

2002

The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

Australian Security Intelligence Organisation Legislation Amendment (Terrorism) Bill 2002

No. , 2002

(Attorney-General)

**A Bill for an Act to amend legislation relating to the
Australian Security Intelligence Organisation to enhance the
Commonwealth's ability to combat terrorism, and for
related purposes**

A Bill for an Act to amend legislation relating to the Australian Security Intelligence Organisation to enhance the Commonwealth's ability to combat terrorism, and for related purposes

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Australian Security Intelligence Organisation Legislation Amendment (Terrorism) Act 2002*.

2 Commencement

(1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, on the day or at the time specified in column 2 of the table.

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent	
2. Schedule 1, items 1 to 7	The later of: (a) the start of the day after the day on which this Act receives the Royal Assent; and (b) the earlier of: (i) the commencement of Division 72 of the <i>Criminal Code</i> ; and (ii) the commencement of Part 5.3 of the <i>Criminal Code</i>	
3. Schedule 1, item 8	The later of: (a) the start of the day after the day on which this Act receives the Royal Assent; and (b) the commencement of Part 5.3 of the <i>Criminal Code</i> ; subject to subsection (3)	
4. Schedule 1, item 9	The later of: (a) the start of the day after the day on which this Act receives the Royal Assent; and (b) the commencement of Division 72 of the <i>Criminal Code</i> ; subject to subsection (4)	
5. Schedule 1, items 10 and 11	Immediately after the later of: (a) the commencement of the provision covered by item 3 of this table; and (b) the commencement of Division 72 of the <i>Criminal Code</i> ; subject to subsection (5)	
6. Schedule 1, items 12 to 14	Immediately after the later of: (a) the commencement of the provision covered by item 4 of this table; and (b) the commencement of Part 5.3 of the <i>Criminal Code</i> ; subject to subsection (6)	

7. Schedule 1, items 15 to 29	The later of: (a) the start of the day after the day on which this Act receives the Royal Assent; and (b) the earlier of: (i) the commencement of Division 72 of the <i>Criminal Code</i> ; and (ii) the commencement of Part 5.3 of the <i>Criminal Code</i>
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Note: This table relates only to the provisions of this Act as originally passed by the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

(2) Column 3 of the table is for additional information that is not part of this Act. This information may be included in any published version of this Act.

(3) If Division 72 of the *Criminal Code* commences before Part 5.3 of the *Criminal Code*, the provision covered by item 3 of the table does not commence at all.

(4) If Part 5.3 of the *Criminal Code* commences before or at the same time as Division 72 of the *Criminal Code*, the provision covered by item 4 of the table does not commence at all.

(5) If Division 72 of the *Criminal Code* commences before Part 5.3 of the *Criminal Code*, the provisions covered by item 5 of the table do not commence at all.

(6) If Part 5.3 of the *Criminal Code* commences before or at the same time as Division 72 of the *Criminal Code*, the provisions covered by item 6 of the table do not commence at all.

3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Australian Security Intelligence Organisation Act 1979

1 Section 4

Insert:

frisk search means:

- (a) a search of a person conducted by quickly running the hands over the person's outer garments; and
- (b) an examination of anything worn or carried by the person that is conveniently and voluntarily removed by the person.

2 Section 4

Insert:

ordinary search means a search of a person or of articles on his or her person that may include:

- (a) requiring the person to remove his or her overcoat, coat or jacket and any gloves, shoes and hat; and
- (b) an examination of those items.

3 Section 4 (at the end of paragraphs (a) and (b) of the definition of *politically motivated violence*)

Add "or".

4 Section 4 (after paragraph (b) of the definition of *politically motivated violence*)

Insert:

- (ba) acts that are terrorism offences; or

5 Application

The amendments of the definition of ***politically motivated violence*** in section 4 of the *Australian Security Intelligence Organisation Act 1979* made by this Schedule apply in relation to an act, matter or thing done, existing or happening after the commencement of the

amendments (including an act under a warrant or other instrument issued under that Act before that commencement).

6 Section 4

Insert:

seizable item means anything that could present a danger to a person or that could be used to assist a person to escape from lawful custody.

