

<b><u>National Security Legislation Discussion Paper on Proposed Amendments</u></b>	<b><u>National Security Legislation Amendment Bill 2010</u></b>	
---	---	--

<b>Schedule 1 – Treason and Urging Violence</b>			
<i>Crimes Act 1914</i>  Section 24	Omit “paragraph 80.1(1)(e)” and substitute “paragraph 80.1AA(1)(b) in subparagraph 24F(2)(b)(ii)	No change	
Sections 30A- 30H	Repeal	No change	
Section 30R	Repeal	No change	

<b><u>National Security Legislation Discussion Paper on Proposed Amendments</u></b>	<b><u>National Security Legislation Amendment Bill 2010</u></b>	
---	---	--

<p><i>Criminal Code Act 1995</i></p> <p>Section 80.1 Treason</p>	<p>In s 80.1(1) delete “called treason”</p> <p>Repeal paragraphs 80.1(1)(e) and (f)</p> <p>Amend paragraph 80.1(1)(h).</p> <p>Repeal subsection 80.1(1A)</p> <p>Amend subsection 80.1(1B)</p> <p>Insert s 80.1AA</p> <p>Saving - Proclamations</p>	<p>No change</p> <p>No change</p> <p>Paragraph 80.1(1)(h) repealed and 80.1(1)(g) amended accordingly</p> <p>No change</p> <p>Repeal subsection (1B)</p> <p>The Bill includes a note after paragraphs 80.1AA(1) and (4) providing that a court can impose a fine upon a body corporate convicted of an offence under these subsections in accordance with s 4B(3) of the <i>Crimes Act 1914</i> that was not proposed.</p> <p>No change</p>	
<p>Section 80.2 Urging violence</p>	<p>Repeal subsection 80.2(1) and insert a new offence of urging the overthrow of the Constitution or government by force or violence in a new s 80.2(1)</p> <p>In subsection 80.2(2) omit “first-mentioned” and substitute “first.”</p>	<p>The Bill inserts “first person” in 80.2(1) and (1)(a).</p> <p>No change</p>	

<b><u>National Security Legislation Discussion Paper on Proposed Amendments</u></b>	<b><u>National Security Legislation Amendment Bill 2010</u></b>	
---	---	--

	<p>Repeal subsection 80.2(3) and substitute it with new s 80.2(3) offence “Urging interference in Parliamentary elections or constitutional referenda by force or violence.”</p> <p>In s 80.2(4) delete “that the first mentioned” and insert “ or a referendum, that the first”</p> <p>Repeal subsection 80.2(5) 28 days after Royal Assent</p> <p>Repeal subsection 80.2(6)</p> <p>Add s 80.2A</p> <p>Add s 80.2B</p>	<p>The Bill inserts “first person”</p> <p>No change</p> <p>No change</p> <p>No change, except for the note that there is a defence in s 80.3 for acts done in good faith and omit “first-mentioned” and substitute “first” the day after Royal Assent.</p> <p>No change other than the inclusion of “first person” in subsections (1) and (2).</p> <p>No change other than the inclusion of “first person” in subsections (1), (1)(a), and (2)</p>	
--	---	--	--

<b><u>National Security Legislation Discussion Paper on Proposed Amendments</u></b>	<b><u>National Security Legislation Amendment Bill 2010</u></b>	
---	---	--

	Repeal the offences of “Urging a person to assist the enemy” and “Urging a person to assist those engaged in armed hostilities,” as well as the applicable defence, in subsections 80.2(7)-(9).	No change	
Section 80.3 Defence for acts done in good faith	In subsection 80.3(1) omit “Sections 80.1 and 80.2” and substitute “Subdivisions B and C”  In subparagraph 80.3(2)(b)(ii) omit “paragraph 80.1(1)(e)” and substitute “paragraph 80.1AA(1)(b)”  Insert subsections (3)(a), (b) and (c) at the end of s 80.3  Application	No change  No change  No change  No change	
Section 80.4	Not proposed	Omit “Section” and substitute (1) Subject to subsection (2)”  Add “(2) Section 15.2 (extended geographical jurisdiction – category B) applies to an offence against subsection 80.2A(2) or 80.2B(2)”	
Section 80.5 Attorney-	Repeal s 80.5	No change	

<b><u>National Security Legislation Discussion Paper on Proposed Amendments</u></b>	<b><u>National Security Legislation Amendment Bill 2010</u></b>	
---	---	--

General's consent required	Application	No change	
Dictionary	Insert definitions of <i>treason</i> and <i>referendum</i> .	Only the definition of <i>referendum</i> is included.	

