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**Review of the  
Inspector-General of Intelligence and Security and  
Other Legislation Amendment (Modernisation) Bill  
2022**

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**Submission to the  
Parliamentary Joint Committee on Intelligence and Security**

17 February 2023

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## 1. INTRODUCTION

1. The Inspector-General of Intelligence and Security (IGIS) welcomes the opportunity to make this submission to the review by the Parliamentary Joint Committee on Intelligence and Security (the Committee) of the Inspector-General of Intelligence and Security and Other Legislation Amendment (Modernisation) Bill 2022 (the Bill).
2. Consistent with established practices, IGIS does not make any comment on the policy underlying the Bill. Rather, this submission discusses the key features of the Bill that relate to IGIS and the implications for IGIS's role providing oversight of Australia's intelligence agencies and agencies with intelligence functions.
3. IGIS has been extensively consulted by the Attorney-General's Department during the development of the Bill. The Bill's development was influenced by both the 2017 Independent Intelligence Review (IIR) and the 2019 Comprehensive Review of the Legal Framework of the National Intelligence Community (the Comprehensive Review), and the consideration that went into the drafting of the Intelligence Oversight and Other Legislation Amendment (Integrity Measures) Bill 2020, which was introduced into the 46<sup>th</sup> Parliament, but lapsed at its dissolution. IGIS made a submission to the then Committee in relation to the Integrity Measures Bill, dated 12 February 2021.
4. The Bill contains important provisions to assist IGIS manage how its jurisdiction interacts with the jurisdiction of other Commonwealth integrity bodies and to clarify IGIS's inspection and information-gathering powers. These provisions will further strengthen IGIS's ability to continue to perform effective, efficient and rigorous oversight of the agencies currently within its jurisdiction. The Bill also includes provisions to modernise, clarify and adapt IGIS's enabling legislation to contemporary circumstances.

## 2. BACKGROUND

### ABOUT IGIS

5. IGIS is an independent statutory agency within the Attorney-General's portfolio. The Inspector-General is an independent statutory officer appointed under the *Inspector-General of Intelligence and Security Act 1986* (IGIS Act).<sup>1</sup> The Hon Dr Christopher Jessup KC commenced as the Inspector-General on 8 February 2021 (having been Acting Inspector-General since 18 January 2021).
6. Under its existing jurisdiction, IGIS reviews the activities of the following six intelligence agencies:
  - Office of National Intelligence (ONI)
  - Australian Security Intelligence Organisation (ASIO)
  - Australian Secret Intelligence Service (ASIS)
  - Australian Signals Directorate (ASD)
  - Australian Geospatial-Intelligence Organisation (AGO)
  - Defence Intelligence Organisation (DIO)

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<sup>1</sup> The purposes of the IGIS include the functions of the Inspector-General referred to in sections 8, 9 and 9A of the IGIS Act (paragraph 6AA(e) IGIS Act).

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and the intelligence functions of the Australian Criminal Intelligence Commission (ACIC) and the Australian Federal Police (AFP), as narrowly defined in the IGIS Act.<sup>2</sup>

7. The overarching purpose of IGIS's functions is to assist Ministers in the oversight and review of the activities of each intelligence agency to ensure that they are legal and proper, comply with ministerial guidelines and directives, and respects human rights.
8. IGIS regularly conducts inspections so as to identify potential issues, including about the governance and control frameworks within agencies, before there is a need for remedial action. IGIS has a risk-based approach to its inspection program, targeting high risk activities and activities with the potential to detrimentally affect the lives or rights of Australian persons. Accordingly, the IGIS inspection program mainly focuses on the activities of agencies with intrusive powers and investigative techniques. IGIS also considers an agency's internal control mechanisms as well as its history of compliance and reporting. Section 35 of the IGIS Act requires the Inspector-General to report annually on inspections conducted during the year.
9. The inspection role of IGIS is complemented by an inquiry function. The IGIS Act provides that the Inspector-General may conduct an independent inquiry into the activities of an intelligence agency either of the Inspector-General's own motion, at the request of the responsible Minister, the Attorney-General, or in response to a complaint. The Prime Minister can request the Inspector-General to conduct an inquiry into an intelligence or security matter relating to any Commonwealth agency under section 9. Conducting an inquiry provides a rigorous way of examining a complaint, serious incident or systemic matter within an agency.
10. In undertaking inquiries, the Inspector-General has a number of powers to draw upon, including the power to require any person to answer questions and produce relevant documents, take sworn evidence, and enter agency premises. At the conclusion of an inquiry, the Inspector-General provides a report with findings and recommendations to the responsible Minister. Where an inquiry is in response to a complaint, a written response is given to the complainant.
11. Finally, the Inspector-General receives and enquires into complaints about the intelligence agencies within IGIS's jurisdiction.<sup>3</sup> Complaints can be made by a member of the public, or by a current or former employee of an intelligence agency, about the activities of an intelligence agency. IGIS also receives and, where appropriate, investigates public interest disclosures about suspected wrongdoing within the intelligence agencies. With IGIS's access to the records of intelligence agencies and ability to examine the full set of circumstances of any complaint, complaints and other matters can often be quickly resolved. Where there are issues requiring further investigation, the Inspector-General can conduct a formal inquiry into the complaint. Details about individual complaints and their resolution are not made public. However, the complainant is provided with as much information about the outcome as possible, within security restrictions.

