



Australian Government

Attorney-General's Department

Attorney-General's Department Submission

Parliamentary Joint Committee on Intelligence and Security's Inquiry into the
Royal Commissions Legislation Amendment (Protections for Providing
Information) Bill 2026

March 2026

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Part 1: Introduction

1. The Attorney-General's Department (the department) welcomes the opportunity to provide a submission to the Parliamentary Joint Committee on Intelligence and Security's (the Committee) inquiry into the Royal Commissions Legislation Amendment (Protections for Providing Information) Bill 2026 (the Bill).
2. The Bill was introduced on 2 March 2026, and passed the House of Representatives on 3 March 2026. The Attorney-General, the Honourable Michelle Rowland MP, referred the Bill to the Committee on 4 March 2026 for urgent inquiry and report by 10 March 2026. Urgent consideration by the Committee will support the work of the Royal Commission on Antisemitism and Social Cohesion and in particular, its access to and consideration of information necessary to deliver an Interim Report by 30 April 2026.
3. The Bill would amend the *Criminal Code 1995* (Cth) (Criminal Code), the *Royal Commissions Act 1902* (Cth) (Royal Commissions Act) and the Royal Commissions Regulations 2019 (Cth) (the Regulations). The amendments are designed to strengthen protections for people who provide information to a Royal Commission on a voluntary and a compulsory basis where that information is subject to secrecy provisions. The Bill would establish a framework for a Royal Commission to receive and handle intelligence and operationally sensitive information. The amendments are intended to ensure a clear and lawful pathway for people to provide information to a Royal Commission without risk of criminal or civil liability, and clarify that secrecy provisions do not prevent individuals or agencies from complying with a Royal Commission's requirements.

Context and development of the Bill

4. The Royal Commissions Act provides strong protections for witnesses who are compelled to provide evidence to a Royal Commission. The Act does not currently contain equivalent protections for voluntary disclosures, and the interaction between that Act and some Commonwealth secrecy provisions is particularly complex.
5. The Bill forms part of the Government's broader commitment to implementing the Attorney-General's Department's *Review of Secrecy Provisions (November 2023)* (Secrecy Review). The Secrecy Review made 11 recommendations to address the number, inconsistency, appropriateness and complexity of Commonwealth secrecy offences, including establishing principles for framing secrecy offences, repealing outdated secrecy provisions, developing a new general secrecy offence in the Criminal Code, and improving protections for press freedom and for individuals providing information to Royal Commissions.
6. Recommendation 7 of the Secrecy Review identified the need to amend the Royal Commissions Act and the Criminal Code to support the secure and appropriate sharing of information with Royal Commissions. The Bill responds to this recommendation by establishing a framework that clarifies the application of secrecy offences to people providing intelligence and operationally sensitive

information to Royal Commissions, creating clear requirements for handling sensitive security material, and introducing a defence to Criminal Code secrecy offences where information is communicated for the purposes of a Royal Commission.

7. The Bill also responds to Recommendation 6 of the Interim Report of the *Royal Commission into Defence and Veteran Suicide*, which called for clear protections for individuals engaging with Royal Commissions, including a defence to relevant secrecy offences.
8. The Royal Commissions Act amendments would apply to any Royal Commission prescribed by regulation, while the new Criminal Code defence would apply to all Royal Commissions. The department notes the immediate operational need for these amendments to support the Royal Commission on Antisemitism and Social Cohesion as it prepares its interim report by 30 April 2026 and final report by 14 December 2026.
9. These measures complement the Government's response to the *Independent National Security Legislation Monitor Review of Part 5.6 of the Criminal Code (INSLM Secrecy Review)*, which made 15 recommendations to improve the operation of the Criminal Code secrecy offences. The Government's response to the INSLM Secrecy Review was tabled in November 2024.
10. Outstanding legislative recommendations from both the Secrecy Review and the INSLM Secrecy Review will be addressed through a comprehensive reform package, with legislation anticipated to be introduced in the coming months.

Part 2: Overview of the measures in the Bill

11. The Bill would amend the Royal Commissions Act and Criminal Code to provide additional protections for people who provide information on a voluntary and a compulsory basis where the information is subject to secrecy provisions.