7 Section 4

Insert:

strip search means a search of a person or of articles on his or her person that may include:

- (a) requiring the person to remove all of his or her garments; and
- (b) an examination of the person's body (but not of the person's body cavities)

and of those garments.

8 Section 4

Insert:

terrorism offence means an offence against Part 5.3 of the *Criminal Code*.

Note: A person can commit a terrorism offence against Part 5.3 of the *Criminal Code* even if no terrorist act (as defined in that Part) occurs.

Note: If Division 72 of the *Criminal Code* commences before Part 5.3 of the *Criminal Code*, this item does not commence at all. See subsection 2(3) of this Act.

9 Section 4

Insert:

terrorism offence means an offence against Division 72 of the *Criminal Code*.

Note: If Part 5.3 of the *Criminal Code* commences before or at the same time as Division 72 of the *Criminal Code*, this item does not commence at all. See subsection 2(4) of this Act.

10 Section 4 (definition of *terrorism offence*)

After "against", insert "Division 72 or".

Note: If Division 72 of the *Criminal Code* commences before Part 5.3 of the *Criminal Code*, this item does not commence at all. See subsection 2(5) of this Act.

11 Application

The amendment of the definition of *terrorism offence* in section 4 of the *Australian Security Intelligence Organisation Act 1979* made by this Schedule applies in relation to an act, matter or thing done, existing or happening after the commencement of the amendment (including an act under a warrant or other instrument issued under that Act before that commencement).

Note: If Division 72 of the *Criminal Code* commences before Part 5.3 of the *Criminal Code*, this item does not commence at all. See subsection 2(5) of this Act.

12 Section 4 (definition of *terrorism offence*)

After "Division 72", insert "or Part 5.3".

Note: If Part 5.3 of the *Criminal Code* commences before or at the same time as Division 72 of the *Criminal Code*, this item does not commence at all. See subsection 2(6) of this Act.

13 Section 4 (at the end of the definition of *terrorism offence*)

Add:

Note: A person can commit a terrorism offence against Part 5.3 of the *Criminal Code* even if no terrorist act (as defined in that Part) occurs.

Note: If Part 5.3 of the *Criminal Code* commences before or at the same time as Division 72 of the *Criminal Code*, this item does not commence at all. See subsection 2(6) of this Act.

14 Application

The amendments of the definition of *terrorism offence* in section 4 of the *Australian Security Intelligence Organisation Act 1979* made by this Schedule apply in relation to an act, matter or thing done, existing or happening after the commencement of the amendment (including an act under a warrant or other instrument issued under that Act before that commencement).

Note: If Part 5.3 of the *Criminal Code* commences before or at the same time as Division 72 of the *Criminal Code*, this item does not commence at all. See subsection 2(6) of this Act.

15 Subsection 18(1)

Omit "an officer of the Organisation", substitute "a person".

16 Subsection 18(1)

Omit "officer" (second occurring), substitute "person".

17 Paragraph 18(2)(b)

Repeal the paragraph, substitute:

(b) by a person acting within the limits of authority conferred on the person by the Director-General; or

18 Subsection 18(3)

Omit “an officer” (first occurring), substitute “a person”.

19 Paragraph 18(3)(b)

Omit “the officer”, substitute “the person”.

20 Saving of authority and authorisations

(1) For the purposes of subsections 18(1) and (2) of the *Australian Security Intelligence Organisation Act 1979* as amended by this Schedule, the authority conferred on an officer of the Organisation by the Director-General is not affected by the amendment of those subsections by this Schedule.

(2) An officer of the Organisation who was authorised for the purpose of subsection 18(3) of the *Australian Security Intelligence Organisation Act 1979* immediately before the commencement of this item is taken to be, immediately after the commencement of this item, a person authorised for that purpose.

21 Section 23

Repeal the section.

22 Subsection 24(3) (definition of *relevant warrant*)

Omit “or 29”, substitute “, 29 or 34D”.