## THE MODERNISATION BILL

12. The IGIS Act was enacted in 1986 with the purpose of establishing a small agency operating to oversee the activities of an intelligence community, which was much smaller with powers more confined than it is today. The Bill makes important amendments to the IGIS Act to ensure that it is adapted to contemporary circumstances in line with the changing nature and expansion of activities of the intelligence agencies the IGIS oversees, and supports appropriate information sharing with other relevant integrity bodies to avoid duplication of oversight. The amendments

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<sup>2</sup> The intelligence functions of the ACIC and AFP, as defined under the IGIS Act, are the collection, correlation, analysis, production and dissemination of intelligence obtained by the ACIC or AFP from the execution of a network activity warrant; or the performance of a function, or the exercise of a power, conferred on a law enforcement officer of ACIC or AFP by the network activity warrant provisions of the *Surveillance Devices Act 2004*.

<sup>3</sup> These agencies are ASIO, ASIS, ASD and AGO. Where the complaint is in respect of the intelligence functions of ACIC or AFP, IGIS also has jurisdiction.

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in the Bill will provide the public with greater assurance that Australia's intelligence agencies continue to be subject to robust oversight and integrity.

13. In summary, the Bill:

- includes amendments to clarify and modernise drafting expressions, remove redundant provisions and enhance oversight functions and powers;
- includes amendments to improve the way IGIS's jurisdiction interacts with the jurisdiction of other Commonwealth integrity bodies;
- includes amendments to clarify the Inspector-General's ability to employ staff under different arrangements and delegate powers to certain staff;
- implements recommendations 172 and 174 of the Comprehensive Review to prevent the head or deputy head of an agency within IGIS's jurisdiction from being appointed as Inspector-General immediately after serving in that position, and to allow the IGIS to consider employment related grievances for staff employed under the *Office of National Intelligence Act 2018* (ONI Act); and
- includes amendments to the IGIS Act and consequential amendments to other Acts to ensure the ongoing effectiveness of IGIS oversight of agencies within IGIS's existing jurisdiction and to ensure that information protected by secrecy offences under respective legislation can be disclosed to IGIS officials performing duties or functions, or exercising powers, as IGIS officials.

14. Part 1 of Schedule 1 of the Bill provides the main amendments to the IGIS Act. Part 2 of Schedule 1 contains consequential amendments to other Commonwealth legislation. Schedule 2 contains contingent amendments resulting from the National Anti-Corruption Commission Act 2022, and Schedule 3 contains application and transitional provisions.

### 3. MAIN AMENDMENTS

#### JURISDICTION AND INSPECTION FUNCTIONS

15. The Bill amends section 8 of the IGIS Act to expand the IGIS's complaints jurisdiction to, either at the request of the Attorney-General, or the responsible Minister, or of the Inspector-General's own motion, inquire into a complaint made about the activities of DIO or ONI.<sup>4</sup> The Bill also expands IGIS's employment jurisdiction under subsection 8(6) to enable the Inspector-General to inquire into an employment complaint made by an ONI Act employee.<sup>5</sup> The Bill makes clear that this does not extend to ONI staff employed under the *Public Service Act 1999* (Public Service Act), as this is not necessary. Public service employees already have complaint mechanisms under the Public Service Act, which are not available to persons employed under the ONI Act. Currently, subsection 8(6) is limited to complaints made by ASIS, ASIO or ASD employees. These amendments address historical inconsistencies in the Inspector-General's inquiry functions in relation to DIO and ONI compared to other intelligence agencies.
16. The Bill also amends section 8 to clarify that the Inspector-General is able to inquire into any matter that relates to an act or practice of ASIO, ASIS, AGO or ASD that is or may be inconsistent with or contrary to any human rights, that constitutes or may constitute discrimination, or that is or may be unlawful under the *Age Discrimination Act 2004*, the *Disability Discrimination Act 1992*, the *Racial Discrimination Act 1984*, or the *Sex Discrimination Act 1984*, without referral from the Australian Human Rights Commission (AHRC).<sup>6</sup> The Inspector-General is still able to inquire into

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<sup>4</sup> Schedule 1, item 20.

