

This Bill gives effect substantially to the Second and Fourth Reports of the Royal Commission on Intelligence and Security. It will replace the Australian Security Intelligence Organization Act 1956.

The four major parts of the Bill respectively deal with -

- the structure of ASIO (Part II)
- its powers and functions (Part III)
- the Security Appeals Tribunal (Part IV)
- ASIO staffing (Part V).

Part II, broadly following the recommendations of the Royal Commission, spells out in greater detail than previous

legislation the duties and responsibilities of the Director-General of Security. It defines the relation between him and his Minister.

The functions and powers of the Organization are set

out in Part III, again broadly following the recommendations of the Royal Commission. As in the existing legislation, these

functions are related to security. That term has, however, been re-defined in accordance with the Royal Commission's recommendations.

The Security Appeals Tribunal to be established under

Part IV represents a major innovative recommendation of the Commission. A person, the subject of an assessment by ASIO for employment, migration, passport or citizenship purposes which contain

prejudicial matter, will be able to ask the Tribunal to review

the assessment.

Part V deals in greater detail than existing legislation with the staffing of the Organization.

NOTES ON CLAUSES

AUSTRALIAN SECURITY INTELLIGENCE ORGANIZATION BILL 1979

PART I - PRELIMINARY

Clause 1: This is formal.

Clause 2: The date of commencement of the Act will be fixed

by proclamation.

Clause 3: This clause repeals the previous legislation with

respect to the Australian Security Intelligence Organization.

Clause 4: This clause contains definitions of terms used in the

Bill. Those requiring special comment are as follows:

'activities prejudicial to security' - the purpose of this

definition is to ensure that, in addition to its ordinary

meaning, the term extends to activities concerning which

Australia has responsibilities to a foreign country which is

referred to in the definition of 'security'.

'active measures of foreign intervention' - this expression

appears in the definition of 'security'.

'acts of violence' - this expression appears in the definition

of 'terrorism'.

'domestic subversion' - sub-clause 5(1) sets out the activities

of persons, other than activities of foreign origin, that

are to be regarded as subversion and accordingly the term

'domestic subversion' refers to the first mentioned activities.

'security' - the definition is an extension of the definition

in existing legislation, broadly in accordance with the

recommendation of the Royal Commission on Intelligence and

Security. Para.(b) recognizes that the Organization, in

concerning itself with a matter referred to in sub-para.

of para.(a) such as terrorism, may be acting to carry out

Australia's responsibilities to the international community.

'terrorism' - this definition follows broadly that suggested

by the Royal Commission.

Clause 5: The Bill recognizes that subversion may consist of

activities of foreign origin or activities of domestic origin.

In so far as subversion consists of the former activities, it is

not defined in the Bill and it is left to its ordinary meaning.

In so far as it consists of the latter activities, it is defined

broadly following the Royal Commission's recommendations.

PART II - THE ORGANIZATION AND THE DIRECTOR-GENERAL

Clause 6: The continuance of the existence of the Organization is

provided for in this clause.

Clause 7: Sub-clause 7(1) establishes the office of Director-General.

Sub-clause 7(2) requires consultation with the Leader of the

Opposition before appointment of the Director-General.

Clause 8: This clause places the Organization under the control

of the Director-General of Security and regulates the relationship

between the Director-General and the Minister administering this Act.

Clause 9: Subject to clause 12 which deals with the possibility

of resignation of the Director-General and clause 13 dealing with

the power of the Governor-General to terminate the Director-

General's appointment, this clause provides for the term of

the Director-General's appointment.

Clause 10: The remuneration and allowances of the Director-General

are dealt with in this clause. Sub-clause (3) provides that the

clause has effect subject to the Remuneration Tribunals Act 1973

and to clause 15 of the Bill which provides for the appointment of

a Judge as Director-General.

Clause 11: This clause provides that the Minister may grant the

Director-General of Security leave of absence upon terms and

conditions.

Clause 12: Under this clause the Director-General may resign his

office.

Clause 13: The grounds which the Governor-General may terminate

the appointment of the Director-General are set out in this

clause. These grounds accord with those usually applicable to

similar statutory office holders.

Clause 14: Acting appointments of persons as Director-General are

dealt with in this clause.

Clause 15: This clause preserves the position of a person who is

a Judge and who has been appointed as Director-General of Security.