<b>Schedule 2 - Terrorism</b>			
<i>Classification (Publications, Films and Computer Games) Act 1995</i>	In paragraph 9A(2)(c) insert "substantial" before "risk".	No change	
<i>Criminal Code Act 1995</i>  Paragraph 102.1(1A)(c) Definition of 'advocates'	Insert "substantial" before "risk."	No change	
Subsection 102.1(3) Expiration of regulations	Omit "second anniversary" and substitute "third anniversary," increasing the period until a listing automatically expires from 2 to 3	No change	

<b><u>National Security Legislation Discussion Paper on Proposed Amendments</u></b>	<b><u>National Security Legislation Amendment Bill 2010</u></b>	
---	---	--

which list terrorist organisations	years.		
Subsection 102.1A(1)	Omit Committee on ASIO, ASIS and DSD” and substitute “Committee on Intelligence and Security.”	No change	
Subsection 102.1A(2)	Repeal ‘Review of listing provisions’	No change	
Section 100.5	Adds subsection (3)	No change	
Subsection 102.1(1)(a) Definition of ‘close family member’	Omit “de facto spouse or same-sex partner” and substitute “or de facto partner” and add Note	No change	
Subsection 105.35(3)(a) Definition of ‘family member’	Omit “de facto spouse or same-sex partner” and substitute “or de facto partner”	No change	
Section 105.35 Contacting family members	Add subsection (4)	No change	
Subsection 390.1(1)	New definitions of ‘child’	No changes to the proposed new definitions.	

<b><u>National Security Legislation Discussion Paper on Proposed Amendments</u></b>	<b><u>National Security Legislation Amendment Bill 2010</u></b>	
---	---	--

Dictionary	‘step-child’ and ‘step-parent’	The Bill also includes new definitions of ‘de facto partner’ and ‘parent’	
Subsections 272.3(2) and (3) Contingent	Not proposed	Repeal and substitute with a new subsection (2) clarifying who is a grandparent.	
Sections 100.1, 101.7, 102.7, 102.8A and B, 102.5, 102.1 and 102.1(19)	Proposed amendments:  The definition of a ‘terrorist act’ (100.1);  A new terrorism hoax offence (101.7);  Clarifying the scope of the offence of providing support to a terrorist organisation (102.7);  Declared aid organisations and the revocation of a declaration (102.8A and B);  Exemption in the training offence for declared aid organisations (102.5);  Definitions of ‘declared aid	None of these proposals are included in the Bill.	

<p align="center"><b><u>National Security Legislation Discussion Paper on Proposed Amendments</u></b></p>	<p align="center"><b><u>National Security Legislation Amendment Bill 2010</u></b></p>	
---	---	--

	<p>organisation' and 'declared regional aid organisation' (102.1);</p> <p>Clarifying the meaning of 'close family member (102.1(19)).</p>		
--	---	--	--



<u>National Security Legislation Discussion Paper on Proposed Amendments</u>	<u>National Security Legislation Amendment Bill 2010</u>	
--	--	--

<b>Schedule 3 – Investigation of Commonwealth Offences</b>			
<i>Crimes Act 1914</i>	Repeal definition of ‘arrested’ and insert a new definition	No change	
Subsection 23B(1) Definitions	Insert definition of ‘authorising officer’  Omit “or 23CA” and substitute “or 23DB” in definition of ‘investigation period’  Insert ‘judicial officer’  Insert ‘serious Commonwealth offence’  Repeal definition of ‘under arrest’ and substitute new definition		
Subsection 23(2A)	Insert a new subsection (2A) clarifying that subsection (2) ceases to apply at the end of the investigation period, which does not affect any other detention power.	Not included	
Subsection	Omit all words after “in respect of	No change	

<b><u>National Security Legislation Discussion Paper on Proposed Amendments</u></b>	<b><u>National Security Legislation Amendment Bill 2010</u></b>	
---	---	--

23B(3) Definition of 'judicial officer'	that offence by” and substitute new (a)-(d)		
Section 23C Period of investigation if arrested for a non-terrorism offence	<p>Delete the end of subsection 23C(2) and all of 23C(3) and insert a new 23C(2A) and 23C(3).</p> <p>Amend 23C(7) to clarify the time that may be disregarded for the purposed of subsection (4)-(6).</p> <p>Insert subsection 23C(7A) to further clarify subsection (7).</p> <p>Repeal s 23C(9) definition of 'judicial officer.'</p>	<p>Provides that detention can only occur “while arrested for the Commonwealth offence” and [<i>reasonably believes</i>] in s 23C(2)(b) is omitted</p> <p>Repeal subsection 23C(7) and substitute new provision. The new provision has “for one or more of the following reasons” rather than ‘or’ between each subsection.</p> <p>No longer divided into subsections (a) and (b).</p> <p>No change</p> <p>No change</p>	
Section 23CA	Repeal s 23CA	No change	