<sup>5</sup> Schedule 1, items 26 and 27. This implements recommendation 174 of the Comprehensive Review.

<sup>6</sup> Schedule 1, items 12, 18 and 22.

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such matters either as a response to a complaint, of the Inspector-General's own motion or at the request of the Attorney-General or relevant Minister. The proposed information sharing and complaints transfer regime discussed below, further enables complaints to be transferred either to the AHRC from the IGIS or vice versa, as required, and relevant information to be shared.

17. In addition to the Inspector-General's inquiry functions (which are accompanied by powers for obtaining information and entering premises),<sup>7</sup> existing section 9A of the IGIS Act confers functions on the Inspector-General to conduct 'such other inspections of the agency as the Inspector-General considers appropriate for the purpose of giving effect to the objects of this Act'. IGIS regularly conducts inspections to determine if each agency is acting in accordance with its statutory functions, and is complying with any guidance provided by the responsible Minister and with its own internal policies and procedures. Inspections enable IGIS to monitor the activities of agencies and to identify concerns before they develop into systemic problems.
18. However, section 9A of the IGIS Act is not currently accompanied by express powers for IGIS staff to enter premises and access records for the purpose of performing the inspection function, nor does it currently impose express duties on agency heads and staff to provide reasonable assistance and facilities to IGIS staff. This contrasts with legislation conferring inspection functions on other integrity bodies.<sup>8</sup>
19. Item 37 of Schedule 1 to the Bill inserts a new subsection 9A(2) into the IGIS Act clarifying that, for the purposes of conducting an inspection of an intelligence agency, the Inspector-General, or a member of staff assisting the Inspector-General who is employed under the *Public Service Act 1999*:
  - may, at all reasonable times, enter and remain in any premises (including any land or place);<sup>9</sup>
  - is entitled to all reasonable facilities and assistance that the agency head is capable of providing;
  - is entitled to full and free access at all reasonable times to any information, documents or other property of the agency; and
  - may examine, make copies of or take extracts from any information or documents.

## INFORMATION SHARING AND COMPLAINTS TRANSFER

20. The Bill contains a range of measures to address the way IGIS's jurisdiction interacts with the jurisdiction of other Commonwealth integrity bodies, including the Commonwealth Ombudsman, the Australian Human Rights Commission, the Australian Information Commissioner, the Australian Commissioner for Law Enforcement Integrity, and the Inspector-General of the Australian Defence Force.<sup>10</sup> These agencies have limited jurisdiction in relation to the activities of agencies within IGIS's existing jurisdiction; however, in relation to the intelligence functions of

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<sup>7</sup> See sections 18 and 19 of the IGIS Act.

<sup>8</sup> For example, the Commonwealth Ombudsman's inspection powers under sections 86-92 and 186B-186H of the *Telecommunications (Interception and Access) Act 1979*, which contain express statutory rights of access and compulsive powers in support of those inspection functions.

<sup>9</sup> For premises occupied in another country by ASIS, the Director-General of ASIS and the Inspector-General must have made arrangements relating to entry of the premises. See proposed paragraph 9A(2)(b) at item 37 of Schedule 1.

<sup>10</sup> The inclusion of Inspector-General of the Australian Defence Force (Inspector-General ADF) as an integrity body reflects that the Defence portfolio agencies within IGIS's jurisdiction (AGO, ASD and DIO) engage ADF personnel in addition to their Australian Public Service staff. Where ADF personnel engage in conduct on behalf of Defence intelligence agencies (including in relation to any assistance provided to other agencies within IGIS jurisdiction under s7(1)(e) of the *Intelligence Services Act 2001*), that conduct could potentially fall within the Inspector-General ADF's jurisdiction, as well as IGIS jurisdiction.

