Australian Government
Department of Home Affairs

Australian Government
Attorney-General's Department

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Senate Legal and Constitutional Affairs Legislation Committee

Inquiry into the Crimes and Other Legislation Amendment (Omnibus No. 1) Bill 2026

Joint Attorney-General's Department and Department of Home Affairs Submission

Introduction

The Attorney-General's Department and the Department of Home Affairs welcome the opportunity to make a submission to the Senate Legal and Constitutional Affairs Legislation Committee (the Committee) in relation to its inquiry into the Crimes and Other Legislation Amendment (Omnibus No. 1) Bill 2026 (the Bill). This submission provides an overview of the Bill's key provisions to assist the Committee in its consideration and should be read in conjunction with the Bill and its explanatory materials.

The Bill would support the effective administration of government by updating and improving key Commonwealth crimes-related legislative frameworks. These amendments are intended to ensure that law enforcement and related agencies are able to operate effectively and efficiently in a contemporary environment, while maintaining appropriate safeguards, oversight mechanisms and procedural fairness. In doing so, the Bill would support agencies to perform their important functions and contribute to the protection of the Australian community.

The Bill consists of a range of discrete measures across Commonwealth criminal law, law enforcement and prosecution frameworks. Collectively, the amendments are directed at modernising and clarifying existing legislative regimes, improving operational efficiency and consistency, and ensuring that key powers and processes remain fit for purpose.

Specifically, the Bill would update police powers and warrant processes, support the efficient investigation and prosecution of serious drug offences, modernise governance arrangements for the Office of the Director of Public Prosecutions (Cth) (CDPP), clarify aspects of Australia's extradition framework and make minor technical amendments to telecommunications interception legislation. Across these measures, the Bill would seek to enhance the effective operation of the criminal justice system while preserving established safeguards and accountability mechanisms.

Provisions of the Bill

Schedule 1 – Police powers and warrants

Part 1 – Sydney West Airport

Part 1 of Schedule 1 of the Bill would amend section 3UM of Division 3B of the *Crimes Act 1914* (Crimes Act) to list Sydney West Airport, also known as the Western Sydney International Airport, as a major airport. Sydney West Airport is expected to operate 24 hours a day without a curfew and service approximately 10 million passengers annually, in addition to facilitating significant cargo and freight movements.

Listing Sydney West Airport under Division 3B of the Crimes Act would ensure a consistent policing and security framework across Australia's major airports. This amendment would empower Australian Federal Police (AFP) members, including constables and protective service officers (PSOs), to conduct identity-checks (section 3UP), issue move-on directions (section 3UQ) and give 'stop' and other directions (section 3US) at Sydney West Airport, in line with other major Australian airports. This would enhance public safety measures and ensure appropriate policing and security arrangements are in place to enable the AFP to effectively

detect and counter risks from transnational, serious and organised crime (TSOC), and potential terrorist activity at the Sydney West Airport.

There are already individuals on-site at Sydney West Airport, and there is a risk that TSOC actors may seek to find and exploit vulnerabilities in airport security to facilitate illicit activities once Sydney West Airport commences operations. This risk is expected to increase as the number of workers on-site grow in anticipation of cargo and passenger operations commencing later in 2026.

Consultation

This measure has been developed in close consultation with the AFP and the Department of Infrastructure, Transport, Regional Development, Communications and the Arts (DITRDSCA). The AFP was consulted noting the amendment will impact the AFP's operational powers at the airport. DITRDSCA was consulted given it has policy responsibility for airport planning, development and land use.

Part 2 – Search warrant applications

Part 2 of Schedule 1 of the Bill would amend Part IAA of Division 2 of the Crimes Act to introduce a new section 3QA to allow applications for search warrants (section 3E) and assistance orders (section 3LA) to be made in writing, either in person or by electronic means. 'Electronic means' includes applications submitted by email, fax, mobile messaging or through an electronic portal, to an issuing officer or magistrate.

Part 2 of Schedule 1 of the Bill would also make minor consequential amendments, including to the framing of warrant applications made in urgent circumstances (section 3R) to ensure it continues to be understood, and operates, as a separate and distinct process.

