



Counter-Terrorism Legislation Amendment Act (No. 1) 2014

No. 134, 2014

**An Act to amend the law relating to
counter-terrorism, and for related purposes**

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)

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An Act to amend the law relating to counter-terrorism, and for related purposes

[Assented to 12 December 2014]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Counter-Terrorism Legislation Amendment Act (No. 1) 2014*.

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	12 December 2014
2. Schedule 1	The 28th day after this Act receives the Royal Assent.	9 January 2015
3. Schedule 2	The day after this Act receives the Royal Assent.	13 December 2014

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Criminal Code Act 1995

Criminal Code Act 1995

1 Subsection 102.1A(1)

Repeal the subsection, substitute:

Disallowable instruments

- (1) This section applies in relation to the following disallowable instruments:
 - (a) a regulation that specifies an organisation for the purposes of paragraph (b) of the definition of *terrorist organisation* in section 102.1;
 - (b) an instrument made under section 102.1AA.

Review of disallowable instrument

- (2) The Parliamentary Joint Committee on Intelligence and Security may:
 - (a) review the disallowable instrument as soon as possible after the making of the instrument; and
 - (b) report the Committee's comments and recommendations to each House of the Parliament before the end of the applicable disallowance period for that House.

2 Subsection 102.1A(3) (heading)

Repeal the heading, substitute:

Review of disallowable instrument—extension of disallowance period

3 Subsection 102.1A(3)

Omit “regulation” (first occurring), substitute “disallowable instrument”.

4 Subsection 102.1A(3)

Omit all the words from “then whichever” to “in accordance with the table”, substitute “then Part 5 of the *Legislative Instruments Act 2003* has effect, in relation to that disallowable instrument and that House, as if each period of 15 sitting days referred to in that Part were extended in accordance with the table”.

5 Subsection 102.1A(4)

Repeal the subsection, substitute:

Applicable disallowance period

- (4) The *applicable disallowance period* for a House of the Parliament means the period of 15 sitting days of that House after the disallowable instrument, or a copy of the disallowable instrument, was laid before that House in accordance with section 38 of the *Legislative Instruments Act 2003*.

6 Subdivision A of Division 104 of the *Criminal Code*

Repeal the Subdivision, substitute:

Subdivision A—Objects of this Division

104.1 Objects of this Division

The objects of this Division are to allow obligations, prohibitions and restrictions to be imposed on a person by a control order for one or more of the following purposes:

- (a) protecting the public from a terrorist act;
- (b) preventing the provision of support for or the facilitation of a terrorist act;
- (c) preventing the provision of support for or the facilitation of the engagement in a hostile activity in a foreign country.

7 At the end of subsection 104.2(2) of the *Criminal Code*

Add:

- ; or (c) suspects on reasonable grounds that the order in the terms to be requested would substantially assist in preventing the provision of support for or the facilitation of a terrorist act; or

-
- (d) suspects on reasonable grounds that the person has provided support for or otherwise facilitated the engagement in a hostile activity in a foreign country.

8 Subsections 104.2(3) to (4) of the *Criminal Code*

Repeal the subsections, substitute:

- (3) In seeking the Attorney-General's consent, the member must give the Attorney-General:
- (a) a draft of the interim control order to be requested; and
 - (aa) the following:
 - (i) a statement of the facts relating to why the order should be made;
 - (ii) if the member is aware of any facts relating to why the order should not be made—a statement of those facts; and
 - (b) information (if any) that the member has about the person's age; and
 - (c) a summary of the grounds on which the order should be made.

Note: An interim control order cannot be requested in relation to a person who is under 16 years of age (see section 104.28).

- (3A) To avoid doubt, paragraph (3)(c) does not require any information to be included in the summary if disclosure of that information is likely to prejudice national security (within the meaning of the *National Security Information (Criminal and Civil Proceedings) Act 2004*).
- (4) The Attorney-General's consent may be made subject to the member making changes required by the Attorney-General to the draft of the interim control order to be requested.