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ACIC and AFP, there are likely to be certain matters that could fall within the jurisdiction of both IGIS and another integrity body. It is also likely that, over time, matters will be brought to IGIS's attention (for example, through complaints or the conduct of inspections) that do not relate to the intelligence functions of these agencies (or are otherwise excluded from IGIS jurisdiction). As such, the Bill includes measures aimed at facilitating information sharing and complaints transfer between IGIS and other integrity bodies, and avoiding duplication of oversight activities.

21. Item 131 of Schedule 1 repeals and replaces current Part IIIA of the IGIS Act with a stronger and more holistic information sharing and complaints transfer regime between the IGIS and other integrity bodies.
22. Specifically:
  - proposed section 32AG of the IGIS Act provides that the Inspector-General may transfer a complaint or part of a complaint to another integrity body if he or she decides, under section 11(4A), not to inquire into, or not to inquire further into, a complaint or part of a complaint in relation to action taken by an intelligence agency;
  - corresponding provisions in the legislation governing other integrity bodies that enable the transfer of complaints to IGIS, where a matter could be more effectively or conveniently dealt with by IGIS (see consequential amendments, discussed below); and
  - proposed section 32AH of the IGIS Act provides that, for the purposes of the IGIS Act, a complaint is taken to have been made to the Inspector-General under the IGIS Act if all or part of the complaint is transferred to the Inspector-General by another integrity body. As the Explanatory Memorandum notes, this 'ensures that the complainant does not need to re-submit the original complaint to the IGIS, and that the IGIS has a legal basis to handle transferred complaints'.<sup>11</sup>
23. The decision of whether or not to transfer a complaint to another integrity body remains at the discretion of the Inspector-General. However, in relation to all of IGIS's activities, proposed section 32AB of the IGIS Act requires the Inspector-General to 'have regard to' the functions of other integrity bodies and the Auditor-General 'for the purpose of avoiding duplicating oversight of matters'. The section also expressly permits the Inspector-General to consult another integrity body, or the Auditor-General, in relation to a particular matter if the Inspector-General considers it appropriate to do so for the purpose of avoiding more than one inquiry being conducted into the matter. As the Explanatory Memorandum notes, this section (based on existing section 16 of the IGIS Act) places a 'general obligation' on the Inspector-General and 'is not intended to require the IGIS to undertake formal consultation with the Auditor-General and each integrity body before each discrete activity'.<sup>12</sup>
24. In addition to the ability to transfer complaints, proposed section 32AF expressly authorises the Inspector-General to share with other integrity bodies information or documents that are obtained by an IGIS official in the course of exercising powers, or performing functions or duties as an IGIS official, where that information or those documents are relevant to the receiving body's functions.
25. This proposed section should be read with reference to the secrecy offences in section 34 of the IGIS Act,<sup>13</sup> which, among other things, prohibit IGIS officials from disclosing any information or documents acquired under the IGIS Act (regardless of its classification) 'except in the performance of his or her functions or duties or in the exercise of his or her powers' under the IGIS Act or the *Public Interest Disclosure Act 2013*. Although information sharing with other integrity bodies is, arguably, already implicitly permitted by the IGIS Act, proposed section 32AF

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<sup>11</sup> Explanatory Memorandum, paragraph 297.

<sup>12</sup> Explanatory Memorandum, paragraph 263.

<sup>13</sup> As amendment by Schedule 1 to the Bill.

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provides clearer statutory authority for the Inspector-General to share information or documents with other integrity bodies in accordance with the requirements of the section. This proposed section makes clear that such sharing is not subject to the prohibition in section 34.

26. The ability for the Inspector-General to share information with other integrity bodies under proposed section 32AF is not, however, unfettered. In accordance with current practice, IGIS will carefully consider the particular information that is shared with other integrity bodies. In addition to the requirement for any sharing of information or documents to be relevant to the receiving body's functions, the Bill contains several provisions which will ensure that the security of information and documents is carefully considered:
- proposed paragraph 32AF(1)(c) requires the Inspector-General to be 'satisfied on reasonable grounds that the receiving body has satisfactory arrangements in place for protecting the information or documents'.
  - proposed subsection 32AF(3) provides that the Inspector-General may make administrative arrangements with the head of an intelligence agency in relation to protecting information or documents provided to the Inspector-General by the agency.
  - proposed section 32AD (which is based on existing section 20 of the IGIS Act) requires the Inspector-General to 'make arrangements to protect from unauthorised disclosure' any security classified information, documents, copies or extracts (and any other information obtained from such documents, copies or extracts) obtained from an agency for the purposes of an inspection, preliminary inquiry or inquiry. In making such arrangements, the Inspector-General must consider any advice provided by the head of the relevant agency.
27. More generally, all Commonwealth officers, including IGIS officials and integrity body staff, are obliged to comply with the Australian Government's Protective Security Policy Framework in any handling, storage, disclosure and disposal of information, and are subject to offences that govern unauthorised communication or dealing with classified information in Part 5.6 of the *Criminal Code*. As noted earlier, IGIS officials are also subject to specific offences in section 34 of the IGIS Act that prohibit unlawful disclosure of information.