23 After subsection 25(4)

Insert:

Personal searches may be specified

(4A) The Minister may also specify any of the following things if he or she considers it appropriate in the circumstances:

(a) conducting an ordinary search or a frisk search of a person if:

(i) the person is at or near the subject premises when the warrant is executed;

and

(ii) there is reasonable cause to believe that the person has on his or her person records or other things relevant to the security matter;

(b) inspecting or otherwise examining any records or other things so found, and making copies or transcripts of any such record or other thing that appears to be relevant to the collection of intelligence by the Organisation in accordance with this Act;

(c) removing and retaining for such time as is reasonable any record or other thing so found, for the purposes of:

(i) inspecting or examining it; and

(ii) in the case of a record—making copies or transcripts of it, in accordance with

the warrant.

Certain personal searches not authorised

(4B) Subsection (4A) does not authorise a strip search or a search of a person’s body cavities.

24 At the end of Part III

Add:

Division 3—Special powers relating to terrorism offences

Subdivision A—Preliminary

34A Definitions

In this Division:

Federal Magistrate has the same meaning as in the *Federal Magistrates Act 1999*.

police officer means a member or special member of the Australian Federal Police or a member of the police force or police service of a State or Territory.

prescribed authority means a person appointed under section 34B.

record has the same meaning as in Division 2.

34B Prescribed authorities

(1) The Minister may, by writing, appoint as a prescribed authority:

(a) a Federal Magistrate; or
(b) a person who holds one of the following appointments to the Administrative Appeals Tribunal:

- (i) Deputy President;
- (ii) full-time senior member;
- (iii) part-time senior member;
- (iv) member.

(2) The Minister must not appoint a Federal Magistrate under paragraph (1)(a) unless:

- (a) the Magistrate has, by writing, consented to being appointed; and
 - (b) the consent is in force.
- (3) The Minister must not appoint a person under paragraph (1)(b) unless the

person:

- (a) is a Deputy President; or
- (b) is enrolled as a legal practitioner of a federal court or of the Supreme Court of a State or Territory and has been enrolled for at least 5 years.

(4) A prescribed authority has, in the performance of his or her duties under this Division, the same protection and immunity as a Justice of the High Court.

(5) If a Federal Magistrate has under this Division a function, power or duty that is neither judicial nor incidental to a judicial function or power, the Magistrate has the function, power or duty in a personal capacity and not as a court or a member of a court.

Subdivision B—Questioning, detention etc.

34C Requesting warrants

(1) The Director-General may seek the Minister's consent to request the issue of a warrant under section 34D in relation to a person.

(2) In seeking the Minister's consent, the Director-General must give the Minister a draft request that includes:

- (a) a draft of the warrant to be requested; and
- (b) a statement of the facts and other grounds on which the Director-General considers it necessary that the warrant should be issued; and
- (c) a statement of the particulars and outcomes of all previous requests for the issue of a warrant under section 34D relating to the person.

(3) The Minister may, by writing, consent to the making of the request, but only if the Minister is satisfied:

(a) that there are reasonable grounds for believing that issuing the warrant to be requested will substantially assist the collection of intelligence that is important in relation to a terrorism offence; and

(b) that relying on other methods of collecting that intelligence would be ineffective; and

(c) if the warrant to be requested is to authorise the person to be immediately taken into custody, brought before a prescribed authority for questioning and detained—that there are reasonable grounds for believing that, if the person is not immediately taken into custody and detained, the person:

- (i) may alert a person involved in a terrorism offence that the offence is being investigated; or
- (ii) may not appear before the prescribed authority; or
- (iii) may destroy, damage or alter a record or thing the person may be requested in accordance with the warrant to produce.

The Minister may make his or her consent subject to changes being made to the draft request.

(4) If the Minister has consented, the Director-General may request the warrant by giving a prescribed authority:

(a) a request that is the same as the draft request except for the changes (if any) required by the Minister; and

- (b) a copy of the Minister's consent.

(5) The Director-General may request the warrant only by giving the material described in subsection (4) to a prescribed authority who is a Deputy President of the Administrative Appeals Tribunal, if:

(a) the person has been detained under this Division for a continuous period of more than 48 hours; and

(b) if the requested warrant were issued, the person could be detained under this Division for a continuous period of more than 96 hours that includes the period described in paragraph (a).