<p align="center"><b><u>National Security Legislation Discussion Paper on Proposed Amendments</u></b></p>	<p align="center"><b><u>National Security Legislation Amendment Bill 2010</u></b></p>	
---	---	--

<p>Section 23D Application may be made for extension of the investigation period</p>	<p>Amend s 23D</p>	<p>Repeal s 23D and substitute new s 23D</p> <p>23D: “in writing” not included.</p> <p>Paragraph (2) provides that the application may be made by phone or in writing. Not in the proposal.</p> <p>Paragraph (5) is different to paragraph (4) in the proposal. A copy of the application does not have to be provided if the application was not made in writing.</p>	
<p>Section 23DA Magistrate may extend the investigation period</p>	<p>Repeal s 23DA and substitute with new s 23DA.</p>	<p>No change</p>	
<p>Section 23DB Period of investigation of arrested for a terrorism offence</p>	<p>Repeal s 23DB and substitute with new s 23DB</p>	<p>Inserts “terrorism” before “offence” in (1) and (2)</p> <p>Subsection (2) provides that the person may only be detained “while arrested for the terrorism offence.”</p>	

<b><u>National Security Legislation Discussion Paper on Proposed Amendments</u></b>	<b><u>National Security Legislation Amendment Bill 2010</u></b>	
---	---	--

		Subsection (10) has been collapsed into paragraphs (a) and (b)	
Section 23DC Application	Repeal s 23DC and substitute with new s 23DC	Includes 23DC(8) which provides that a person, or their legal representative may make representations to the magistrate about the application.	
Section 23DD Time specified by magistrate	Repeal s 23DD and substitute with a new s 23DD	No change	
Section 23DE Application for extension of investigation period	Repeal s 23DE and substitute with a new s 23DE	No change	
Section 23DF Magistrate may extend the investigation period	Repeal s 23DF and substitute with a new s 23DF	No change	
Section 23E Evidentiary provisions for electronic	Repeal s 23E and substitute with a new s 23E	No change	

<b><u>National Security Legislation Discussion Paper on Proposed Amendments</u></b>	<b><u>National Security Legislation Amendment Bill 2010</u></b>	
---	---	--

applications			
Section 23XGD	Omit “or 23CA(8)” and substitute with “or 23DB(9)”	No change	
Application	How amendments made by this Schedule apply to persons arrested more than once in 48 hours.	No change	

<b>Schedule 4 – Powers to search premises in relation to terrorism offences</b>			
<i>Crimes Act 1914</i>  Section 3UB Consequential amendment about seized items under new power	Add (2) providing that s 3UB does not limit the operation of s 3UEA	No change	
Section 3UEA Searching premises	Insert new provision allowing entry without a warrant in emergencies.	Subsection (1)(a) in the draft has been removed.  Insertion of “or do anything to make the premises safe” in subsection (5).	

<b><u>National Security Legislation Discussion Paper on Proposed Amendments</u></b>	<b><u>National Security Legislation Amendment Bill 2010</u></b>	
---	---	--

		Inclusion of subsection (7) which requires the police officer to notify the occupier of the entry 24 hours after the search has occurred.	
Section 3UF How seized things must be dealt with	After “section 3UE” insert “or 3UEA” in subsections (1), (4), and (5)	No change	

<b>Schedule 5 – Re-entry of premises in emergency situation</b>			
<i>Crimes Act 1914</i>  Subsection 3C(1) Extension of time for re-entry under a search warrant	Insert “emergency situation” definition	No change	
Section 3J	Insert (aa)	No change	
Section 3JA Extension of time to re-	Insert s 3JA	Additional criteria in (3)(b) which provides that the issuing officer may extend the period during which the	

<b><u>National Security Legislation Discussion Paper on Proposed Amendments</u></b>	<b><u>National Security Legislation Amendment Bill 2010</u></b>	
---	---	--

enter premises in emergency situations		executing officer and constable may be away from the premises “if the extension would not result in the period ending after the expiry of the warrant.”	
Subsection 3L(7)	Not proposed	Change “the issuing officer” to “an issuing officer”	

<b>Schedule 6 – Amendments relating to bail</b>			
<i>Crimes Act 1914</i>	Insert a new appeal right with subsections (3A)-(3D).	No change	
Section 15AA	Amend subsection (4) and its note.	No change	
Application	Not proposed	Amendments apply on and after the commencement of this Schedule to bail proceedings initiated on or after the commencement and to those initiated before, but only to those parts occurring after commencement.	