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28. Item 128 of Schedule 1 inserts new sections 32AAA, 32AAB, 32AAC and 32AAD into the IGIS Act, which deal with the Inspector-General's ability to engage consultants, contracted service providers, to second IGIS employees to other entities and to host seconded officers within the IGIS office (respectively). These amendments modernise the IGIS Act by providing greater flexibility to the Inspector-General in how the Office may be constituted, and, as stated in the Explanatory Memorandum, 'clarifies the ability of the IGIS to procure highly technical and specialised experts without needing to limit this expertise to a specific inquiry',<sup>14</sup> as is currently the case under section 32 of the IGIS Act.
29. Amendments proposed for section 32(1) make it clear that persons engaged under the proposed provisions under section 32AAA, 32AAB or 32AAD (consultants, contracted services providers or secondees from other agencies, respectively), are staff necessary to assist the Inspector-General, and are 'IGIS officials' as defined in the proposed amended definition.<sup>15</sup> Amendments are also proposed to the secrecy provision, section 34 of the IGIS Act, to make clear that this provision applies to 'IGIS officials', as newly defined.<sup>16</sup> Using this terminology ensures that the secrecy offences within the IGIS Act apply equally to all IGIS officials, however engaged. This ensures that all information provided to any IGIS official is protected from improper disclosure, which is

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<sup>14</sup> Explanatory Memorandum, paragraph 244.

<sup>15</sup> Schedule 1, item 2.

<sup>16</sup> Schedule 1, items 137, 140, 143 and 150.



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imperative as IGIS officials have access to highly sensitive information by virtue of their positions and the functions they perform.

30. Item 9 of Schedule 1 of the Bill implements recommendation 172 of the Comprehensive Review. It provides that a person must not be appointed as Inspector-General if the person is, or the person's most recent position was, the head or deputy head of an intelligence agency.

## DELEGATION

31. Item 129 of Schedule 1, inserts proposed subsection (1A) into current section 32AA of the IGIS Act. This amendment will enable the Inspector-General to delegate all or any of their functions under the IGIS Act or any other Act to IGIS staff who are employed under the Public Service Act, whom the Inspector-General considers are appropriately qualified to exercise the delegated functions. With one exception – the Inspector-General may not delegate their ability to employ a person to assist with an inquiry under subsection 32(3) of the IGIS Act. It is appropriate that the Inspector-General maintains control over who is employed under this subsection, as employing individuals under subsection 32(3) requires Ministerial approval.
32. Under current section 32AA, the Inspector-General may only delegate their functions or powers to staff employed under subsection 32(3), and may only delegate inquiry and reporting powers contained in Divisions 3 and 4 of Part II of the IGIS Act. This amendment reflects the modern realities of a busy office and the breadth of work of the Office.
33. This new subsection does not allow the Inspector-General to delegate their functions or powers to consultants, contracted service providers or seconded officers within the IGIS office (under new sections 32AAA-32AAD), because such persons are not employed under the Public Service Act.

## 4. CONSEQUENTIAL AMENDMENTS TO OTHER LEGISLATION

34. Part 2 of Schedule 1 of the Bill contains consequential amendments to other Commonwealth legislation to ensure that information that is protected by secrecy offences under the respective legislation can be disclosed to IGIS officials performing duties or functions, or exercising powers of IGIS officials. These amendments support IGIS oversight functions by ensuring IGIS officials have full access to information, and that persons are able to voluntarily disclose information to IGIS officials without breaching secrecy provisions.
35. For example, item 199 of Schedule 1 creates a new exception to section 45 of the *Surveillance Devices Act 2004* to ensure that it is not an offence for a person to disclose protected information where the disclosure is to 'an IGIS official exercising powers, or performing functions or duties, as an IGIS official'.
36. While there are existing immunities in the IGIS Act for people who give information to IGIS officials (either voluntarily or under compulsion),<sup>17</sup> these exceptions will make it explicit on the face of the legislation that it is lawful to give information to IGIS. This will also avoid potential legal complexities about the interaction of offence provisions under other legislation with the immunities in the IGIS Act. The approach to these exceptions replicates the approach taken in Part 5.6 of the *Criminal Code* and other legislation governing the agencies within IGIS's existing jurisdiction.<sup>18</sup>

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<sup>17</sup> See existing sections 18(6) and (9) and 34B of the IGIS Act, and proposed section 32AC (inserted by item 131 of Schedule 1 to the Bill).