Clause 16: This clause preserves the rights under the Officers

Rights Declaration Act 1928 of a person who, immediately before his

appointment, was an officer of the Australian Public Service or

some other person to whom the Act applies. The provision is in the

terms usually used in similar legislation.

PART III - FUNCTIONS AND POWERS OF ORGANIZATION

Division 1 - General

Clause 17: The functions of the Organization are set out in this

clause. It should be noted that, under this clause, the function

of communicating information is specifically limited to purposes

relevant to security.

Clause 18: Restraints on the communication of intelligence by

officers of the Organization and others are provided in this clause.

Sub-clause (1) provides how intelligence may be communicated on

behalf of the Organization and sub-clause (2) makes unauthorized

communication of information an offence. However, sub-clause 5

provides that a prosecution under this section can only be

instituted after the consent of the Attorney-General has been

obtained. Because para. 17(1)(b) in effect excludes from the

functions of the Organization the communication of intelligence

for purposes not relevant to security and the Organization may,

in the course of performing its ordinary functions, come into possession of information that, while not relevant to security, is relevant to the detection or prevention of serious crimes and other matters, sub-clause (3) provides that, in the limited cases there set out, information may be communicated for non-security purposes. Section 235 of the Customs Act 1901 referred to in this sub-clause deals with the punishments applicable to offences concerning narcotic substances.

Clause 19: This clause authorizes the Organization, subject to any arrangement made by the Minister, to co-operate with other Commonwealth and State authorities and with such overseas bodies as have been approved by the Minister as being capable of assisting the Organization in the performance of its functions.

Clause 20: This clause imposes upon the Director-General of Security the responsibility of ensuring that the work of the Organization is limited to that which is necessary to discharge its functions and that the Organization is kept free from any influence or considerations not relevant to its functions. He is further charged to ensure that nothing is done that might lend colour to any suggestion that the Organization is concerned to further or protect the interests of any particular section of the community or with any matters other than the discharge of its functions. A recommendation of the Royal Commission to similar effect is thus implemented.

Clause 21: This clause provides for the Leader of the Opposition to be kept informed by the Director-General on security matters.

Division 2 - Special Powers

In accordance with the recommendations of the Royal Commission the Division provides for certain special powers to be exercisable by the Organization.

Clause 22: This clause defines certain terms used in this Division.

Clause 23: This clause is in similar form to an equivalent

provision in the Telephonic Communication (Interception) Act 1960.

It recognises the probable need of the Director-General to seek the

Minister's approval for a warrant at short notice.

Clause 24: This clause provides that the authority given to the

Organization under a warrant shall be exercised on behalf of the

Organization only by the Director-General and persons approved by

him for the purposes of the warrant.

Clause 25: Provision is made in this clause for issue of search

warrants by the Minister authorizing the Organization to do any of

the acts described in paras.(1)(a) to (d). Following the recommend-

ation of the Royal Commission the safeguard is provided that a warrant

may not be issued under this clause on a ground relating to domestic

subversion unless the Minister is satisfied that the premises

specified in the warrant are, or have recently been, used for domestic

subversion (sub-clause (2)). The warrant must state when entry may

be made and may provide, if the Minister thinks fit, that entry may

be made without permission first being sought (sub-clause (3)). The

period during which the warrant is to remain in force, not exceeding

7 days, must be specified (sub-clause (4)).

Clause 26: This prohibits the use of listening devices (see

definition of this expression in clause 22) by the Organization

unless the user of the device is a person by whom the speaker of the

words intends or should reasonably expect the words to be heard, the

speaker consents to the use of the device or the use is authorized

by warrant issued under this Division (sub-clause (1)). Sub-clause

(2) makes it clear that a person acting in accordance with sub-

clause (1) does not contravene State or Territory laws on listening

devices. The requirements for issue of a warrant in relation to a

person are set out in sub-clause (3) and those for issue of a

warrant in relation to premises in sub-clause (4).

Sub-clause (5) requires a warrant to state when entry may be made and may provide, if the Minister thinks fit, that entry may be made without permission first being sought. The period during which the warrant is to remain in force not exceeding 6 months must be specified (sub-clause (6)).

Sub-clause (8) makes it clear that this provision does not

apply to what would constitute for the purposes of the

Telecommunications (Interception) Act 1978 interception of a

communication passing over the telecommunication system controlled

by the Australian Telecommunications Commission.