<b>Schedule 7 – Listings under the Charter of the United Nations Act 1945</b>			
Subsections 15(1) and (3)	Insert “on reasonable grounds” before “satisfied”	No change	

<b><u>National Security Legislation Discussion Paper on Proposed Amendments</u></b>	<b><u>National Security Legislation Amendment Bill 2010</u></b>	
---	---	--

Section 15A	Insert new s 15A	No change	
Subsection 19(3)	Insert new paragraph (aa)	No change	
Transitional		No change	

<b>Schedule 8 – Amendments relating to the disclosure of national security information in criminal and civil proceedings</b>			
<i>National Security Information (Criminal and Civil Proceedings) Act 2004</i>	Subsection 6(1): after “defendant” insert “the defendant’s legal representative.”	No change	
Section 6 Application to federal criminal proceedings	Subsection 6(2): delete “take place after the notice is given” and insert “occur after the notice is given (whether or not those parts began before that time)”	No change	
Section 6A Application to civil proceedings	Paragraphs 6A(1)(b) and (2)(b): After “parties to the proceeding” insert “the defendant’s legal representative”	No change	



<b><u>National Security Legislation Discussion Paper on Proposed Amendments</u></b>	<b><u>National Security Legislation Amendment Bill 2010</u></b>	
---	---	--

	<p>Paragraph 6A(2)(d) and Subparagraph 6A(2)(e)(ii): After “Divisions” insert “1A, 1”</p> <p>Subsection 6A(5): delete “take place after the notice is given” and insert “occur after the notice is given (whether or not those parts began before that time)”</p>	<p>No change</p> <p>No change</p>	
Section 7 Definitions	Insert definitions of “court official” and “national security information.”	No change	
Section 13 Meaning of <i>criminal proceeding</i>	Amended definition of ‘criminal proceeding’	No change	
Section 14 Meaning of <i>federal criminal proceeding</i>	Repeal and substitute with a new s 14	No change	
Section 15	Repeal subsection 15(1) and	No change	

<b><u>National Security Legislation Discussion Paper on Proposed Amendments</u></b>	<b><u>National Security Legislation Amendment Bill 2010</u></b>	
---	---	--

Meaning of <i>defendant</i> in relation to a federal criminal proceeding	substitute a new subsection 15(1).		
Section 15A Meaning of <i>civil proceeding</i>	Amend subsection 15A(2)(b) and add subsection 15A(3).	No change	
Section 16 Disclosure of information in permitted circumstances	Repeal subsections 16(aa), (ab), (ac), (ad), and (b) and substitute new subsection 16(b).	No change	
Section 17 Meaning of likely to prejudice national security	Amend s 17	Splits s 17 into subsections “(1) A disclosure of information (2) The contravention of a requirement is likely to prejudice national security...”	
Section 19 General powers of a	Insert subsections 19(1A) and (3A).	No change	

<b><u>National Security Legislation Discussion Paper on Proposed Amendments</u></b>	<b><u>National Security Legislation Amendment Bill 2010</u></b>	
---	---	--

court			
Section 20A Attorney- General may attend and be heard at federal criminal proceedings	Insert a new s 20A	No change	
Section 20B Court to consider hearing in camera etc	Insert a new s 20B	No change	
Section 21 National security information hearings	Repeal subsection 21(1) and insert new subsections (1) and (1A)  Amend s 21(2)	No change  No change	
Section 22 Arrangements for federal criminal proceedings	Repeal subsection 22(1) and substitute a new subsection 22(1)	No change	

<b><u>National Security Legislation Discussion Paper on Proposed Amendments</u></b>	<b><u>National Security Legislation Amendment Bill 2010</u></b>	
---	---	--

about disclosure etc of national security information			
Section 23 Protection of national security information disclosed in federal criminal proceedings	Amend paragraph 23(1)(a)  Repeal subsection 23(2) and (3) and substitute a new subparagraph (2)	No change  No change	
Section 24 Notification of expected disclosure of national security information	Repeal subsection 24(1) and insert new subsections 24(1) and (1A).  Repeal subsections 24(3) and (4) and insert new subsections 24(3) and (4).  New subsection 24(5)	No change  No change  No change	
Section 25 Preventing	Repeal paragraph 25(1)(b) and substitute a new paragraph 25(1)(b).	No change	