8A Subsection 104.2(6) of the *Criminal Code*

Omit "paragraphs (2)(a) and (b)", substitute "subsection (2)".

9 Section 104.3 of the *Criminal Code*

Repeal the section, substitute:

104.3 Requesting the court to make an interim control order

If the Attorney-General consents to the request under section 104.2, the senior AFP member may request an interim control order by giving an issuing court the following:

- (a) a request the information in which is sworn or affirmed by the member;
- (b) all that is required under subsection 104.2(3) (incorporating any change made to the draft of the interim control order under subsection 104.2(4));
- (d) the following:
 - (i) an explanation as to why each of the proposed obligations, prohibitions or restrictions should be imposed on the person;
 - (ii) if the member is aware of any facts relating to why any of those obligations, prohibitions or restrictions should not be imposed on the person—a statement of those facts;
- (e) the following:
 - (i) the outcomes and particulars of all previous requests for interim control orders (including the outcomes of the hearings to confirm the orders) in relation to the person;
 - (ii) the outcomes and particulars of all previous applications for variations of control orders made in relation to the person;
 - (iii) the outcomes and particulars of all previous applications for revocations of control orders made in relation to the person;
 - (iv) the outcomes and particulars of all previous applications for preventative detention orders in relation to the person;
 - (v) information (if any) that the member has about any periods for which the person has been detained under an order made under a corresponding State preventative detention law;
- (f) a copy of the Attorney-General's consent.

Note: The member might commit an offence if the draft request is false or misleading (see sections 137.1 and 137.2).

10 Subparagraph 104.4(1)(c)(v) of the *Criminal Code*

Omit “; and”, substitute “; or”.

11 At the end of paragraph 104.4(1)(c) of the *Criminal Code*

Add:

- (vi) that making the order would substantially assist in preventing the provision of support for or the facilitation of a terrorist act; or
- (vii) that the person has provided support for or otherwise facilitated the engagement in a hostile activity in a foreign country; and

12 Paragraph 104.4(1)(d) of the *Criminal Code*

Repeal the paragraph, substitute:

- (d) the court is satisfied on the balance of probabilities that each of the obligations, prohibitions and restrictions to be imposed on the person by the order is reasonably necessary, and reasonably appropriate and adapted, for the purpose of:
 - (i) protecting the public from a terrorist act; or
 - (ii) preventing the provision of support for or the facilitation of a terrorist act; or
 - (iii) preventing the provision of support for or the facilitation of the engagement in a hostile activity in a foreign country.

14 After subsection 104.5(1A) of the *Criminal Code*

Insert:

- (1B) In specifying a day for the purposes of paragraph (1)(e), the issuing court must take into account:
 - (a) that the persons mentioned in subsection 104.14(1) may need to prepare in order to adduce evidence or make submissions to the court in relation to the confirmation of the order; and
 - (b) any other matter the court considers relevant.

15 Subsection 104.6(2) of the *Criminal Code* (note)

Omit “4 hours”, substitute “8 hours”.

16 Paragraph 104.6(4)(a) of the *Criminal Code*

Repeal the paragraph, substitute:

- (a) all that is required under paragraphs 104.3(b) to (e) in respect of an ordinary request for an interim control order;

17 Subsection 104.8(1) of the *Criminal Code* (note)

Omit “4 hours”, substitute “8 hours”.

18 Paragraph 104.8(2)(a) of the *Criminal Code*

Repeal the paragraph, substitute:

- (a) all that is required under paragraphs 104.3(a) to (e) in respect of an ordinary request for an interim control order;

19 Section 104.10 of the *Criminal Code* (heading)

Repeal the heading, substitute:

104.10 Obtaining the Attorney-General’s consent within 8 hours

20 Subsections 104.10(1) and (2) of the *Criminal Code*

Omit “4 hours”, substitute “8 hours”.

21 Subsection 104.10(2) of the *Criminal Code* (note)

Omit “vary the request and”.