Schedule 1 — Amendment of the *Royal Commissions Act 1902*

12. Schedule 1 of the Bill would amend the Royal Commissions Act to provide an immunity from Commonwealth secrecy provisions, and a use immunity in future court proceedings, where a person provides intelligence or operationally sensitive information to a Royal Commission or their legal representative. These immunities would apply to both voluntary and compulsory information productions to a Royal Commission where the disclosure is in accordance with an arrangement agreed between the Royal Commission and the Commonwealth.
13. The intelligence information arrangement would be mutually agreed between the head of the Royal Commission and the heads of relevant intelligence agencies. The operationally sensitive information arrangement would be mutually agreed between the head of the Royal Commission and the Commonwealth, depending on the circumstances of each Royal Commission's establishment. These requirements for who must agree the arrangements provides flexibility in identifying the relevant

agencies for the purposes of the arrangements, and ensures there is agreement about the appropriate handling of information between the Royal Commission and relevant agencies.

14. The Bill specifies the arrangements will include obtaining, storing, accessing, using, disclosing and returning information, but does not otherwise prescribe particular matters or conditions to be included. This will assist in ensuring that information arrangements reflect the specific circumstances of any prescribed Royal Commission.
15. The Bill would require a Royal Commission to be prescribed by regulations for these protections to apply. Schedule 1 would also clarify the scope of the existing 'reasonable excuse' defences for failing to produce documents, give information or statements, or answer questions from a member of a Royal Commission. The Bill would make clear it is not a reasonable excuse to fail to provide intelligence or operationally sensitive information where required by a Royal Commission because it would contravene a secrecy provision.
16. The Bill includes a number of definitions which apply to these provisions, including definitions of 'intelligence information', 'operationally sensitive information' and 'secrecy provision'. The definition of secrecy provision is intentionally broad and does not include any exemptions for specific secrecy provisions. This reflects that people may have obligations under more than one secrecy provision.

Schedule 2 — Amendment of the Royal Commissions Regulations 2019

17. Schedule 2 of the Bill would prescribe the Royal Commission on Antisemitism and Social Cohesion in the Regulations for the purposes of the new Part 4A provisions. This would ensure the new immunity protections and reasonable excuse provisions apply to the Royal Commission on Antisemitism and Social Cohesion.

Schedule 3 — Amendment of the *Criminal Code Act 1995*

18. Schedule 3 of the Bill would amend the Criminal Code to provide a defence to an offence under Division 122 where a person communicates or deals with information for the primary purpose of providing it to a Royal Commission and the person has a reasonable belief that the information was relevant to the Royal Commission's inquiry.

Part 3: Consultation

19. The department consulted widely across the Commonwealth on this Bill, including with:
 - the Office of the Royal Commission on Antisemitism and Social Cohesion;
 - the National Intelligence Community, including the Australian Criminal Intelligence Commission; Australian Geospatial-Intelligence Organisation; Australian Federal Police (AFP); Australian Signals Directorate; Australian Security Intelligence Organisation; Australian Secret Intelligence

Service; Australian Transaction Reports and Analysis Centre (AUSTRAC); Defence Intelligence Organisation; and the Office of National Intelligence; and

- other Commonwealth agencies, including the Departments of the Prime Minister and Cabinet; Agriculture, Fisheries and Forestry; Climate Change, Energy, the Environment and Water; Defence; Employment and Workplace Relations; Finance; Foreign Affairs and Trade; Health, Disability and the Aging; Home Affairs; Industry, Science and Resources; Infrastructure, Transport, Regional Development, Communications, Sport and the Arts; Social Services; Treasury; Veterans Affairs; the National Indigenous Australians Agency and Services Australia.

20. The department also shared a copy of the Bill with the Office of the Inspector-General of Intelligence and Security.

Part 4: Implications of the Bill for the Royal Commission on Antisemitism and Social Cohesion

21. The Royal Commission on Antisemitism and Social Cohesion is currently examining sensitive and complex matters that intersect with national security, intelligence operations, and law enforcement. To undertake this work effectively, the Royal Commission requires clear and reliable mechanisms to receive all relevant information.

22. The Bill would amend the Royal Commissions Regulations 2019 (Cth) to apply the amendments to the Royal Commission on Antisemitism and Social Cohesion. This will enable the current Royal Commission to receive, consider and use the intelligence and operationally sensitive information it needs to make well-informed findings.

23. The Royal Commission on Antisemitism and Social Cohesion has indicated its support for the Bill and has noted that the timely passage of these amendments is important to facilitate its inquiries and, in particular, support the delivery of its Interim Report by 30 April 2026.