<b><u>National Security Legislation Discussion Paper on Proposed Amendments</u></b>	<b><u>National Security Legislation Amendment Bill 2010</u></b>	
---	---	--

witnesses from disclosing information in federal criminal proceedings by not allowing them to answer questions	<p>Amend subsection 25(2).</p> <p>Insert a new subsection 25(2A).</p> <p>Repeal subsections 25(3)-(7) and substitute new subsections 25(3)-(7).</p> <p>Add a new subsection 25(8)</p>	<p>No change</p> <p>No change</p> <p>No change</p> <p>No change</p>	
Section 26 Attorney-General's criminal non-disclosure certificate	<p>Amend subparagraphs 26(1)(a)(i), (ii) and (iii).</p> <p>Repeal subsection 26(8) and substitute a new subsection 26(8).</p>	<p>No change</p> <p>No change</p>	
Section 27 Consequences of Attorney-General giving criminal non-disclosure certificates	<p>Repeal subsections 27(1) and (2) and substitute a new subsection (1).</p> <p>Amend subsection 27(3).</p>	<p>No change</p> <p>No change</p>	
Section 28 Attorney-	Repeal subparagraph 28(1)(a)(i) and insert a new subparagraph.	No change	

<b><u>National Security Legislation Discussion Paper on Proposed Amendments</u></b>	<b><u>National Security Legislation Amendment Bill 2010</u></b>	
---	---	--

General's criminal exclusion certificate	Amend subparagraph 28(1)(a)(ii). Amend subsection 28(2). Amend subsection 28(5). Repeal subsection 28(6). Amend subsections 28(9) and (10).	No change No change No change No change No change	
Section 29 Closed hearing requirements	Amend subsection 29(1). Repeal paragraph 29(2)(f) and substitute with a new paragraph (f). Amend subparagraph 29(5)(c)(iii). Amend subsection 29(7).	No change No change No change No change	
Section 30 Intervention by Attorney-General in federal criminal proceedings	Repeal s 30	No change	
Section 31	Amend paragraphs 31(6)(a) and (b)	No change	

<b><u>National Security Legislation Discussion Paper on Proposed Amendments</u></b>	<b><u>National Security Legislation Amendment Bill 2010</u></b>	
---	---	--

Court orders			
Section 32 Reasons for court orders	Amend paragraphs 32(1)(e).  Amend subsection 32(2).  Amend subsection 32(3)	No change  No change  No change	
Section 37 Appeals against s 31 court orders	Amend subsection 37(1).	No change	
Section 38AA Attorney- General etc may attend and be heard at civil proceedings	Insert a new s 38AA	No change	
Section 38AB Court to consider hearing in camera etc	Insert a new s 38AB	No change	
Section 38A	Repeal subsections 38A(1), (2) and	No change	

<b><u>National Security Legislation Discussion Paper on Proposed Amendments</u></b>	<b><u>National Security Legislation Amendment Bill 2010</u></b>	
---	---	--

National security information hearings	(3) and substitute with new subsections 38A(1) and (2).  Amend subsection 38A(4).	No change	
Section 38B Arrangements for civil proceedings about disclosures of national security information	Repeal subsection 38B(1) and substitute with a new subsection (1).	No change	
Section 38C Protection of national security information in a civil proceeding	Amend subsection 38C(1).  Repeal subsections 38C(2) and (3) and substitute with a new subsection (2).	No change  No change	
Section 38D Notification of expected disclosure of national security	Repeal subsection 38D(1) and substitute with a new subsection (1).  Amend subsection 38D(2) and insert a new paragraph 38D(2)(aa) and subsection (c).	No change  No change	



<b><u>National Security Legislation Discussion Paper on Proposed Amendments</u></b>	<b><u>National Security Legislation Amendment Bill 2010</u></b>	
---	---	--

information	Repeal subsections 38D(4) and (5) and substitute with new subsections.	No change	
Section 38E Preventing witnesses from disclosing information in a civil proceedings by not allowing them to answer questions	Repeal paragraph 38E(1)(b) and substitute with a new paragraph (b).  Amend subsection 38E(2).  Insert a new subsection 38E(2A)  Amend subsections 38E(4) and (6).	No change  No change  No change  No change	
Section 38F Attorney-General's non-disclosure certificate	Amend subparagraphs 38F(1)(a)(i) and (ii).  Repeal subsection 38F(9) and substitute with a new subsection (9).	No change  No change	
Section 38H Attorney-General's civil witness exclusion certificate	Amend subparagraphs 38H(1)(a)(i) and (ii)  Repeal subsection 38H(2) and replace with a new subsection.  Amend subsection 38H(9).	No change  No change  No change	