This amendment would better align the framework with modern court practices, including the routine use of paperless systems and online portals. Additionally, it would address practical problems with in-person lodgement, especially when applications are required outside standard court hours or in remote and regional locations where access to a court or magistrate may be limited. Courts already have the infrastructure to support electronic lodgement. Modernising the warrants framework to allow for applications to be made electronically would make court and policing processes more efficient and better aligned with today's digital operating environment. This amendment would not affect the substantive legal thresholds, safeguards or decision-making requirements for making and issuing search warrants or assistance orders.

Consultation

This measure has been developed in consultation with the AFP, the Australian Securities and Investments Commission (ASIC), and the Treasury. The AFP was consulted as amendments will impact how law enforcement officers can apply for search warrants and assistance orders. ASIC was consulted as section 39D of the *Australian Securities and Investments Commission Act 2001* applies the Crimes Act search warrant provisions to ASIC officers. Treasury was consulted given past work on harmonising search warrant powers across various Acts.

Additionally, the Legislative and Governance Forum for Corporations (LGFC) was notified of the amendments on 25 February 2026. The LGFC was consulted in accordance with subclause 516(1) of the *Corporations Agreement 2002* (the Agreement), which requires the LGFC to be notified of any amendments to Commonwealth legislation covered by the Agreement.

Part 3 – Account takeover warrants, data disruption warrants and network activity warrants

Part 3 of Schedule 1 of the Bill would amend the *Surveillance Devices Act 2004* and Crimes Act to extend the sunsetting date for the powers introduced by the *Surveillance Legislation Amendment (Identify and Disrupt) Act 2021* (SLAID Act) by 3 years to 4 September 2029. This Part would also remove the Australian Criminal Intelligence Commission's (ACIC) access to data disruption warrants.

Extending the sunsetting date

The power to access network activity warrants, data disruption warrants and account takeover warrants (and the related emergency authorisations) sunsets on 4 September 2026. Unless amendments are made, these warrants can no longer be issued after 4 September 2026 and any warrants that are in force will cease to authorise any activities from this date.

There is a continued need for these powers as Australia faces a significant and persistent threat from cyber-dependent and cyber-enabled crime, which is expected to continue into the future. The Independent National Security Legislation Monitor (the Monitor) in his Review of the SLAID Act (SLAID Act Review) noted that the cost of cyber-dependent crime to individuals alone is around $3.5 billion annually and that the cost of cyber-enabled crime is likely to be much higher. In its report *The costs of serious and organised crime in Australia 2023-24,* the Australian Institute of Criminology estimated the cost of 'pure' cybercrime including hacking, malware and impairment of services cost the Australian economy up to $4.5 billion, while noting serious and organised crime groups were building capability online and routinely used digital technology to enhance their operations.

The SLAID Act powers, specifically designed to identify, target and disrupt online offending, have been used judiciously by agencies in investigations into serious offending.

- Data disruption warrants have been used to disrupt serious online criminal offending including disrupting malware and other offending such as dishonestly obtaining or dealing in personal financial information, unauthorised access, modification, or impairment of data with intent to commit a serious offence and dealing in the proceeds of crime.

- Network activity warrants have enabled the collection of intelligence on high threat criminal networks impacting Australia at a time where anonymising technologies are reducing the utility of traditional intelligence gathering tools such as interception.

- Account takeover warrants have allowed agencies to takeover accounts for the purpose of collecting evidence of offending related to terrorism and violent extremism, child sexual abuse, foreign interference, serious drug trafficking, and dealing with the proceeds of crime.

The Monitor in the SLAID Act Review concluded that 'all 3 powers are likely to continue to be used in situations where other mechanisms would be ineffective in combatting cybercrime' (para 5.11) and that these powers are critical capabilities for combatting cyber-enabled and cyber-dependent crime and should not be allowed to sunset. The Monitor made 21 recommendations relating primarily to enhancing the framework for issuing warrants. The Government intends to further consider the warrant issuing framework and the Monitor's other recommendations as part of comprehensive electronic surveillance reforms, as noted in its response to the Monitor's Review, which was tabled in the Australian Parliament on 10 February 2026.