22 Subparagraph 104.12A(2)(a)(ii) of the *Criminal Code*

Omit “104.2(3)(b) and (c)”, substitute “104.2(3)(aa) and 104.3(d)”.

25 At the end of subsection 104.23(1) of the *Criminal Code*

Add:

- ; or (c) suspects on reasonable grounds that the varied order in the terms to be sought would substantially assist in preventing the provision of support for or the facilitation of a terrorist act; or
- (d) suspects on reasonable grounds that the person has provided support for or otherwise facilitated the engagement in a hostile activity in a foreign country.

28 Paragraph 104.24(1)(b) of the *Criminal Code*

Repeal the paragraph, substitute:

- (b) the court is satisfied on the balance of probabilities that each of the additional obligations, prohibitions and restrictions to be imposed on the person by the order is reasonably necessary, and reasonably appropriate and adapted, for the purpose of:
 - (i) protecting the public from a terrorist act; or
 - (ii) preventing the provision of support for or the facilitation of a terrorist act; or
 - (iii) preventing the provision of support for or the facilitation of the engagement in a hostile activity in a foreign country.

30 At the end of Division 106 of the *Criminal Code*

Add:

**106.6 Application provisions for certain amendments in the
Counter-Terrorism Legislation Amendment Act (No. 1)
2014**

- (1) Section 104.1, as amended by Schedule 1 to the *Counter-Terrorism Legislation Amendment Act (No. 1) 2014*, applies in relation to control orders, where the relevant interim control order is requested after the commencement of this section.
- (2) Sections 104.2, 104.3, 104.10 and 104.12A, as amended by Schedule 1 to the *Counter-Terrorism Legislation Amendment Act (No. 1) 2014*, apply to requests for interim control orders made after the commencement of this section, where the conduct in relation to which the request is made occurs before or after that commencement.
- (3) Section 104.4 and subsection 104.5(1B), as amended by Schedule 1 to the *Counter-Terrorism Legislation Amendment Act (No. 1) 2014*, apply to the making of orders requested after the commencement of this section, where the conduct in relation to which the request is made occurs before or after that commencement.

- (4) Sections 104.6 and 104.8, as amended by Schedule 1 to the *Counter-Terrorism Legislation Amendment Act (No. 1) 2014*, apply to the making of requests after the commencement of this section, where the conduct in relation to which the request is made occurs before or after that commencement.
- (5) Section 104.14, as amended by Schedule 1 to the *Counter-Terrorism Legislation Amendment Act (No. 1) 2014*, applies to confirmations of control orders, where the relevant interim control order is requested after that commencement.
- (6) Sections 104.20, 104.23 and 104.24, as amended by Schedule 1 to the *Counter-Terrorism Legislation Amendment Act (No. 1) 2014*, apply to variations of control orders, where the relevant interim control order is requested after that commencement.

Schedule 2—Intelligence Services Act 2001

Intelligence Services Act 2001

1A After section 3

Insert:

3A References to Ministers

Despite section 19A of the *Acts Interpretation Act 1901*, in this Act:

- (a) a reference to the responsible Minister in relation to a relevant agency is a reference only to the most senior responsible Minister in relation to that agency; and
- (b) a reference to the Prime Minister or the Attorney-General is a reference only to the Minister with that title; and
- (c) a reference to the Defence Minister is a reference only to the most senior Defence Minister; and
- (d) a reference to the Foreign Affairs Minister is a reference only to the most senior Foreign Affairs Minister; and
- (e) a reference to the Minister responsible for administering the *Australian Security Intelligence Organisation Act 1979* is a reference only to the most senior such Minister.

Note: A reference to a Minister mentioned in this section may include a reference to a person acting as that Minister (see section 19 of the *Acts Interpretation Act 1901*).

1 After paragraph 6(1)(b)

Insert:

- (ba) to provide assistance to the Defence Force in support of military operations and to cooperate with the Defence Force on intelligence matters; and

2 Subsection 6(7)

Omit “, including to the Defence Force in support of military operations,”.