<sup>18</sup> For example, see paragraph 317ZF(3)(f) of the *Telecommunications Act 1997* and section 63AC of the *Telecommunications (Interception and Access) Act 1979*.

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37. Part 2 of Schedule 1 also provides for minor amendments to the legislation governing agencies within IGIS's existing jurisdiction to standardise language with that used elsewhere in the Bill. For example, item 169 of Schedule 1 amends the language used in the definition of 'IGIS official' in the ASIO Act, and items 170 to 174 of Schedule 1 amend the language used in exceptions to secrecy offences in the ASIO Act, to align with the language used elsewhere in the Bill.

## **5. OTHER AMENDMENTS TO ADAPT THE IGIS ACT TO CONTEMPORARY CIRCUMSTANCES**

38. The Bill includes a range of amendments aimed at ensuring that the IGIS Act is properly adapted to contemporary circumstances. This includes 'technical amendments to improve clarity, modernise drafting expressions and remove redundant provisions,' as well as 'amendments to enhance the IGIS's oversight functions and powers'<sup>19</sup> in order to improve the flexibility and strengthen the integrity of inquiry processes.
39. These amendments are primarily found in Part 1 of Schedule 1 to the Bill. In summary, the amendments are directed at:
- modernising and standardising language used in the IGIS Act, and inserting headings for structure throughout the Bill;
  - resolving ambiguities and improving the practical workability of notification and reporting requirements;<sup>20</sup>
  - removing a historical requirement for the Inspector-General to obtain ministerial approval before inquiring into a matter that occurred outside Australia, or occurred before the commencement of the Act;<sup>21</sup>
  - clarifying the Inspector-General's ability to prepare a report, which may include conclusions and recommendations, as a result of a preliminary inquiry under section 14, for the responsible Minister or the head of the relevant agency;<sup>22</sup>
  - clarifying the Inspector-General's notification requirements where there is evidence of a breach of duty or misconduct by a Commonwealth agency official;<sup>23</sup>
  - clarifying the relationship between the Inspector-General's powers to obtain information and documents and legal professional privilege,<sup>24</sup> and extending the exceptions to the use immunity related to those powers to evidence concerning a small number of additional offences;<sup>25</sup>
  - relocating and updating existing protections for persons who voluntarily provide, or make available, information or documents to the Inspector-General to ensure that those protections are consistent with the protections for persons who are compelled to provide information under the powers in section 18 of the IGIS Act;<sup>26</sup>

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<sup>19</sup> Explanatory Memorandum, p. 4.

<sup>20</sup> For example, Schedule 1, items 5, 49, 66 and 71.

<sup>21</sup> Schedule 1, item 34.

<sup>22</sup> Schedule 1, item 118.

<sup>23</sup> Schedule 1, item 74.

<sup>24</sup> Schedule 1, items 86 and 89.

<sup>25</sup> Schedule 1, items 87-88.

<sup>26</sup> Proposed section 32AC in item 131 of Schedule 1. Existing section 34B of the IGIS Act is repealed (see item 159 of Schedule 1) and replaced by this section.

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- clarifying that for the purposes of the *Privacy Act 1988*, a person is expressly authorised to give or make available personal information to an IGIS official, for the purpose of the IGIS official performing a function or duty or exercising a power as an IGIS official;<sup>27</sup>
- modernising drafting and clarifying the existing power for the Governor-General to terminate the appointment of the Inspector-General, to provide greater discretion and to clarify that the appointment may only be terminated on the basis of physical or mental incapacity if the Inspector-General is unable to perform their duties;<sup>28</sup> and
- clarifying and simplifying the language of secrecy offences applying to IGIS officials, including by ensuring they apply to the disclosure of both ‘information’ and ‘documents’; ensuring their application to any secondees, consultants or contractors who may assist the IGIS; and ensuring that they are not unintentionally displaced by provisions in other Acts.<sup>29</sup>

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<sup>27</sup> Proposed section 32AE in item 131 of Schedule 1.

<sup>28</sup> Schedule 1, items 121, 122, 124.

<sup>29</sup> Schedule 1, items 137-152.