24. While Commonwealth agencies have made significant progress in responding to Notices to Produce issued by the Royal Commission on Antisemitism and Social Cohesion to date, certain secrecy provisions have prevented – and continue to prevent or delay – the production of some important and sensitive material to the Royal Commission.

25. These secrecy provisions include provisions under the *Telecommunications (Interception and Access) Act 1979* (Cth), the *Surveillance Devices Act 2004* (Cth), the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth) and the *Australian Crime Commission Act 2002* (Cth).

26. There is a considerable amount of operationally sensitive and intelligence information subject to these secrecy provisions that is held by relevant Commonwealth agencies and has been sought by the Royal Commission.

27. While there are instances where the Commonwealth has provided documents to the Royal Commission with redactions over information subject to secrecy provisions, this itself is a complex

and time-consuming task, often requiring significant resources and interagency consultation, thus delaying the important work of the Royal Commission.

Intelligence information and operationally sensitive information arrangements

28. In the context of the current Royal Commission, the Letters Patent issued on 9 January 2026 recognised the need to appropriately protect any intelligence or operationally sensitive information obtained by the Commission; and to establish appropriate arrangements with relevant Australian agencies for obtaining, storing, accessing, using, disclosing and returning intelligence information.
29. On 27 February 2026, the Royal Commission on Antisemitism and Social Cohesion and relevant Commonwealth agencies agreed and signed an intelligence information arrangement and an operationally sensitive information arrangement.
30. The intelligence information arrangement has been agreed by the heads of relevant intelligence agencies. This is because the arrangement addresses secrecy provisions in the *Intelligence Services Act 2001* (Cth), the *Office of National Intelligence Act 2008* (Cth), the *Australian Security Intelligence Organisation Act 1979* (Cth), and Division 122 of the Criminal Code. A copy of this arrangement is at **Attachment A**.
31. The operationally sensitive information arrangement provides for the disclosure to, and handling by, the Royal Commission of operationally sensitive information. The arrangement is drafted to address the secrecy provisions in Division 122 of the Criminal Code (that is, it is an arrangement for the purposes of s 122.5(1)(b), which is a defence to the secrecy offences in Division 122). A copy of this arrangement is at **Attachment B**.
32. The Bill requires the Secretary (in practice, the Secretary of the Attorney-General's Department) to publish a copy of any arrangement, including any variations, by notifiable instrument. This provides transparency of any agreed arrangement, and certainty about the procedures that a person needs to follow when providing such information to the Royal Commission.
33. The Royal Commission may also determine to publish the arrangements on its website, alongside guidance for any person who may wish to come forward to the Royal Commission about how they should do so.
34. The new protections established by amendments to the Royal Commissions Act would apply to both voluntary and compulsory information productions to the current Royal Commission where the disclosure occurs in accordance with these information arrangements.
35. In summary, the agreed information arrangements for the Royal Commission on Antisemitism and Social Cohesion provide that an individual should:
 - if they consider that their voluntary engagement with the Royal Commission or response to a compulsory requirement may involve a disclosure of either intelligence or operationally sensitive information, **inform a staff member of the Royal Commission**, and
 - **await further instructions from the Royal Commission**, which must make arrangements to receive that information securely from the individual in line with the Protective Security Policy

Framework (PSPF) in either **a private interview, or a confidential hearing**, at which the Royal Commission must ensure only authorised persons are present, along with the individual who is providing the information.

36. The Royal Commission is also required, if it reasonably suspects an individual may disclose intelligence or operationally sensitive information in a response to a compulsory requirement, to request the individual to inform a staff member of the Royal Commission of this prior to responding.
37. These requirements do not apply to the obtaining and receiving of intelligence or operationally sensitive information from intelligence or law enforcement agencies, including the taking of written statements from staff members of such agencies. The arrangements require that the Royal Commission obtain, store, access and use such information in accordance with the PSPF, and require the Royal Commission to notify the relevant agency of any proposed disclosure of such information, to afford the agency the opportunity to provide guidance (in the case of intelligence information) or seek protective orders (in the case of operationally sensitive information) in relation to the proposed disclosure.

Conclusion

38. It is critical that the Royal Commission on Antisemitism and Social Cohesion has the necessary powers and tools available to support its work. Timely consideration of the Bill by the Committee and passage by Parliament will ensure the Royal Commission has the best opportunity to receive and consider relevant intelligence and operationally sensitive information as it prepares its interim report by 30 April 2026 and final report by 14 December 2026.