3 Paragraph 8(1)(a)

Omit “section 9 from the Minister”, substitute “section 9, 9A or 9B (as the case requires)”.

4 After subparagraph 8(1)(a)(i)

Insert:

- (ia) undertaking, in the course of providing assistance to the Defence Force in support of military operations under paragraph 6(1)(ba), an activity, or a series of activities, for the specific purpose, or for purposes which include the specific purpose, of producing intelligence on one or more members of a class of Australian persons; or
- (ib) undertaking, in the course of providing assistance to the Defence Force in support of military operations under paragraph 6(1)(ba), an activity, or a series of activities, that will, or is likely to, have a direct effect on one or more members of a class of Australian persons; or

5 Paragraph 8(1)(b)

Omit “section 9 from the Minister”, substitute “section 9, 9A or 9B (as the case requires)”.

6 Before subsection 9(1)

Insert:

Preconditions for giving authorisation

7 Subsection 9(1)

Omit “under this section”.

8 At the end of subsection 9(1)

Add:

- ; and (d) for an authorisation for an activity, or a series of activities, of a kind mentioned in subparagraph 8(1)(a)(ia) or (ib)—the Defence Minister has requested the authorisation in writing.

9 Subsection 9(1A)

Omit “under this section for an activity, or a series of activities, of a kind mentioned in subparagraph 8(1)(a)(i)”, substitute “for an activity, or a series of activities, of a kind mentioned in subparagraph 8(1)(a)(i), (ia), (ib)”.

10 Paragraph 9(1A)(a)

After “the Australian person”, insert “, or the class of Australian persons,”.

11 Paragraph 9(1A)(b)

After “the Australian person”, insert “, or the class of Australian persons,”.

12 Paragraph 9(1A)(b)

After “agreement”, insert “(orally or in writing, but subject to subsection (1AA))”.

13 At the end of subsection 9(1A)

Add:

Note: For *serious crime*, see section 3.

14 After subsection 9(1A)

Insert:

Agreement of Minister administering the Australian Security Intelligence Organisation Act 1979

(1AA) Without limiting paragraph (1A)(b), the Minister responsible for administering the *Australian Security Intelligence Organisation Act 1979* may, in writing:

- (a) specify classes of Australian persons who are, or are likely to be, involved in an activity or activities that are, or are likely to be, a threat to security; and
- (b) give his or her agreement in relation to any Australian person in that specified class.

(1AB) An agreement given in accordance with subsection (1AA) may:

- (a) relate to an authorisation for an activity, or a series of activities, of a kind mentioned in subparagraph 8(1)(a)(i), (ia), (ib) or (ii); and
- (b) specify the period during which the agreement has effect.

(1AC) If an agreement relating to a specified class of Australian persons specifies a period in accordance with paragraph (1AB)(b), the agreement of the Minister responsible for administering the *Australian Security Intelligence Organisation Act 1979* is, for authorisations to be given after the period ends, taken not to have been obtained in relation to a person in that class.

Note: The agreement of the Minister would need to be obtained again in relation to such a person.

Content and form of authorisation

15 Subsection 9(1B)

Repeal the subsection.

16 Subsection 9(4)

Repeal the subsection, substitute:

- (4) An authorisation must specify how long it will have effect. The period of effect specified in an authorisation for an activity, or a series of activities, of a kind mentioned in subparagraph 8(1)(a)(i), (ia), (ib) or (ii) must not exceed 6 months.

17 Subsection 9(5)

Repeal the subsection, substitute:

- (4A) An authorisation must be in writing.

Requirement to keep copies

- (5) If a Minister gives an authorisation under this section in relation to an agency, the relevant agency head must ensure that copies of the following are kept by the agency and are available for inspection on request by the Inspector-General of Intelligence and Security:
 - (a) the authorisation;

-
- (b) any record or copy of an agreement given under paragraph (1A)(b) (including any agreement given in accordance with subsection (1AA));
 - (c) if the authorisation is for an activity, or a series of activities, of a kind mentioned in subparagraph 8(1)(a)(ia) or (ib)—the request from the Defence Minister referred to in paragraph (1)(d) of this section.

