
The Parliament of the Commonwealth of Australia

Review of the Intelligence Services Amendment Bill 2003

Parliamentary Joint Committee on ASIO, ASIS and DSD

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Foreword

The Intelligence Services Amendment Bill 2003 seeks to give ASIS the capability to operate more effectively in a fundamentally changed environment, marked by the tragic events of September 11 2001 and October 12 2002. These changes could not have been predicted when the *Intelligence Services Act 2001* was prepared.

The limitations of subsection 6(4) of the current Act prevent ASIS from providing its staff or agents appropriate training in self defence and weapons handling; they prevent ASIS from seeking close personal protection for staff or agents operating in warlike environments; and they prevent ASIS from cooperating with other agencies in legitimate activities to ensure Australia's continued protection from the threats of international terrorism and trans-national crime. This Bill addresses those defects.

It is important to note that the Bill maintains the restraint on ASIS undertaking the use of force in its own right, other than for the limited purposes of self-protection. ASIS will continue to conduct its activities in a non-violent way.

ASIS is highly accountable, and subject to extensive oversight under the existing Act. It will remain so under this amendment. The Committee's recommendations reinforce the oversight regime under which ASIS operates, while allowing ASIS the operational flexibility it requires to fulfil the demands the Government makes upon it in a timely fashion.

Under the Committee's proposals the guidelines on the use of weapons and self-defence techniques which the Bill requires will be agreed by the Inspector-General for Intelligence and Security, and then approved by the National Security Committee of Cabinet. These guidelines will cover, in detail, all aspects of ASIS training and operations in this area.

Specific approval for cooperation with foreign agencies which may involve violence would have to be sought from the Minister for Foreign Affairs in consultation with the Prime Minister and the Attorney-General. In addition to the

stringent regime for approval of operations, ASIS will also have to produce regular reporting to Ministers of these aspects of its operations, and will continue to be subject to the rigorous oversight of the Inspector-General for Intelligence and Security.

These recommendations will enhance the Intelligence Services Amendment Bill 2003, and provide confidence to the Australian public of the legality and propriety of ASIS' activities.

In conclusion, and on behalf of the Committee, I would like to thank all those who have contributed to this inquiry.

Mr David Jull MP
Chairman



Membership of the Committee

Chair	Hon David Jull MP	
Members	Hon Kim Beazley MP	Senator Paul Calvert (discharged on 29.08.02)
	Mr Stewart McArthur MP	Senator Alan Ferguson (appointed on 29.08.02)
	Hon Leo McLeay MP	Senator Sandy Macdonald Senator the Hon Robert Ray

Committee Secretariat

Secretary	Ms Margaret Swieringa
Research assistance	Mr Charles Vagi, CSC and Bar Mr Greg Ralph
Executive Assistant	Ms Tiana Di Iulio



Terms of reference

On 15 October 2003, the House of Representatives resolved that the Intelligence Services Amendment Bill 2003 be referred to the Parliamentary Joint Committee on ASIO, ASIS and DSD for consideration and an advisory report as soon as practicable.



List of abbreviations

AFP	Australian Federal Police
ADF	Australian Defence Force
ASIO	Australian Security Intelligence Organisation
ASIS	Australian Secret Intelligence Service
DIMIA	Department of Immigration and Multicultural and Indigenous Affairs
DFAT	Department of Foreign Affairs and Trade
DSD	Defence Signals Directorate
IGIS	Inspector-General of Intelligence and Security
NSC	National Security Committee of Cabinet
PM&C	Department of the Prime Minister and Cabinet



List of recommendations

Chapter 2 Issues

Recommendation 1

The Committee recommends that The Intelligence Services Amendment Bill 2003 be amended to include a provision setting out oversight mechanisms for the initial approval of operations and for subsequent reporting to enable review and accountability; and

where ASIS anticipates being involved in the planning or undertaking of operations with foreign organisations that may include the use of force, the approvals process be expanded to include the Prime Minister and the Attorney General.

Recommendation 2

The Bill requires that the Director General issue guidelines on the use of weapons and self-defence techniques. The Committee recommends that these guidelines should:

- contain a detailed protocol describing the circumstances under which ASIS may consider involvement in the planning or conduct of activities with foreign organisations, and which may include the use of force; and
- be produced in consultation with relevant departments and agencies, be agreed by the Inspector-General of Intelligence and Security, and approved by the National Security Committee of Cabinet.

Recommendation 3

The Committee recommends that ASIS' use of weapons under the provisions of the Bill be limited to semi-automatic hand-guns and pistols. In addition:

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- the range of weapons to be used in ASIS training and operations be defined in the guidelines required under Schedule 2, sub-clause 1 (6); and
 - the specific types of weapons to be used on each operation be authorised by the Minister for Foreign Affairs.

Recommendation 4

The Committee recommends that ASIS' request to the Minister for Foreign Affairs for approval of an operation include a detailed assessment of the risks to ASIS staff members and agents involved, and to Australia as well as advice from the Department of Foreign Affairs on possible effects on bilateral relationships.

Recommendation 5

The Committee recommends that the Minister for Foreign Affairs approve a general training programme in the use of weapons and self-defence techniques for specific ASIS officer positions as designated by the Director General. This training programme would be ongoing and managed by the Director General. In addition:

- a copy of the training programme be provided to the Inspector General of Intelligence and Security. Any changes to this programme should also be advised as soon as practicable; and
- the Department of Foreign Affairs and Trade be consulted in the designation by the Director General of any position as requiring training in the use of weapons and self-defence techniques.

Recommendation 6

The Committee recommends that the Minister for Foreign Affairs approve each deployment of an armed ASIS staff member overseas, and/or the training and arming of an agent overseas.

Recommendation 7

The Committee recommends that the Bill be amended to require the Director General of ASIS to provide to the Inspector General of Intelligence and Security a report on any operational incident with the potential to embarrass Australia. This information could then be included in the Inspector-General's reports to Government as appropriate.

Recommendation 8

The Bill requires that the Director General issue guidelines on the use of weapons and self-defence techniques. The Committee recommends that

these guidelines also cover all aspects of training, handling, use, storage and logistics; and

- that training courses cover initial training and refresher/requalification training; and
- that a skills assessment regime be developed, and training certification be managed in such a way as to ensure that ASIS' capabilities are maintained.

Recommendation 9

The Committee recommends that, in developing training and logistics guidelines, the Director General, while consulting broadly, use the training and logistics models of the AFP as a basis.