This Bill would extend the sunsetting date of the SLAID Act powers by 3 years to 4 September 2029 to ensure that:

- the AFP and the ACIC can continue to use network activity warrants to collect intelligence that relates to criminal networks and their associates where relevant to the prevention, detection or frustration of relevant offences carrying a term of imprisonment of 3 years or more

- the AFP and the ACIC can continue to use account takeover warrants (and the related emergency authorisation) to take control of an online account and deprive the account holder of access to that account for the purposes of gathering evidence about serious criminal activity, and

- the AFP can continue to use data disruption warrants (and the related emergency authorisation) to disrupt criminal activity facilitated or conducted online to frustrate the commission of relevant offences carrying a term of imprisonment of 3 years or more.

Transitional arrangements in the Bill, namely items 16(7)-(8), 30(8)-(9), 31(4)-(5), and 33(4)-(5), would permit agencies to continue to take steps to conceal warrant activities for a short period after the sunsetting date. The concealment of access powers allow agencies to take reasonably necessary steps to hide actions taken under these warrants and retain their covert nature, to ensure lawful operations are not jeopardised. All existing safeguards around concealment activities during that period would be preserved, including the reporting obligations. The Commonwealth Ombudsman oversees the use of account takeover warrants and data disruptions, and the Inspector-General of Intelligence and Security oversees the use of network activity warrants. AFP and ACIC have an obligation to notify the appropriate oversight body of concealment activities under a network activity warrant or data disruption warrant that occur after the 28-day period. Agencies must also provide details of all concealment activities under a network activity warrant to the Minister.

The proposed 3 year sunset extension would ensure the powers remain in place while the Government is considering the Monitor's other recommendations via comprehensive reforms to the electronic surveillance framework. Those reforms are one of the most complex and significant national security law reforms undertaken in Australia and are being prioritised for this term of Government. The legislation is being carefully developed to ensure that new laws remain effective given the rapid pace of change in the modern communications environment.

Removal of ACIC access to data disruption warrants

The removal of the ACIC's power to disrupt data at items 18, 20, 21, and 25 – 27 of the Bill would better align its functions with that of a criminal intelligence agency. These amendments are consistent with the Government's response to the *Independent Review of the Australian Criminal Intelligence Commission and associated Commonwealth law enforcement arrangements* (ACIC Review) and to the Monitor's recommendations in the SLAID Act Review.

The ACIC Review concluded that the ACIC should be 'clearly defined as Australia's national criminal intelligence agency, focused on the production of unique and incisive intelligence on serious and organised crime' (p. 18). It also found that 'disruption activities go beyond the ACIC's intelligence functions and should be the preserve of law enforcement and other appropriately authorised agencies' (p. 32) and recommended that the ACIC 'should not have the legal function of undertaking operations that are primarily designed to disrupt criminal activities' (recommendation 9). The SLAID Act Review also found that disruption is not an intelligence activity and recommended that the ACIC's access to data disruption warrants be removed as a priority (recommendation 1).

If passed, the Australian Criminal Intelligence Commission Bill 2026 (the ACIC Bill), introduced to Parliament on 25 March 2026, will re-position the ACIC as Australia's national criminal intelligence agency with the necessary functions and powers to effectively deliver this role. While disruption will not form part of the ACIC's re-defined functions, the intelligence produced by the ACIC may be used to support law enforcement efforts to combat, disrupt or prevent serious and organised crime. This could include, for example, the AFP's efforts to gather evidence to support criminal investigations or to undertake certain activities to frustrate the commission of offences.

The ACIC has advised that the removal of its ability to seek data disruption warrants will not adversely impact the ACIC's operations. The ACIC has never sought or obtained a data disruption warrant since the powers were introduced in 2021.

Consultation

The Monitor undertook extensive consultation as part of his Review, including with civil liberties groups, legal experts, academics, oversight bodies and affected agencies. The measure in the Bill was developed in consultation with the AFP and ACIC, which are the only two agencies that can access SLAID Act powers.

Part 4 – Repeal of unproclaimed measure

Part 4 of Schedule 1 of the Bill would repeal an unproclaimed provision in Item 10, Schedule 4 and subsection 2(4) of the *Measures to Combat Serious and Organised Crime Act 2001* (MCSOC Act). This amendment ensures that Australian Capital Territory (ACT) Policing can continue to access the Commonwealth's pre-charge detention and investigation scheme contained in Part IC of the Crimes Act.

