



Australian Government

Australian Government response to the
Parliamentary Joint Committee on Intelligence and Security report:
**Advisory report on the National Security Legislation Amendment
(Comprehensive Review and Other Measures No. 2) Bill 2023**

AUGUST 2023

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Advisory report on the National Security Legislation Amendment (Comprehensive Review and Other Measures No. 2) Bill 2023

The Government thanks the Parliamentary Joint Committee on Intelligence and Security ('Committee') for its review of the National Security Legislation Amendment (Comprehensive Review and Other Measures No. 2) Bill 2023 ('the Bill').

The Government provides the following responses to the Committee's recommendations.

Recommendation 1

The Committee recommends that the Explanatory Memorandum for the National Security Legislation Amendment (Comprehensive Review and Other Measures No. 2) Bill 2023 be amended, or a supplementary Explanatory Memorandum presented, acknowledging that human sources are included in the scope of an Australian Security Intelligence Organisation (ASIO) affiliate for the purposes of the proposed new definition of ASIO Officer in section 473.1 of the *Criminal Code Act 1995*.

The Committee further recommends that in the upcoming review of the Minister's Guidelines made under section 8A of the *Australian Security Intelligence Organisation Act 1979*, the Minister for Home Affairs consider whether additional safeguards are required to ensure appropriate control by ASIO over the activities of its affiliates, including human sources or any affiliates working under 'other arrangements', in light of new legal defences to certain criminal acts becoming available to them.

The Government accepts the Committee's recommendation.

Amendment to the Bill's Explanatory Memorandum

The Government will prepare an addendum to the Explanatory Memorandum to provide an acknowledgement that in practice the scope of the term 'ASIO affiliate' could include human sources for the purpose of the proposed new definition of 'ASIO Officer' in section 473.1 of the *Criminal Code Act 1995*.

Review of Minister's Guidelines

The review of the ASIO Minister's Guidelines will consider whether additional safeguards are required to ensure appropriate control by ASIO over the activities of its affiliates, including human sources or any affiliates working under 'other arrangements', in light of new legal defences to certain criminal acts becoming available to them.

Recommendation 2

The Committee recommends that, following implementation of the recommendation in this report, the National Security Legislation Amendment (Comprehensive Review and Other Measures No. 2) Bill 2023 be passed by the Parliament.

The Government accepts the Committee's recommendation.