<b><u>National Security Legislation Discussion Paper on Proposed Amendments</u></b>	<b><u>National Security Legislation Amendment Bill 2010</u></b>	
---	---	--

Section 38I Closed hearing requirements in civil proceedings	Repeal paragraph 38I(2)(e) and substitute with a new paragraph (e).  Amend subsection 38I(7).	No change  No change	
Section 38K Intervention by Attorney-General in civil proceedings	Repeal s 38K	No change	
Section 38L Court orders in civil proceedings	Amend paragraphs 38L(6)(a) and (b).	No change	
Section 38M Reasons for court orders	Amend paragraph 38M(1)(d).  Amend subsections 38M(2) and (3).	No change  No change	
Section 38R Appeals against court orders in s 38L	Amend subsection 38R(1).	No change	

<b><u>National Security Legislation Discussion Paper on Proposed Amendments</u></b>	<b><u>National Security Legislation Amendment Bill 2010</u></b>	
---	---	--

Section 39 Security clearance for defendant's legal representative	<p>Insert a new subsection 39(1A) providing for what considerations should be taken into account</p> <p>Amend subsection 39(3).</p> <p>Not proposed</p>	<p>No change</p> <p>No change</p> <p>Omit "by the Department" in ss 39(2), (3)(a) and (5)(b)(i).</p>	
Section 39A Security clearance for parties etc to a civil proceeding	<p>Add a new subsection 39A(1A).</p> <p>Amend subsection 39A(3).</p> <p>Not proposed</p>	<p>No change</p> <p>Instead of "defendant" the Bill uses "party"</p> <p>Omit "by the Department" in ss 39A(2), (3)(a) and (5)(d).</p>	
Section 40 Offence to disclose information before Attorney-General gives criminal non-disclosure certificate etc under s 26	<p>Repeal subsection 40(1) and substitute with a new subsection.</p> <p>Insert a new subsection 40(1A).</p> <p>Amend paragraph 40(2)(a.)</p>	<p>No change</p> <p>No change</p> <p>No change</p>	
Section 41	Repeal s 41 and substitute with a	No change	

<p align="center"><b><u>National Security Legislation Discussion Paper on Proposed Amendments</u></b></p>	<p align="center"><b><u>National Security Legislation Amendment Bill 2010</u></b></p>	
---	---	--

<p>Offence to disclose information before Attorney-General gives criminal witness exclusion certificate etc. Under s 28</p>	<p>new s 41.</p>		
<p>Section 42 Offence to contravene requirement to notify the Attorney-General etc. Under ss 24 and 25</p>	<p>Amend paragraph 42(a).</p>	<p>No change</p>	
<p>Section 45A Offence to contravene regulations</p>	<p>Insert a new s 45A.</p>	<p>There is an additional paragraph (d), which provides that the contravention of the requirement must be likely to prejudice national security.</p>	

<b><u>National Security Legislation Discussion Paper on Proposed Amendments</u></b>	<b><u>National Security Legislation Amendment Bill 2010</u></b>	
---	---	--

Section 46	Not proposed	In subparagraph 46(c)(i), omit “the Attorney-General’s Department has given the legal representative or person mentioned in subparagraph (a)(ii)” and substitute “the legal representative or person mentioned in subparagraph (a)(ii) has.”	
Section 46A Offence to disclose information before Attorney-General gives civil non-disclosure certificate under s 38F	Repeal subsection 46A(1) and substitute with a new subsection.  Insert a new subsection 46A(1A).	No change  No change	
Section 46B Offence to disclose information before Attorney-General gives civil witness exclusion certificate etc	Repeal s 46B and substitute with a new s 46B	No change	

<b><u>National Security Legislation Discussion Paper on Proposed Amendments</u></b>	<b><u>National Security Legislation Amendment Bill 2010</u></b>	
---	---	--

under s 38H			
Section 46C Offence to contravene requirement to notify Attorney- General etc. Under ss 38D and 38E	Repeal s 46C and substitute with a new s 46C.	No change	
Section 46FA  Offence to contravene regulations	Insert a new s 46FA	The Bill includes a paragraph (d) which provides that the contravention of the requirement must be likely to prejudice national security.	
Section 46G	Not proposed	Omit “Attorney-General’s Department has given the party to the proceeding, the legal representative or the person mentioned in subparagraph (a)(iii)” and substitute it with “the party to the proceeding, the legal representative or the person mentioned in subparagraph (a)(iii) has”.	