The provision was originally introduced under the MCSOC Act as the ACT Government intended to enact its own pre-charge detention and investigation scheme in place of the Commonwealth scheme. In 2010, the ACT Government conducted a review of police criminal investigative powers to consider whether the ACT should

enact its own regime for investigative powers. The ACT Government determined it is not necessary to establish its own scheme and that it remains appropriate to continue to rely on the Commonwealth scheme.

Consultation

The measure has been developed in consultation with the ACT Justice and Community Safety Directorate. Consultation was undertaken to identify the potential impact of the measure on ACT Policing's powers.

Schedule 2 – Amendment of the Criminal Code

Part 1 – Evidentiary certificates for serious drug offences

Part 1 of Schedule 2 would introduce an evidentiary certificate regime for serious drug offences under Part 9.1 of the Criminal Code. The amendments would enable specified law enforcement officers to issue evidentiary certificates that constitute prima facie evidence of the continuity and handling of drug exhibits from the point of seizure through to forensic analysis.

The measure is aimed at improving the efficiency of investigations and prosecutions of serious drug matters. Under existing arrangements, establishing continuity of exhibits can require the preparation of numerous written statements and, in some cases, the oral evidence of multiple officers whose involvement is routine and whose evidence is typically not in dispute.

Modern recording methods used by law enforcement agencies, such as tagging, barcoding and photographing of exhibits, have reduced the scope for dispute about continuity. However, despite these advances, existing evidentiary requirements can still necessitate extensive continuity evidence to formally establish each step in the handling of exhibits. In Commonwealth serious drug matters, this has become increasingly resource-intensive as a result of the scale and complexity of investigations, which can involve multiple agencies, contractors and forensic facilities across jurisdictions. This process places a significant and often unnecessary burden on law enforcement agencies, prosecutors and courts, without materially assisting the resolution of contested issues.

The *Guide to Framing Commonwealth Offences, Infringement Notices and Enforcement Powers* recognises that evidentiary certificates are appropriate in circumstances where they relate to formal or technical matters that are unlikely to be in dispute, but which would otherwise be difficult to prove under the ordinary rules of evidence. In line with this guidance, the proposed evidentiary certificate regime would allow such routine continuity evidence to be presented in a streamlined manner, reducing delay and resource expenditure while preserving defendants' rights to test the evidence where appropriate. It would also assist in more effective allocation of court time by facilitating more accurate estimates of trial duration.

The measure would include a number of safeguards governing the use of evidentiary certificates in proceedings for serious drug offences. These safeguards are intended to ensure the admission of certificates is consistent with procedural fairness and does not undermine the presumption of innocence.

The issuing of evidentiary certificates would be limited to specified categories of law enforcement personnel and, in the case of certain agencies, to officers who hold or perform duties at senior, designated levels. Any

additional classes of issuing officers prescribed by legislative instrument must have appropriate training, qualifications, skills or experience. These requirements would ensure that certificates are only issued by officers with sufficient experience and familiarity with the investigation and continuity material in question.

The acts or things that could be specified in a certificate concern formal and technical aspects of evidence handling that are generally uncontentious. These include matters demonstrating the appropriate handling of a substance, and that the substance has not been tampered with or contaminated while in official custody. Certificates would not concern ultimate facts the prosecution must establish in providing the commission of an offence, such as the accused's conduct, the characterisation of the substance or the requisite fault elements.

Importantly, the measure would not alter the prosecution's obligation to prove all elements of an offence beyond reasonable doubt, nor would it reverse or weaken the burden of proof. Evidentiary certificates would provide rebuttable (prima facie) evidence only – defendants would still be able to challenge the evidence contained in a certificate.

The prosecution would be required to give the defence at least 42 days notice of the intention to rely on a certificate and provide a copy of the certificate to the defence, ensuring sufficient time to consider and respond to the evidence. Defendants would also retain the right to require the person who issued the certificate, or any person named in it, to be called as a witness and cross-examined, subject to established procedural requirements and judicial oversight. Courts would retain full discretion in the management of proceedings, including decisions relating to the admission and assessment of evidence and the calling of witnesses.