Clause 27: This clause deals with the inspection of postal articles

by the Australian Security Intelligence Organization for the purposes

of that Organization. Sub-clause (1) makes it unlawful for an

officer, employer or agent of the Australian Security Intelligence

Organization to seek from the Australian Postal Commission access to

a postal article in the course of the post or for the Australian

Postal Commission or an officer, employee or agent of that

Commission to provide that access to such a person except under a

warrant issued in accordance with this clause. The sub-clause also

imposes upon the Director-General of Security the duty to take all

reasonable steps to ensure that this sub-clause is not contravened.

Sub-clause (2) empowers the Minister at the request of the

Director-General to issue a warrant in relation to mail posted by or

addressed to a particular person. However, before such a warrant is

issued, the Minister must be satisfied that the person is either

engaged in, or is reasonably suspected by the Director-General of

being engaged in, or of being likely to engage in, activities

prejudicial to security and that access to the postal articles will

or is likely to assist the Organization in carrying out its

functions of obtaining intelligence relevant to security. The

warrant, when issued, will authorize the Organization to inspect,

and make copies of, the covers of articles and to open and make copies

of the content of articles posted by, or addressed to, the person.

Sub-clause (3) provides in similar terms to sub-clause (2) for the

inspection of mail addressed to particular premises where it is

reasonably suspected that some postal articles sent by post to those

premises will be received by a person engaged in, or reasonably

suspected of being engaged in, activities prejudicial to security

and that access by the Organization to those articles will, or is

likely to assist the Organization in carrying out its functions.

Sub-clause (4) provides that the warrant shall specify

the period for which it is in force up to a maximum period of

90 days. Sub-clause (5) provides that sub-clause (4) shall not

prevent the issue of any further warrant. Sub-clauses (6) and (7)

provide for the Australian Postal Commission to be notified of the

issue or revocation of warrants and to assist in the execution of a

warrant. Sub-clause (7) includes a definition of the term 'address'

and a definition of the term 'agent' so that mail contractors and

persons such as unofficial postmasters and their employees come

within its terms.

Clause 28: This clause acts out the matters that the Director-General

must specify when making a request to the Minister for a warrant

under this Division.

Clause 29: This clause provides for the issue of warrants for

listening devices by the Director-General in emergency circumstances.

It is in similar terms to the equivalent provision in the

Telephonic Communication (Interception) Act 1960.

Clause 30: Under this clause the Director-General is directed to

inform the Minister and cease his activities in pursuance of a

warrant when the grounds that gave rise to the warrant have ceased

to exist.

Clause 31: Under this clause, when a record or copy obtained by

virtue of a warrant under this Division is not required for the

purpose of the performance of functions or the exercise of powers

under the Act, the Director-General is required to destroy the

record or copy.

Clause 32: This clause sets out requirements to be observed by

the Minister and Director-General in relation to the issue and

revocation of warrants. Sub-clause (1) provides that, where

the Director-General of Security makes a request for a warrant that

is not in writing, he shall immediately send to the Minister a

request in writing for the issue of the warrant. Sub-clause (2)

requires that, where the Minister issues or revokes a warrant he shall

immediately inform the Director-General of the issue or

revocation. Sub-clause (3) requires the Minister to record his

decision on each request in writing for issue of a warrant and

return the request to the Director-General. Sub-clause (4) imposes

upon the Director-General the duty to retain in the records of the

Organization all warrants issued by him and all warrants, instruments

of revocation, requests and other documents returned to him by

the Minister relating to the issue of warrants under this Division.

Clause 33: This clause makes it an offence for a person, without

reasonable excuse, to obstruct or hinder a person acting in pursuance

to a warrant issued under this Division.

Clause 34: By this clause the Director-General of Security is required

in respect of each warrant to report in writing to the Minister

on the extent to which the action taken under the warrant assisted

the Organization in carrying out its function of obtaining intelli-

gence relevant to security.

PART IV - SECURITY ASSESSMENTS

Division 1 - Preliminary

Clause 35: This clause contains definitions of certain terms used in this Part.

Clause 36: The effect of this clause is that this Part with the exception of certain specified sections has no application (and consequently no right of appeal is conferred).