Note: Subsection (5) can apply only if, before the request is made, at least 2 warrants have been issued in relation to the person under this Division.

34D Warrants for questioning etc.

(1) A prescribed authority may issue a warrant under this section relating to a person, but only if:

(a) the Director-General has requested it in accordance with subsection 34C(4), and with subsection 34C(5) if relevant; and

(b) the prescribed authority is satisfied that there are reasonable grounds for believing that the warrant will substantially assist the collection of intelligence that is important in relation to a terrorism offence.

(2) The warrant must, in the same terms as the draft warrant given to the prescribed authority as part of the request, either:

(a) require a specified person to appear before a prescribed authority for questioning under the warrant immediately after the person is notified of the issue of the warrant, or at a time specified in the warrant; or

(b) do both of the following:

(i) authorise a specified person to be immediately taken into custody by a police officer, brought before a prescribed authority for questioning under the warrant and detained under arrangements made by a police officer for a specified period of not more than 48 hours starting when the person is brought before the authority;

(ii) specify all the persons whom the person is permitted to contact while in custody or detention authorised by the warrant.

(3) For the purposes of subparagraph (2)(b)(i), the warrant may specify the end of the period for which the person is to be detained by reference to the opinion of a person exercising authority under the warrant that the Organisation does not have any further request described in paragraph (5)(a) to make of the person. This does not limit the ways in which the warrant may specify the end of the period.

(4) The warrant may specify someone whom the person is permitted to contact by reference to the fact that he or she is the person's legal adviser. This does not limit the ways in which the warrant may specify persons whom the person is permitted to contact.

Note 1: The warrant may specify persons by reference to a class. See subsection 46(2) of the *Acts Interpretation Act 1901*.

Note 2: Section 34F permits the person to contact the Inspector-General of Intelligence and Security and the Ombudsman while the person is in custody or detention, so the warrant must specify them.

(5) Also, the warrant must, in the same terms as the draft warrant given to the prescribed authority as part of the request:

(a) authorise the Organisation, subject to any restrictions or conditions, to question the person before a prescribed authority by requesting the person to do either or both of the following:

(i) give information that is or may be relevant to intelligence that is important in relation to a terrorism offence;

(ii) produce records or things that are or may be relevant to intelligence that is important in relation to a terrorism offence;

(b) authorise the Organisation, subject to any restrictions or conditions, to make copies and/or transcripts of a record produced by the person before a prescribed authority in response to a request in accordance with the warrant.

(6) Also, the warrant must:

(a) be signed by the prescribed authority who issues it; and

(b) specify the period during which the warrant is to be in force, which must not be more than 28 days.

34E Prescribed authority must explain warrant

(1) When the person first appears before a prescribed authority for questioning under the warrant, the prescribed authority must inform the person of the following:

- (a) whether the warrant authorises detention of the person by a police officer and, if it does, the period for which the warrant authorises detention of the person;
- (b) what the warrant authorises the Organisation to do;
- (c) the effect of section 34G (including the fact that the section creates offences);
- (d) the period for which the warrant is in force;
- (e) the person's right to make a complaint orally or in writing:
 - (i) to the Inspector-General of Intelligence and Security under the *Inspector-General of Intelligence and Security Act 1986* in relation to the Organisation; or
 - (ii) to the Ombudsman under the *Complaints (Australian Federal Police) Act 1981* in relation to the Australian Federal Police.

(2) To avoid doubt, subsection (1) does not apply to a prescribed authority if the person has previously appeared before another prescribed authority for questioning under the warrant.

34F Detention of persons

Directions relating to detention or further appearance

(1) At any time when a person is before a prescribed authority for questioning under a warrant, the authority may give any of the following directions:

- (a) a direction to detain the person;
- (b) a direction for the further detention of the person;
- (c) a direction about any arrangements for the person's detention;
- (d) a direction permitting the person to contact a specified person (including someone specified by reference to the fact that he or she is the person's legal adviser) or any person;
- (e) a direction for the person's further appearance before the prescribed authority for questioning under the warrant;
- (f) a direction that the person be released from detention.