The use of evidentiary certificates for procedural matters is an established feature of Commonwealth criminal legislation. Such certificates are commonly used to prove formal or routine matters that would otherwise require evidence from multiple witnesses, without bearing on contested elements of an offence. For example, section 236E of the *Migration Act 1958* permits the use of evidentiary certificates to establish certain procedural facts, and continuity-of-handling certificates are similarly used in drug prosecutions in New South Wales and Queensland. Like the regime proposed in this Bill, these certificates summarise matters relating to the seizure, handling and custody of items, while remaining subject to safeguards that allow the evidence to be tested and challenged where appropriate.

Consultation

The measure has been developed in consultation with the AFP and the CDPP. The ACIC, National Anti-Corruption Commission and Australian Border Force were also consulted as officers within those agencies would be able to issue an evidentiary certificate.

Part 2 – Mixtures containing prohibited substances

Part 2 of Schedule 2 proposes reforms to the method for determining drug quantity thresholds for serious drug offences under Part 9.1 of the Criminal Code. The amendments would replace the existing purity-based approach with a mixture-quantity model, under which the relevant quantity of a drug or precursor would be determined by reference to the total weight of the mixture containing the prohibited substance, rather than the weight of the pure drug component alone.

Part 9.1 of the Criminal Code establishes a graduated framework of serious drug offences based on drug quantity, with trafficable, marketable and commercial quantities functioning as key thresholds of offence seriousness. Lower-level drug conduct is primarily dealt with under state and territory criminal laws, while the serious drug offences in the Criminal Code were enacted to target serious trafficking, importation and commercially motivated drug crime, and operate alongside state and territory drug offences.[1] The proposed mixture-quantity model preserves this offence structure, while reforming the method by which quantity is calculated so that liability continues to reflect the scale and risk of the conduct rather than technical distinctions about purity.

These reforms respond to the realities of contemporary illicit drug markets and place community safety at the centre of the serious drug offence framework. Illicit drugs are rarely imported, trafficked, stored or supplied in pure form. Instead, they are commonly distributed in mixed and variable forms, enabling larger volumes of material to be released into the illicit market. The scale of offending, commercial benefit to offenders and level of harm posed to the community are shaped by the quantity of material deliberately placed into circulation. A mixture-quantity approach therefore better reflects the real-world impact, risk and market effect of serious drug offending than a framework focused primarily on laboratory analysis of individual components.

The existing purity-based framework presents practical challenges for law enforcement and prosecution. It relies heavily on resource-intensive, hazardous and time-consuming forensic processes to obtain sufficient samples, separate controlled drugs from mixtures and test the purity of substances. These processes necessarily involve repeated handling and transport of dangerous substances, prolonged exposure to hazardous chemicals and extended laboratory analysis. As a result, they can increase health and safety risks to forensic analysts and extended analysis timeframes, diverting resources away from efforts to disrupt organised criminal activity without necessarily providing additional insight into the scale or seriousness of the offending.

The mixture-quantity model focuses on deliberate conduct that creates a substantial and unjustifiable risk of dangerous and unregulated substances being introduced into the community. Controlled drugs are commonly imported, trafficked and distributed in mixed form, often enabling greater quantities of material to be released into the illicit market. For example, a parcel weighing several kilograms and consisting predominantly of cocaine, with other substances mixed through it, may be packaged, marketed and sold as entirely cocaine. These mixtures can cause substantial harm even where they are not comprised entirely of a pure drug, particularly given the risks associated with variable purity, unknown cutting agents and inconsistent dosage.

Illicit drug mixtures frequently contain unknown, inconsistent or hazardous components, and users are typically unaware of what they are consuming. This significantly increases the risk of overdose, poisoning and other serious health consequences. Where a person deliberately handles, imports or distributes a mixture while aware of a substantial risk that it contains a controlled substance and proceeds regardless, the relevant harm lies in the creation and circulation of a dangerous mixture capable of misuse, accidental ingestion or

[1] Explanatory Memorandum to the Law and Justice Legislation Amendment (Serious Drug Offences and Other Measures) Bill 2005, pp 2–3.

onward transfer. Put simply, a drug does not become any less dangerous because it has been diluted or mixed. Existing safeguards within the criminal justice system, including offence elements, prosecutorial discretion and judicial oversight, would ensure that liability remains grounded in the actual conduct and circumstances of the case.

