms to ensure the proper application of the laws into the future;
  - whether the Bill is drafted in a way to avoid any foreseeable unintended consequences.
- 1.9 It is noted that at the time of this inquiry, further proposals for amendments to national security legislation were being discussed by the Government and by various commentators. These included foreshadowed legislation relating to Australians fighting in overseas conflicts and to mandatory retention of telecommunications data. These matters were not within the scope of the Committee's inquiry and are not discussed in this report.

## **Conduct of the inquiry**

- 1.10 The inquiry was referred to the Committee by the Attorney-General on 16 July 2014. The Chair of the Committee, Mr Dan Tehan MP, announced the inquiry by media release on 18 July and invited submissions from interested members of the public. Following an extension, submissions were requested to be provided to the Committee by 6 August 2014.
- 1.11 The Committee received 30 submissions and 11 supplementary submissions from sources including government agencies, legal and civil liberties groups and members of the public. A list of submissions received by the Committee is at Appendix A. The Committee received one exhibit, which is also listed at Appendix A.
- 1.12 The Committee held two public hearings and two private classified hearings in Canberra on 15 August and 18 August 2014. A list of hearings and the witnesses who appeared at them is included at Appendix B.
- 1.13 Copies of submissions received and transcripts of public hearings can be accessed on the Committee website at [www.aph.gov.au/pjcis](http://www.aph.gov.au/pjcis). Links to the Bill, the Explanatory Memorandum, the report of the previous Committee and documents relating to that inquiry are also available on the Committee website.

- 1.14 On 4 September 2014, the Committee wrote to the Attorney-General to advise that, due to delays in the receipt of some evidence and the need to provide due scrutiny to certain issues raised, the Committee intended to report to the Parliament in the week of 22 September 2014.

## Report structure

- 1.15 This report consists of three chapters:
- This chapter sets out the context, scope and conduct of the inquiry
  - Chapter Two summarises the provisions of each of the Bill's seven schedules and considers how they relate to the previous Committee's recommendations, and
  - Chapter Three contains a discussion of the main issues raised in evidence to the inquiry, and the Committee's comments and recommendations in regards to those issues.