(2) The prescribed authority is only to give a direction that:

- (a) is consistent with the warrant; or
- (b) has been approved in writing by the Minister.

(3) The prescribed authority is only to give a direction described in paragraph (1)(a) or (b) if he or she is satisfied that there are reasonable grounds for believing that, if the person is not detained, the person:

- (a) may alert a person involved in a terrorism offence that the offence is being investigated; or
- (b) may not continue to appear, or may not appear again, before a prescribed authority; or
- (c) may destroy, damage or alter a record or thing the person has been requested, or may be requested, in accordance with the warrant, to produce.

(4) A direction under subsection (1) must not result in:

- (a) a person being detained at a time more than 48 hours after the person first appears before a prescribed authority for questioning under the warrant; or
- (b) a person's detention being arranged by a person who is not a police officer.

Giving effect to directions

(5) Directions given by a prescribed authority have effect, and may be implemented or enforced, according to their terms.

(6) A police officer may take a person into custody and bring him or her before a prescribed authority for questioning under a warrant issued under section 34D if the person fails to appear before a prescribed authority as required by the warrant or a direction given by a prescribed authority under this section.

Direction has no effect on further warrant

(7) This section does not prevent any of the following occurring in relation to a person who has been released after having been detained under this Division in connection with a warrant issued under section 34D:

- (a) a prescribed authority issuing a further warrant under that section;
- (b) the person being detained under this Division in connection with the further warrant.

Communications while in custody or detention

(8) A person who has been taken into custody, or detained, under this Division is not permitted to contact, and may be prevented from contacting, anyone at any time while in custody or detention.

(9) However:

(a) the person may contact anyone whom the warrant under which he or she is detained, or a direction described in paragraph (1)(d), permits the person to contact; and

(b) subsection (8) does not affect the following provisions in relation to contact between the person and the Inspector-General of Intelligence and Security or the Ombudsman:

(i) sections 10 and 13 of the *Inspector-General of Intelligence and Security Act 1986*;

(ii) section 22 of the *Complaints (Australian Federal Police) Act 1981*; and

(c) anyone holding the person in custody or detention under this Division must give the person facilities for contacting the Inspector-General of Intelligence and Security or the Ombudsman to make a complaint orally under a section mentioned in paragraph (b) if the person requests them.

Note: The sections mentioned in paragraph (9)(b) give the person an entitlement to facilities for making a written complaint.

34G Giving information and producing things etc.

(1) A person must appear before a prescribed authority for questioning, as required by a warrant issued under section 34D or a direction given under section 34F.

Penalty: Imprisonment for 5 years.

(2) Strict liability applies to the circumstance of an offence against subsection (1) that:

(a) the warrant was issued under section 34D; or

(b) the direction was given under section 34F.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

(3) A person who is before a prescribed authority for questioning under a warrant must not fail to give any information requested in accordance with the warrant.

Penalty: Imprisonment for 5 years.

(4) Subsection (3) does not apply if the person does not have the information.

Note: A defendant bears an evidential burden in relation to the matter in subsection (4) (see subsection 13.3(3) of the *Criminal Code*).

(5) If:

(a) a person is before a prescribed authority for questioning under a warrant; and

(b) the person makes a statement that is, to the person's knowledge, false or

misleading in a material particular; and

(c) the statement is made in purported compliance with a request for information made in accordance with the warrant;

the person is guilty of an offence.

Penalty: Imprisonment for 5 years.

(6) A person who is before a prescribed authority for questioning under a warrant must not fail to produce any record or thing that the person is requested in accordance with the warrant to produce.

Penalty: Imprisonment for 5 years.

(7) Subsection (6) does not apply if the person does not have possession or control of the record or thing.

Note: A defendant bears an evidential burden in relation to the matter in subsection (7) (see subsection 13.3(3) of the *Criminal Code*).