The mixture-quantity approach also aligns Commonwealth law with the approach taken in states and territories, as well as by many international partners. This alignment assists cooperation across jurisdictions by enabling evidence gathered under state, territory or foreign investigative frameworks to be more readily relied upon in Commonwealth prosecutions. It reduces barriers to joint operations, supports cross-border investigations and strengthens Australia's ability to respond to TSOC in partnership with domestic and international agencies.

The proposed approach responds to the practices of TSOC groups involved in illicit drug trafficking. These groups routinely manipulate drug composition, dilution and carrier substances to increase profits, expand distribution and frustrate forensic testing and enforcement. A framework that focuses on total mixture quantity reduces opportunities for organised crime networks to exploit technical distinctions or concealment techniques to evade liability, and better captures the scale of risk created by their activities.

The amendments would not introduce new investigative powers and would not apply retrospectively. Conduct occurring prior to commencement would continue to be dealt with under the existing framework. The Bill would also expressly prevent a single mixture from being relied upon to establish quantities for more than one prohibited substance, ensuring that liability is not duplicated or inflated.

Importantly, prosecutorial discretion would be preserved. Charging decisions would continue to be informed by the full factual circumstances of the offending, including the nature of the conduct and the role of the offender. Courts would retain full discretion at sentencing to impose penalties of a severity appropriate in all the circumstances, in accordance with the Crimes Act and established common law principles of proportionality and fairness.

Overall, the proposed reforms modernise the serious drug offence framework in a way that better reflects contemporary drug markets, strengthens community protection, improves operational effectiveness and enhances the capacity of law enforcement to disrupt serious and organised crime, while maintaining fairness and the integrity of the criminal justice system.

Consultation

The measure has been developed in consultation with the AFP and the CDPP.

Schedule 3 – Director of Public Prosecutions

Part 1 – Director of Public Prosecutions

Part 1 of Schedule 3 would amend the *Director of Public Prosecutions Act 1983* to introduce a more flexible and efficient mechanism for managing actual, perceived or potential conflicts of interest involving the Director of Public Prosecutions (the Director).

Under the existing framework, where a conflict of interest is identified, the Director is required to take a leave of absence, with an Acting Director appointed to assume all functions and powers of the office. This mechanism can be administratively burdensome and may unnecessarily disrupt the operations of the CDPP, particularly where a conflict relates only to a discrete function or a specific matter.

The amendments would allow the Attorney-General to authorise a suitably senior and qualified person to exercise particular functions or powers of the Director that are affected by the conflict, while enabling the Director to continue to perform functions that are unaffected. This approach would permit conflicts of interest to be managed in a more targeted and proportionate manner, while maintaining continuity of leadership and operational effectiveness.

The measure would not affect the independence of the Director or the prosecutorial function. The authorisation mechanism would only be engaged where the Director has identified a conflict of interest, and it would not permit the Attorney-General to direct prosecutorial decisions. Strict eligibility requirements would apply to authorised persons, who would be required to meet defined seniority and professional standards, and the ability to sub-delegate powers would be expressly excluded. The reform would be administrative in nature, and is intended to improve efficiency while maintaining transparency, accountability and public confidence in the prosecution system.

Part 2 – Deputy Director of Public Prosecutions

Part 2 of Schedule 3 would rename the statutory office of Associate Director of Public Prosecutions to Deputy Director of Public Prosecutions and would make other technical and drafting amendments throughout the Director of Public Prosecutions Act. The change would align Commonwealth terminology with that used in state and territory prosecution offices and would better reflect contemporary understanding of the role.

The amendment would be purely technical and would not alter the powers, functions, responsibilities or status of the position. Transitional provisions would ensure continuity of officeholders and preserve all actions, appointments and decisions made under the former title. The measure would improve clarity and consistency without affecting the substance or independence of the Commonwealth prosecution framework.

Consultation

All measures in Schedule 3 were developed in consultation with the CDPP.

Schedule 4 – Extradition

Schedule 4 of the Bill would amend the *Extradition Act 1988* (Extradition Act) to clarify aspects of the extradition waiver process and introduce new powers of entry and use of reasonable force for police officers in relation to the execution of arrest warrants under the Extradition Act.

Part 1 – Imprisonment until surrender post-waiver

Part 1 of Schedule 4 would amend the Extradition Act to clarify that a person who waives their right to contest extradition is to remain in prison until the person is physically surrendered to the requesting country, or until they are released pursuant to an order made under subsection 15B(4) of the Extradition Act.