Status of instruments

- (6) A request under paragraph (1)(d), an agreement under paragraph (1A)(b) (if in writing), a request under subsection (5) (if in writing), and an authorisation under this section, are not legislative instruments.

Definitions

- (7) In this section:

security has the same meaning as in the *Australian Security Intelligence Organisation Act 1979*.

UN sanction enforcement law has the same meaning as in the *Charter of the United Nations Act 1945*.

18 Section 9A

Repeal the section, substitute:

9A Authorisations in an emergency—Ministerial authorisations

- (1) This section applies if:
 - (a) an emergency situation arises in which an agency head considers it necessary or desirable to undertake an activity or a series of activities (except an activity or a series of activities of a kind mentioned in subparagraph 8(1)(a)(ia) or (ib)); and
 - (b) a direction under subsection 8(1) requires the agency to obtain an authorisation under section 9, 9A or 9B before undertaking that activity or series of activities.

Giving oral authorisations

- (2) A Minister specified in subsection (3) may orally give an authorisation under this section for the activity or series of activities if (subject to section 9C) the conditions in subsections 9(1) and (1A) are met.

Note: The condition in paragraph 9(1A)(b) may not be required to be met if the Minister responsible for administering the *Australian Security Intelligence Organisation Act 1979* is unavailable (see section 9C).

- (3) The Ministers who may orally give an authorisation are:
- (a) the responsible Minister in relation to the relevant agency; or
 - (b) if the agency head is satisfied that the relevant responsible Minister is not readily available or contactable—any of the following Ministers:
 - (i) the Prime Minister;
 - (ii) the Defence Minister;
 - (iii) the Foreign Affairs Minister;
 - (iv) the Attorney-General.

Note: An authorisation may be given by an agency head if none of those Ministers are readily available or contactable (see section 9B).

Period of effect of oral authorisation

- (4) An authorisation given under this section for an activity or series of activities ceases to have effect at the earlier of the following times:
- (a) when an authorisation for the activity or series of activities is given under section 9;
 - (b) 48 hours from the time the authorisation was given under this section.

Record of oral authorisation

- (5) The agency head must:
- (a) ensure that a written record of an authorisation given under this section is made as soon as practicable (but no later than 48 hours) after the authorisation is given; and
 - (b) give the Inspector-General of Intelligence and Security a copy of the record within 3 days after the authorisation is given.

9B Authorisations in an emergency—Ministers unavailable

- (1) This section applies if:
- (a) an agency head considers it necessary or desirable to undertake an activity or a series of activities; and
 - (b) an authorisation is sought under section 9A; and
 - (c) the agency head is satisfied that none of the Ministers specified in subsection 9A(3) are readily available or contactable.
- (2) The agency head may give an authorisation under this section for the activity or series of activities if the agency head is satisfied that:
- (a) the facts of the case would justify the relevant responsible Minister giving an authorisation under section 9 because (subject to section 9C) the agency head is satisfied that the conditions in subsections 9(1) and (1A) are met; and
 - (b) the responsible Minister would have given the authorisation; and
 - (c) if the activity or series of activities is not undertaken before an authorisation is given under section 9 or 9A:
 - (i) security (within the meaning of the *Australian Security Intelligence Organisation Act 1979*) will be, or is likely to be, seriously prejudiced; or
 - (ii) there will be, or is likely to be, a serious risk to a person's safety.

Note: The condition in paragraph 9(1A)(b) may not be required to be met if the Minister responsible for administering the *Australian Security Intelligence Organisation Act 1979* is unavailable (see section 9C).

Content and form of authorisation

- (3) An authorisation given under this section:
- (a) may be given in relation to the same matters as an authorisation may be given under subsection 9(2); and
 - (b) is subject to the requirements of subsections 9(3) and (4A).