(a) where a security assessment is furnished in relation to the employment of a person who is engaged outside Australia for duties outside Australia and who is not an Australian citizen normally resident in Australia.

(b) where a security assessment is furnished in relation to the exercise of a power under the Migration Act in respect of a person who is neither an Australian citizen nor the holder of a permanent entry permit nor a person to whom an instrument of exemption under paragraph 8(1)(e) of the Migration Act applies other than an exemption limited by time or purpose specified in the instrument.

Division 2 - Furnishing of Security Assessments

Clause 37: This clause first states that the functions of the Organization include the furnishing to Commonwealth agencies (see definition in clause 35) of security assessments (see definition in clause 35). The clause then requires an adverse or qualified assessment (see definition in clause 35) to be accompanied by a statement of the grounds for assessment; that statement must contain all the information that the Organization relied on in making the assessment unless, in the opinion of the Director-General, security requires the exclusion of some of that information (sub-clause (2)).

While the regulations may prescribe matters to be taken into account or not to be taken into account in the making of

assessments, pending the making of such regulations, the

Director-General, in consultation with the Minister, is empowered

to determine such matters but such a determination does not affect

the powers of the Security Appeals Tribunal (sub-clauses (3) and (4)).

No proceedings other than an application for review under

this Part may be brought in any court or tribunal (such as an

action for defamation under the common law) in respect of the

making of an assessment or anything done in respect of an assessment

in accordance with the Act.

Clause 38: This clause requires, subject to the exceptions

indicated below, a Commonwealth agency which receives a qualified

or adverse security assessment from the Organization to give

notice in writing to the person the subject of the assessment

informing him of the making of the assessment and of his right to

apply to the Security Appeals Tribunal.

However, where the Attorney-General has certified that

he is satisfied that the withholding of this notice is essential

to the security of the nation, the notice is not required to be

given. Further, where the Attorney-General certifies that he is

satisfied that the disclosure of the statement of grounds would be

prejudicial to security, the copy of the assessment required as

above to be delivered shall not contain any matter to which the

certificate applies. In either case, a copy of the certificate

must be given to the Commonwealth agency to which the assessment

was furnished.

Clause 39: Under this clause a Commonwealth agency is forbidden

to take, refuse to take or refrain from taking prescribed

administrative action (see definition in clause 35) on the basis

of a communication in relation to a person made by the Organization

that does not amount to a security assessment or was an adverse or

qualified assessment made by the commencement of this Act. However,

a Commonwealth agency is permitted to take action of a temporary

nature on the basis of a preliminary communication by the Organization where satisfied that security necessitates urgent action pending

the furnishing of an assessment.

Clause 40: This clause will require the Organisation to furnish assessments

intended or likely to be used by a State for prescribed administrative

action only through a Commonwealth Department or authority thus

insuring that the person concerned has the benefit of their rights

as to notification and appeal provided in the Bill.

Division 3 - Establishment and Organisation of Security Appeals Tribunals

Clause 41: This clause establishes the Security Appeals Tribunal and

provides for the appointment of members of the Tribunal by the

Governor-General.

Clause 42: Under this clause a person shall not be appointed as a

presidential member of the Tribunal unless he is or has been a judge

of a Federal or State court and members of ASIO staff are

specifically excluded from appointment as members of the Tribunal.

Clause 43: This clause provides that a presidential member of the

Tribunal shall hold office for a maximum of 7 years subject to re-

appointment, but a presidential member who is a judge ceases to hold

office as presidential member on his ceasing to be a judge.

Former judges appointed as presidential members may be appointed as

full-time or part-time members.

Clause 44: Under this clause the Governor-General may enter into an

arrangement with the Governor of a State for the appointment of a

judge of a State court as a presidential member of the Tribunal.

Clause 45: This clause provides for the appointment of non-presidential

members of the Tribunal in either the general or special categories

referred to in sub-clauses (4) and (5). Persons appointed to the

General category will be citizens with no direct past history of

government employment (sub-clause (4)). The special category includes

former members of the Australian Public Service or of the Defence Force, a member of the community with knowledge of the needs and concerns of

persons who are or have been immigrants and persons with experience in relation to employment under Commonwealth contractors.

Under sub-clauses (6) and (7), the non-presidential member

will hold office upon such terms and conditions as are prescribed for

a maximum period of 7 years subject to re-appointment.