- (8) For the purposes of subsections (3) and (6), the person may not fail:
 - (a) to give information; or
 - (b) to produce a record or thing;

in accordance with a request made of the person in accordance with the warrant, on the ground that the information, or production of the record or thing, might tend to incriminate the person or make the person liable to a penalty.

(9) However, the following are not admissible in evidence against the person in criminal proceedings other than proceedings for an offence against this section or a terrorism offence:

(a) anything said by the person, while before a prescribed authority for questioning under a warrant, in response to a request made in accordance with the warrant for the person to give information;

(b) the production of a record or thing by the person, while before a prescribed authority for questioning under a warrant, in response to a request made in accordance with the warrant for the person to produce a record or thing.

34H Interpreter

(1) This section applies if the prescribed authority before whom a person first appears for questioning under a warrant believes on reasonable grounds that the person is unable, because of inadequate knowledge of the English language or a physical disability, to communicate with reasonable fluency in that language.

(2) A person exercising authority under the warrant must arrange for the presence of an interpreter.

(3) The prescribed authority must defer informing under section 34E the person to be questioned under the warrant until the interpreter is present.

(4) A person exercising authority under the warrant must defer the questioning under the warrant until the interpreter is present.

Subdivision C—Miscellaneous

34J Humane treatment of person specified in warrant

(1) This section applies to a person specified in a warrant issued under section 34D while anything is being done in relation to the person under the warrant or a direction given under section 34F.

(2) The person must be treated with humanity and with respect for human dignity, and must not be subjected to cruel, inhuman or degrading treatment, by anyone exercising authority under the warrant or implementing or enforcing the direction.

34K Video recording of procedures

(1) The Director-General must ensure that video recordings are made of the following:

(a) a person's appearance before a prescribed authority for questioning under a warrant;

(b) any other matter or thing that the prescribed authority directs is to be video recorded.

(2) The Director-General must ensure that, if practicable, video recordings are made of any complaint by a person specified in a warrant issued under section 34D when he or she is not appearing before a prescribed authority for questioning under the warrant.

34L Power to conduct an ordinary search or a strip search

(1) If a person has been detained under this Division, a police officer may:

(a) conduct an ordinary search of the person; or

(b) subject to this section, conduct a strip search of the person.

(2) A strip search may be conducted if:

(a) a police officer suspects on reasonable grounds that the person has a seizable item on his or her person; and

(b) the police officer suspects on reasonable grounds that it is necessary to conduct a strip search of the person in order to recover that item; and

(c) a prescribed authority has approved the conduct of the search.

(3) The prescribed authority's approval may be obtained by telephone, fax or other electronic means.

(4) A strip search may also be conducted if the person consents in writing.

(5) A medical practitioner may be present when a strip search is conducted, and he or she may assist in the search.

(6) If a prescribed authority gives or refuses to give an approval for the purposes of paragraph (2)(c), the prescribed authority must make a record of the decision and of the reasons for the decision.

(7) Such force as is necessary and reasonable in the circumstances may be used to conduct a strip search under subsection (1).

(8) Any item:

(a) of a kind mentioned in paragraph (2)(a); or

(b) that is relevant to collection of intelligence that is important in relation to a terrorism offence;
that is found during a search under this section may be seized.

34M Rules for conduct of strip search

(1) A strip search under section 34L:

(a) must be conducted in a private area; and

(b) must be conducted by a police officer who is of the same sex as the person being searched; and

(c) subject to subsection (3), must not be conducted in the presence or view of a person who is of the opposite sex to the person being searched; and

(d) must not be conducted in the presence or view of a person whose presence is not necessary for the purposes of the search; and

(e) must not be conducted on a person who is under 10; and

(f) if, in a prescribed authority's opinion, the person being searched is at least 10 but under 18, or is incapable of managing his or her affairs:

(i) may only be conducted if a prescribed authority orders that it be conducted;
and

(ii) must be conducted in the presence of a parent or guardian of the person or, if that is not acceptable to the person, in the presence of someone else who can represent the person's interests and who, as far as is practicable in the circumstances, is acceptable to the person; and

(g) must not involve a search of a person's body cavities; and

(h) must not involve the removal of more garments than the police officer conducting the search believes on reasonable grounds to be necessary to determine whether the person has a seizable item on his or her person; and

(i) must not involve more visual inspection than the police officer believes on reasonable grounds to be necessary to determine whether the person has a seizable item on his or her person.