<b><u>National Security Legislation Discussion Paper on Proposed Amendments</u></b>	<b><u>National Security Legislation Amendment Bill 2010</u></b>	
---	---	--

Application of Amendments		The Bill cites “items 17, 103 and 107” instead of “items 96 and 99” in the proposal.	
Saving provision		No change	

<b>Schedule 9 – Functions of Inspector-General of Intelligence and Security</b>			
<i>Inspector-General of Intelligence and Security Act 1986</i>	Not proposed	Repeal the definition of ‘agency’ and substitute a new definition of ‘Commonwealth agency.’	
Subsection 3(1)	Not proposed	In the definition of ‘employee’ omit “an agency” and insert “a Commonwealth agency.”	
	Not proposed	Repeal the definition of ‘head’ and substitute it with a new definition.	
	Not proposed	Insert a new definition of ‘intelligence agency.’	

<b><u>National Security Legislation Discussion Paper on Proposed Amendments</u></b>	<b><u>National Security Legislation Amendment Bill 2010</u></b>	
---	---	--

	Not proposed	In the definition of ‘responsible Minister,’ omit “an agency” and substitute it with “a Commonwealth agency.”	
Subsection 3(3)	Not proposed	Omit “an agency shall be” and substitute it with “a Commonwealth agency is.”	
Subsection 3(4)	Not proposed	Add a new subsection (4) allowing the Minister to declare a body to be a Commonwealth agency by legislative instrument.	
Section 4	Not proposed  Not proposed  Not proposed	Omit “or security” in paragraph 4(a)(i).  Add “and” at the end of subparagraphs 4(a)(i) and (iii)  Insert a new paragraph 4(ba) providing for the assistance of Ministers in investigating intelligence or security.	
Subsection 8(1)	Not proposed	In subparagraph 8(1)(c)(i), after “Commonwealth agency” insert “(within the meaning of Part IV of	



<b><u>National Security Legislation Discussion Paper on Proposed Amendments</u></b>	<b><u>National Security Legislation Amendment Bill 2010</u></b>	
---	---	--

	<p>Not proposed</p> <p>Not proposed</p> <p>Not proposed</p>	<p>the <i>Australian Security Intelligence Organisation Act 1979</i>)”</p> <p>In subparagraph 8(1)(c)(ii), after “Security Appeals”, insert “Division of the Administrative Appeals”.</p> <p>In subsection 8(5), insert “intelligence” after “an employee”.</p> <p>Repeal subsection 8(8)</p>	
Section 9	Not proposed	Repeal s 9 and substitute with a new s 9 providing for additional inquiry functions of the Inspector-General	
Section 9AA	Not proposed	Insert s 9AA, which provides for the limits on the Inspector-General’s functions.	
Section 9A	Not proposed	<p>After “Inspector-General” (first occurring) insert “in relation to an intelligence agency”.</p> <p>Omit “relevant”</p>	
Section 11	Not proposed	In paragraph 11(1)(a) and	

<u>National Security Legislation Discussion Paper on Proposed Amendments</u>	<u>National Security Legislation Amendment Bill 2010</u>	
--	--	--

		subsections 11(2) and (5), omit “an agency” and substitute with “an intelligence agency”.	
Sections 12 and 14	Not proposed	Omit “an agency” and substitute with “an intelligence agency”.	
Section 15	Not proposed	In subsections 15(1), (2) and (3), omit “an agency and substitute with “a Commonwealth agency”.  At the end of subsection 15(3) add a new paragraph (c).	
Section 16	Not proposed	Omit “an agency and substitute with “a Commonwealth agency”.	
Section 17	Not proposed	Omit “an agency and substitute with “a Commonwealth agency” in subsections 17(4), (6), (7), (8), (9) and (10).	
Section 18	Not proposed	Omit “, an Agency (within the meaning of the <i>Public Service Act 1999</i> ) or an authority of the Commonwealth” and substitute with “or a Commonwealth agency”.	
Section 19	Not proposed	Omit “an agency and substitute with	

<b><u>National Security Legislation Discussion Paper on Proposed Amendments</u></b>	<b><u>National Security Legislation Amendment Bill 2010</u></b>	
---	---	--

		“a Commonwealth agency”.	
Section 20		<p>Omit “an agency” and substitute with “a Commonwealth agency” in paragraph 20(a).</p> <p>In paragraph 20(b) insert “or other protective security” after “national security”.</p>	
Section 21	Not proposed	<p>Repeal subsection 21(1) and substitute with a new subsections 21(1) and (1AA) providing what the Inspector-General must do after completing an inquiry.</p> <p>In subsections (1A) and (1B), omit “an agency a copy of a draft report” and substitute with “a Commonwealth agency a draft agency copy”.</p> <p>Omit “a copy of that report” and substitute with “the draft agency copy” in 21(1B).</p> <p>Add a new paragraph (c) at the end of subsection 21(1B).</p>	