Clause 46: This clause provides for the remuneration and allowances

of members of the Security Appeals Tribunal.

Clause 47: This clause preserves the tenure of office and other rights

and privileges of a Federal Judge appointed to the Security Appeals

Tribunal.

Clause 48: Under this clause, the Minister may appoint a Deputy

President of the Tribunal to act as the President of the Security

Appeals Tribunal in the President's absence.

Clause 49: This clause deals with the removal and suspension of members

of the Tribunal in terms similar to those applicable to administrative

tribunals. The procedure does not apply to a member who is a Judge

because the legislation, under which such a person was originally

appointed as a Judge, provides for removal or dismissal from office.

Clause 50: This clause provides for the resignation of members of the

Tribunal.

Clause 51: Under sub-clause (1), the Tribunal for a particular case

will consist of three persons including a presidential member and a

non-presidential member from each of the general and special categories.

Sub-clause (3) provides that matters before the Tribunal will be

decided in accordance with the opinion of the majority. However, sub-

clause (2) provides that the presidential member will decide all

matters of law raised in the proceedings.

Clause 52: Under this clause, the President of the Tribunal, or a Deputy President to whom he has delegated his powers, may determine the arrangement of the business of the Tribunal.

Clause 53: This clause provides for the reconstitution of the Tribunal should a member originally elected cease to be available. Sub-clause (2) permits the reconstituted Tribunal to have regard to any record of the earlier proceedings.

Division 4 - Review of security assessments

Clause 54: This clause entitles any person who has been given notice of an adverse or qualified security assessment to apply to the Security Appeals Tribunal for a review of that assessment.

Clause 55: Under this clause a person has, subject to any extension approved by the Tribunal, 30 days after receipt of the notification of the assessment to lodge an application for review.

Clause 56: Under this clause, where an application for review of an assessment has been lodged, the Tribunal is required to notify the Director-General and the Commonwealth agency concerned.

Clause 57: This clause imposes upon the Director-General a duty to lodge certain material with the Tribunal. Sub-clause (1) requires that, where in relation to an application for review, the Attorney-General has given a certificate under para. 38(2)(b) to the effect that certain matters should not be communicated to the applicant, the Director-General shall pass to the Tribunal the certificate and the complete assessment. Sub-clause (2), however, requires the Tribunal not to inform the applicant of the Attorney-General's certificate or matters to which it relates.

Clause 58: This clause sets out the procedure for a review by the Tribunal. Sub-clause (2) states that the parties to the

proceedings before the Tribunal shall be the Director-General and the applicant. However, the Commonwealth agency to which the assessment was forwarded is entitled to adduce evidence and make submissions. Sub-clause (3) imposes on the Director-General an obligation to present to the Tribunal all relevant information available to him whether it is favourable or unfavourable to the applicant.

Sub-clause (4) provides for a preliminary conference between the presidential member of the Tribunal and the parties in order to facilitate the conduct of the proceedings.

Sub-clause (5) provides that the proceedings shall be in private and sub-clauses (6) and (7) require that neither party shall be present when the other is presenting its case to the Tribunal.

Sub-clause (8) deals with the order in which the parties will be heard. Sub-clause (9) requires that after hearing the evidence and submissions by the Director-General and the Commonwealth agency, the Tribunal will determine what further particulars, if any, can, consistently with the requirements of security, be given in the interests of justice to the applicant. Under sub-clause (10), the Tribunal will then hear any material which the applicant wishes to present. Sub-clause (11) empowers the Tribunal on its own motion to invite or summon persons to give evidence. After the initial hearing of the parties, the Tribunal, under sub-clause (12), may re-hear either of the parties at any stage during the proceedings. While sub-clause (9) empowers the Tribunal to give further particulars to the applicant of the case against him, sub-clause (13) requires the Tribunal first to consult the Director-General before giving the applicant particulars of the Director-General's evidence. Sub-clause (14) empowers members of the Tribunal to ask questions of witnesses and sub-clause (15)

empowers the Tribunal to dispose of cases where the applicant has failed to prosecute his application with due diligence.

Clause 59: This clause deals generally with disclosure of matters to and by the Tribunal. Provision is first made for a certificate by the Attorney-General that disclosure of information concerning a specified matter would be contrary to the public interest on any of the grounds set out in sub-clause (1) which broadly follow the grounds similarly stated in the Ombudsman Act 1975 and the Administrative Appeals Tribunal Act 1975.