(2) For the purposes of subparagraph (1)(f)(ii), none of the following can represent the person's interests:

(a) a police officer;

(b) the Director-General;

(c) an officer or employee of the Organisation;

(d) a person approved under subsection 24(1).

(3) A strip search may be conducted in the presence of a medical practitioner of the opposite sex to the person searched if a medical practitioner of the same sex as the person being searched is not available within a reasonable time.

(4) If any of a person's garments are seized as a result of a strip search, the person must be provided with adequate clothing.

34N Power to remove, retain and copy materials etc.

(1) In addition to the things that the Organisation is authorised to do that are specified in the warrant, the Organisation is also authorised:

(a) to remove and retain for such time as is reasonable any record or other thing produced before a prescribed authority in response to a request in accordance with the warrant, for the purposes of:

(i) inspecting or examining it; and
(ii) in the case of a record—making copies or transcripts of it, in accordance with the warrant; and

(b) subject to section 34M, to examine any items or things removed from a person during a search of the person under this Division; and

(c) to retain for such time as is reasonable, and make copies of, any item seized under paragraph 34L(8)(b); and

(d) to do any other thing reasonably incidental to:

(i) paragraph (a), (b) or (c); or
(ii) any of the things that the Organisation is authorised to do that are specified in the warrant.

(2) A police officer may retain for such time as is reasonable any seizable item seized by the officer under paragraph 34L(8)(a).

34P Providing reports to the Minister

The Director-General must give the Minister, for each warrant issued under section 34D, a written report on the extent to which the action taken under the warrant has assisted the Organisation in carrying out its functions.

34Q Providing information to the Inspector-General

The Director-General must, as soon as practicable, give the following to the Inspector-General of Intelligence and Security:

(a) a copy of any warrant issued under section 34D;
(b) a copy of any video recording made under section 34K;
(c) a statement containing details of any seizure, taking into custody, or detention under this Division.

34R Discontinuing action before warrants expire

If, before a warrant issued under section 34D ceases to be in force, the Director-General is satisfied that the grounds on which the warrant was issued have ceased to exist, the Director-General must:

(a) inform the Minister, and the prescribed authority who issued the warrant, accordingly; and
(b) take such steps as are necessary to ensure that action under the warrant is discontinued.

34S Certain records obtained under warrant to be destroyed

The Director-General must cause a record or copy to be destroyed if:

(a) the record or copy was made because of a warrant issued under section 34D;
and
(b) the record or copy is in the possession or custody, or under the control, of the Organisation; and
(c) the Director-General is satisfied that the record or copy is not required for the purposes of the performance of functions or exercise of powers under this Act.

34T Certain functions and powers not affected

(1) This Division does not affect a function or power of the Inspector-General of Intelligence and Security under the *Inspector-General of Intelligence and Security Act 1986*.

(2) This Division does not affect a function or power of the Ombudsman under the *Complaints (Australian Federal Police) Act 1981*.

25 Section 35 (definition of year 2000 Games matters)

Repeal the definition.

26 Paragraph 40(1)(b)

Repeal the paragraph, substitute:

(b) if the prescribed administrative action would affect security in connection with an event designated in writing by the Minister as a special event—to furnish a security

assessment in respect of that person to the State or the authority of a State for use in considering that prescribed administrative action.

27 At the end of section 40

Add:

(3) For the purposes of paragraph 40(1)(b), the Minister must notify the Director-General in writing of an event designated as a special event.

Telecommunications (Interception) Act 1979

28 Subsection 65(1)

Omit “an officer”, substitute “a person”.

29 Saving of authorisations

An officer who was authorised by the Director-General of Security for the purpose of subsection 65(1) of the *Telecommunications (Interception) Act 1979* immediately before the commencement of this item is taken to be, immediately after the commencement of this item, a person authorised for that purpose.