Period of effect of authorisation

- (4) An authorisation given under this section for an activity or series of activities ceases to have effect at the earliest of the following times:
- (a) when an authorisation for the activity or series of activities is given under section 9 or 9A;
 - (b) when the authorisation given under this section is cancelled by the relevant responsible Minister under subsection (8) of this section;
 - (c) 48 hours from the time the authorisation was given under this section.

Notifying the responsible Minister

- (4A) An agency head who gives an authorisation under this section for an activity or series of activities must notify the relevant responsible Minister of the authorisation within 8 hours after giving the authorisation.

Copies of authorisation and other documents

- (5) The agency head must also give the following documents to the relevant responsible Minister and the Inspector-General of Intelligence and Security:
- (a) a copy of the authorisation;
 - (b) a summary of the facts of the case that the agency head was satisfied justified giving the authorisation;
 - (c) an explanation of the Minister's obligation under subsection (7).
- (6) The documents must be given to the responsible Minister and the Inspector-General of Intelligence and Security as soon as practicable, but no later than the following time:
- (a) for documents given to the responsible Minister—48 hours after giving the authorisation;
 - (b) for documents given to the Inspector-General of Intelligence and Security—3 days after giving the authorisation.

Responsible Minister must consider cancelling authorisation or giving new authorisation

- (7) As soon as practicable after the responsible Minister is given the documents, the responsible Minister must consider whether to:
- (a) cancel the authorisation under subsection (8); or
 - (b) give a new authorisation for the activity or series of activities under section 9 or 9A.

Responsible Minister may cancel authorisation

- (8) For the purposes of paragraph (4)(b), the relevant responsible Minister may, in writing, cancel an authorisation given under this section.

Oversight by Inspector-General of Intelligence and Security

- (8A) Within 30 days after the Inspector-General of Intelligence and Security is given the documents, the Inspector-General must:
- (a) consider whether the agency head complied with the requirements of this section in giving the authorisation; and
 - (b) provide the responsible Minister with a report on the Inspector-General's views of the extent of the agency head's compliance with the requirements of this section in giving the authorisation; and
 - (c) provide to the Committee a copy of the conclusions in the report.

Status of instruments

- (9) An authorisation, report and a cancellation under this section are not legislative instruments.

9C Authorisations in an emergency—Minister responsible for administering the *Australian Security Intelligence Organisation Act 1979* unavailable

- (1) This section applies if:
- (a) an agency head considers it necessary or desirable to undertake an activity or a series of activities; and
 - (b) an authorisation is sought under section 9A or 9B; and

- (c) all of the following apply:
- (i) the agreement of the Minister responsible for administering the *Australian Security Intelligence Organisation Act 1979* (the **ASIO Minister**) is required to be obtained under paragraph 9(1A)(b);
 - (ii) the agreement has not been obtained;
 - (iii) the agency head is satisfied that the ASIO Minister is not readily available or contactable.

Giving authorisation

- (2) Despite paragraph 9(1A)(b), the authorisation may (subject to subsection (3)) be given without obtaining the agreement of the ASIO Minister.

Obtaining the agreement of the Director-General of Security

- (3) Before an authorisation is given under section 9A or 9B, unless the agency head is satisfied that the Director-General of Security is not readily available or contactable, the agency head must obtain the agreement of the Director-General to the authorisation being given without the agreement of the ASIO Minister.

Notifying the ASIO Minister

- (4) The relevant agency head must notify the ASIO Minister and the Inspector-General of Intelligence and Security that an authorisation was given under section 9A or 9B (as the case requires) in accordance with this section. The notification must state whether the agreement of the Director-General of Security was obtained.
- (5) The notification must be given:
- (a) for a notification given to the ASIO Minister—before the end of 8 hours after the authorisation is given under section 9A or 9B; and
 - (b) for a notification given to the Inspector-General of Intelligence and Security—as soon as practicable, but no later than 3 days after the authorisation is given under section 9A or 9B.