If information or a document referred to in the certificate is required to be disclosed or produced to the Tribunal, it must, in spite of the certificate, be so disclosed or produced (sub-clause (2))

Further, if the ground of the certificate is that disclosure would be contrary to the public interest on general grounds of Crown privilege not related to security, defence, international relations or secrecy of Cabinet or Executive Council deliberations, the President may, if satisfied that the interests of justice outweigh the reason specified by the Attorney-General, authorize the disclosure of the information or document to the applicant (sub-clause (4)). However, if the certificate is not so based, the Tribunal is required to accept it and ensure that the information or document is not disclosed to the applicant (sub-clause (2)).

Clause 60: This clause deals with the findings of the Tribunal. Sub-clause (1) sets out the possible scope of the Tribunal's findings.

Sub-clause (2) requires that the Tribunal shall, as a general rule, cause copies of its finding to be given to the Commonwealth agency and to each of the parties. However, under sub-clause (3) the Tribunal may restrict the distribution of its findings.

Sub-clause (4) entitles the applicant to publish the findings of the Tribunal subject to any direction of the Tribunal.

Clause 61: This clause sets out the effect of a decision of the Tribunal.

Under sub-clause (1), every Commonwealth agency concerned with the prescribed administrative action to which the assessment is relevant and any Tribunal empowered to hear appeals from a decision of the Tribunal for the assessment by the Organization. In the circumstances described in sub-clause (2), the findings of the Security Appeal Tribunal are binding on an authority or person authorized to make decisions in respect of prescribed administrative action (for example, the Permanent Head of a Public Service Department authorized to make a promotion decision), and also on a Tribunal, body or person empowered to reverse or vary such decision, (for example, a Promotions Appeals Committee). These circumstances are when, by a law of the Commonwealth or a Territory (other than the Administrative Decisions (Judicial Review) Act 1977), a class of decisions that the authority or person is authorized or required to make is subject to appeal or review and a Tribunal, body or person is empowered to reverse or vary such a decision. An example of a law of the Commonwealth coming within this description is section 50 of the Public Service Act in so far as it makes a decision of a Permanent Head to promote provisionally an officer subject to appeal to a Promotions Appeals Committee and empowers such a Committee to determine the appeal.

Clause 62: In accordance with the recommendation of the Royal Commission, the decisions of the Tribunal are not to be subject to appeal except in so far as the Constitution requires. Section 4 of the Administrative Decisions (Judicial Review) Act 1977 referred to in this clause states that that Act has effect notwithstanding anything contained in any enactment in force at the commencement of the Act. That Act has not yet been brought into force.

Clause 63: Under this clause the applicant is enabled to apply to the Tribunal to review a previous finding on the ground that he has fresh evidence of material significance. The Tribunal may then review its previous finding.

Clause 64: This clause sets out when the Organization may issue another assessment in respect of a person in respect of whom a previous assessment has been reviewed by the Tribunal.

Clause 65: This clause will permit the reference by the Minister, where special circumstances make this course desirable, of particular cases to the Tribunal which could otherwise not be dealt with by the Tribunal. This would be because either:

- (a) a security assessment or like communication was allegedly furnished before the commencement of the Act; or
- (b) a security assessment or like communication was allegedly furnished to a Commonwealth agency but a copy was not delivered to the person concerned.

Clauses 60 and 61 are excluded from application to such an enquiry for the reason that those clauses assume the existence of an assessment in the form required by the Bill.

Clause 66: This clause gives a right to the parties to be represented before the Tribunal by a barrister, solicitor or with the approval of the Tribunal, by another person, such as a union official.