Currently, paragraph 15A(4)(a) of the Extradition Act provides that if a magistrate or eligible Judge is satisfied of certain matters, they must order that the person be committed to prison pending the Attorney-General's surrender determination under subsection 15B(2). The proposed amendment reflects the policy intent that a person is to remain in prison until they are physically surrendered to a foreign country or released, rather than until the point at which the Attorney-General makes their surrender determination. The amendment would ensure consistency with similar provisions in paragraphs 18(2)(b) and 19(9)(a) of the Extradition Act which empower a magistrate or eligible Judge, at the conclusion of the relevant proceedings, to order the person be committed to prison until the point of their surrender from Australia or release.

Part 2 – Power of entry to execute extradition arrest warrants

Part 2 of Schedule 4 would amend the Extradition Act to confer police officers with the power to enter premises and stop and detain a conveyance where they reasonably believe the subject of an arrest warrant under the Act is located, and to use reasonable force in executing the warrant. The absence of such powers presents a significant operational limitation when executing extradition arrest warrants.

The amendments would address situations where a person sought for extradition remains within private premises, which could delay or prevent arrest unless the person provides consent for police to enter the premises or appears in a public place. Conducting an arrest in these circumstances may increase risks to the community, the individual who is the subject of the arrest warrant, and police officers, and may require extended surveillance or other resource-intensive measures. The amendments ensure that police officers can act promptly where a person is sought for extradition, including in circumstances where they may be located in close proximity to vulnerable persons, without relying on incidental or emergency entry powers.

Individuals who are the subject of arrest warrants under the Extradition Act are wanted for offences against the law of a foreign country. It is therefore appropriate that Australian police officers are conferred with clearly defined powers to enter premises and to use reasonable and necessary force for the purpose of executing such warrants. These powers align with those exercised by police officers under the Crimes Act when arresting individuals in the context of domestic criminal proceedings in Australia.

The proposed provisions include safeguards and limitations which include that the arresting police officer:

- can only enter if the police officer believes on reasonable grounds that the person is on the premises
- cannot use more force than is necessary and reasonable to make the arrest (similar to the limitations on the use of force in section 3ZC of the Crimes Act)
- can only enter a dwelling house between 6 am and 9 pm unless the police officer believes, on reasonable grounds, that it would not be practicable to arrest the person at another time or it is necessary to do so in order to prevent the concealment, loss or destruction of property
- must inform the person who is being arrested, at the time of the arrest, the reason, or the substance of the reason, for which they are being arrested, and
- must announce their authority to enter and provide an opportunity for entry to be granted when executing an arrest warrant, unless the police officer reasonably believes that immediate entry is necessary to ensure a person's safety.

These safeguards are consistent with equivalent provisions in the Crimes Act and the *Guide to Framing Commonwealth Offences, Infringement Notices and Enforcement Powers*. These provisions ensure that the power to use force is tightly confined and only available where required and justified by the circumstances.

Consultation

All measures in Schedule 4 were developed in consultation with the AFP and CDPP.

Schedule 5 – Telecommunications

Schedule 5 of the Bill would amend the *Telecommunications (Interception and Access) Act 1979* (TIA Act) to update references to the Victorian Inspectorate to its new name, 'Integrity Oversight Victoria'. The amendments would align the TIA Act with recent amendments to the *Integrity Oversight Victoria Act 2011* (Vic) which effected the name change.

Section 25B of the *Acts Interpretation Act 1901* (alterations of names and constitutions) allows Integrity Oversight Victoria to continue to use the TIA Act while amendments are prepared and considered by the Parliament. The amendments would not make any substantive changes to Integrity Oversight Victoria's ability to lawfully receive interception information and interception warrant information. The TIA Act will continue to facilitate Integrity Oversight Victoria's oversight of the interception activities of Victoria Police and the Independent Broad-based Anti-corruption Commission.

Consultation

The measure has been developed in consultation with the Victorian Department of Justice and Community Safety (DJCS). DJCS identified that the TIA Act would be impacted by the name change, suggested that the Department of Home Affairs consider amendments to these provisions, and was consulted on the nature of those amendments.