Oversight by Inspector-General of Intelligence and Security

- (6) Within 30 days after the Inspector-General of Intelligence and Security is given the notification, the Inspector-General must:
- (a) consider whether the agency head complied with the requirements of this section in giving the authorisation under section 9A or 9B; and
 - (b) provide the responsible Minister with a report on the Inspector-General's views of the extent of the agency head's compliance with the requirements of this section in giving the authorisation under that section; and
 - (c) provide to the Committee a copy of the conclusions in the report.

19 Section 10 (heading)

Repeal the heading, substitute:

10 Period during which authorisation given under section 9 has effect etc.

20 Before subsection 10(1)

Insert:

Renewing authorisations

21 Subsection 10(1)

After "an authorisation", insert "given under section 9".

22 Subsection 10(1A)

Omit "an authorisation for an activity, or a series of activities, of a kind mentioned in subparagraph 8(1)(a)(i)", substitute "an authorisation given under section 9 for an activity, or a series of activities, of a kind mentioned in subparagraph 8(1)(a)(i), (ia), (ib)".

23 Before subsection 10(2)

Insert:

Varying or cancelling authorisations

24 Subsection 10(2)

After “an authorisation”, insert “given under section 9”.

25 Subsection 10(2A)

Omit “issued”, substitute “given under section 9”.

26 After subsection 10(2A)

Insert:

- (2B) Without limiting subsection (2A), if an authorisation is given under section 9 for an activity, or a series of activities, of a kind mentioned in subparagraph 8(1)(a)(ia) or (ib), the grounds on which the authorisation was given cease to exist if:
- (a) the Defence Force is no longer engaged in any military operations to which the request for the authorisation relates; or
 - (b) the Defence Minister withdraws the request for the authorisation.

Note: For the request for the authorisation, see paragraph 9(1)(d).

- (2C) For the purposes of subsection (2A), if an authorisation is given in reliance on an agreement that specifies a period in accordance with paragraph 9(1AB)(b), the grounds on which the authorisation was given are taken not to have ceased to exist merely because the period specified in the agreement ends.

Renewal, variation or cancellation to be in writing

27 Subsection 10(3)

After “an authorisation”, insert “given under section 9”.

28 At the end of section 10

Add:

Relationship with the Acts Interpretation Act 1901

- (4) To avoid doubt, this section does not limit subsection 33(3) of the *Acts Interpretation Act 1901* to the extent that it applies to an authorisation given under section 9A or 9B.

29 At the end of subsection 10A(1)

Add “, 9A or 9B”.

30 Subsection 10A(2)

After “report must”, insert “(subject to subsections (3) and (4))”.

31 At the end of section 10A

Add:

- (3) If the report is in respect of an activity, or series of activities, of a kind mentioned in subparagraph 8(1)(a)(ia) or (ib), the report must be provided to the Minister as soon as practicable, but no later than 3 months, after each of the following days:
- (a) the day on which the relevant authorisation ceased to have effect;
 - (b) the day on which the relevant authorisation was renewed.
- (4) If the report is in respect of an activity, or series of activities, carried out by the agency in reliance on an authorisation under section 9A or 9B, the report must be provided to the Minister as soon as practicable, but no later than 1 month, after the day on which the authorisation ceased to have effect.

32 Paragraph 29(1)(bb)

Repeal the paragraph, substitute:

- (bb) to review, by 7 March 2018, the operation, effectiveness and implications of the following:
- (i) Division 3 of Part III of the *Australian Security Intelligence Organisation Act 1979* and any other provision of that Act as far as it relates to that Division;
 - (ii) Division 3A of Part IAA of the *Crimes Act 1914* and any other provision of that Act as far as it relates to that Division;

- (iii) Divisions 104 and 105 of the *Criminal Code* and any other provision of the *Criminal Code Act 1995* as far as it relates to those Divisions;
 - (iv) sections 119.2 and 119.3 of the *Criminal Code* and any other provision of the *Criminal Code Act 1995* as far as it relates to those sections; and
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[*Minister's second reading speech made in—
Senate on 29 October 2014
House of Representatives on 1 December 2014*]

(241/14)