Clause 67: Under this clause the Tribunal is not bound by the normal rules of evidence, but is directed to conduct matters with as little formality and technicality as possible, in accordance with procedures to be prescribed. However, under sub-clause (2), where no procedures are prescribed the Presidential member may give directions as to the procedure to be followed during a hearing. Clause 68: Under this provision, the usual rules as to legal professional privilege and privilege as between husband and wife apply to matters before the Tribunal. Clause 69: The effect of this clause is that, while a person appearing before the Tribunal may be compelled to answer questions which tend to incriminate him, his evidence is not admissible in criminal or civil proceedings other than proceedings in respect of falsity of the answer or contempt of the Tribunal. Clause 70: This clause sets out the powers of the Tribunal as to taking evidence. Evidence can be taken on oath or affirmation (sub-clause (1)). Persons may be summoned to give evidence and produce documents and required to take an oath or make an affirmation (sub-clauses (3) and (4)). The Tribunal may, on the request of a witness, permit him to be legally represented (sub-clause (5)). In special circumstances, for example, when evidence on a limited issue needs to be taken in a remote part of Australia or overseas, the President may direct that evidence in the proceedings be taken by the presiding member or another person and such a person has, for the purpose of taking the evidence, all the powers of a presiding member (sub-clauses (6) and (7)). Clause 71: Under this clause the Tribunal has the power to give directions prohibiting or restricting the publication of matters relating to proceedings before it.

Clause 72: This clause provides for legal assistance. Under sub-clause (1) an applicant may apply to the Attorney-General for assistance before the Tribunal. Sub-clause (2) empowers the Attorney-General in his discretion to arrange financial and legal assistance in cases where there is hardship.

Clause 73: This clause affords the usual protection to members of the Tribunal, legal representatives and witnesses.

Clause 74: This clause requires the attendance of witnesses who are summoned to appear before the Tribunal.

Clause 75: This clause imposes the usual obligations on witnesses appearing before the Tribunal.

Clause 76: Contempt before the Tribunal is dealt with in this clause in the usual terms.

Clause 77: This clause empowers the Governor-General to establish Registries for the Tribunal.

Clause 78: This clause provides for the appointment by the Minister of Registrars and Deputy Registrars who are to be employed under the Public Service Act in the normal way.

Clause 79: This clause provides for the lodging of documents with the Registry of the Tribunal.

Clause 80: This clause permits the return, on the conclusion of proceedings, of any documents furnished to the Tribunal.

Clause 81: Under this clause an obligation is imposed on persons who are or have been members or officers of the Tribunal to maintain the necessary secrecy in relation to information or documents received by the Tribunal.

Clause 82: This clause provides for the payment of expenses and allowances to witnesses who are summoned to appear before the Tribunal.

Clause 83: This clause provides for an annual report by the Tribunal.

PART V - STAFF OF ORGANIZATION

Clause 84: This clause provides for employment of officers of the Organization under agreements in writing and employment of temporary and casual employees. The basis of this clause and clauses 85 and 86 appear substantially in the existing Act.

Clause 85: This deals with designations of officers in the Organization.

Clause 86: This clause provides for conditions of employment of officers and employees of the Organization.

Clause 87 The terms and conditions under which officers and employees of the Organization are employed immediately before the date of commencement of the Act continue to apply by virtue of this clause until duly varied.

Clause 88: This clause ensures the application of the Officers' Rights Declaration Act 1928 to officers and full-time employees of the Organization who immediately before their employment with the Organization were officers of the Australian Public Service.

Clause 89: This clause ensures that the employment of an officer of the Organization may only be terminated in accordance with a term or condition of his employment.

Clause 90: Under this clause regulations may be made to provide for the employment of officers otherwise than under agreements in writing and to provide for the terms and conditions of employment of such officers and temporary and casual employees. This will permit the placing at a later date of the terms and conditions of officers and employees on a statutory rather than a contractual basis. A safeguard is provided in sub-clause (4) in that the

regulations will not apply to the employment of an officer employed under an agreement made before the first regulations except to the extent that the officer agrees. Further, the regulations will require a recommendation of the Public Service Board after consultation with the Director-General.

Clause 91: This ensures the application of the provisions of the Crimes Act 1914 dealing with Commonwealth officers to the

Director-General and officers and employees of the Organization. Clause 92: This clause makes it an offence to publish (except in a broadcast or report of Parliamentary proceedings) the identity of an employee or officer of the Organization. However, sub-clause 3 provides that a prosecution under this clause can only be instituted after the consent of the Attorney-General has been

obtained.

PART VI - MISCELLANEOUS

Clause 93: This clause preserves the employment rights of the Director-General of Security appointed under the existing legislation.

Clause 94: This clause imposes upon the Director-General of

Security the obligation to furnish annually to the Minister a report on the Organization's activities which is to be given to the Leader of the Opposition.

Clause 95: This clause, which is in the usual terms, provides for the making of regulations.