<b><u>National Security Legislation Discussion Paper on Proposed Amendments</u></b>	<b><u>National Security Legislation Amendment Bill 2010</u></b>	
---	---	--

		<p>In paragraph 21(2)(a), omit “a copy of a draft report to the head of an agency” and substitute with “a draft agency copy to the head of a Commonwealth agency”.</p> <p>In paragraph 21(2)(b) omit “a copy of the draft report” and substitute with “the draft agency copy”.</p>	
Section 22	Not proposed	<p>Repeal subsection 22(1) and substitute with new subsections 22(1) and (1A).</p> <p>Omit “an agency” and substitute with “a Commonwealth agency” in 22(2)(b).</p> <p>In subsection 22(3), after “If the report” insert “,or a final agency copy of the report” and after “of the report” insert “, or the final agency copy of the report”.</p> <p>Repeal subsection 22(4) and substitute a new subsection providing for what the Inspector-General must give the responsible Minister.</p>	

<b><u>National Security Legislation Discussion Paper on Proposed Amendments</u></b>	<b><u>National Security Legislation Amendment Bill 2010</u></b>	
---	---	--

Section 23	Not proposed	After “complaint insert “in respect of action taken by an intelligence agency” in subsection 23(1).	
Section 24	Not proposed	In 24(1) omit “an agency has given a copy” and substitute with “a Commonwealth agency and has, under section 22, given a final agency copy”.  Omit “an agency” and substitute with “a Commonwealth agency” in 24(2)	
Section 24A	Not proposed	Omit “an agency” and substitute with “a Commonwealth agency” in 24A(1)(a).  Repeal paragraph 24A(1)(b) and substitute with a new paragraph.	
Section 25A	Not proposed	Omit “an agency” and substitute “an intelligence agency”.	
Section 32A	Not proposed	Omit “an agency” and substitute “an intelligence agency” in subsection 32A(2).	

<b><u>National Security Legislation Discussion Paper on Proposed Amendments</u></b>	<b><u>National Security Legislation Amendment Bill 2010</u></b>	
---	---	--

Section 32B	Not proposed	Omit “the agency” and substitute “that agency in subsection 32B(2).	
Section 35(5)	Not proposed	After “other countries” insert “, law enforcement operations”.	

<b>Schedule 10 – Consequential amendments relating to the establishment of the Parliamentary Joint Committee on Law Enforcement</b>			
<i>Administrative Decisions (Judicial Review Act) 1977</i>	After paragraph (db) of Schedule 2 insert paragraph (dc).	No change	
<i>Anti-Money Laundering and Counter-Terrorism Financing Act 2006</i>  Paragraph 128(14)(c)	Omit “Chair of the Board” and substitute with “the Chief Executive Officer”.  Omit “the Australian Crime Commission under subsection 59(6A) of the <i>Australian Crime Commission Act 2002</i> ” and substitute with “Law Enforcement under subsection 8(1) of the <i>Parliamentary</i>	No change  No change	

<b><u>National Security Legislation Discussion Paper on Proposed Amendments</u></b>	<b><u>National Security Legislation Amendment Bill 2010</u></b>	
---	---	--

	<i>Joint Committee on Law Enforcement Act 2010</i> ".		
<i>Australian Crime Commission Act 2002</i>	Add a new paragraph (d)	No change	
Subsection 51(4)			
Part III	Repeal	No change	
Subsections 59(6A), (6B), (6C) and (6D)	Repeal	No change	
Transitional	Committee on the Australian Crime Commission.	No change	
<i>Australian Federal Police Act 1979</i>	Insert a new paragraph (ea) in subsection (2).	No change	
Section 60A	Omit "(d) and (e)" and substitute with "(d), (e) and (ea)" in paragraph 60A(2)(f).	No change	
	Add subparagraph (iv) to 60A(3)(a)	Not in the Bill	

<p align="center"><b><u>National Security Legislation Discussion Paper on Proposed Amendments</u></b></p>	<p align="center"><b><u>National Security Legislation Amendment Bill 2010</u></b></p>	
---	---	--

<p><i>Proceeds of Crime Act 2002</i></p> <p>Subsection 179U(1)</p>	<p>Not proposed</p>	<p>Omit “the Australian Crime Commission: and substitute with “Law Enforcement”.</p>	
--	---------------------	--	--