

Friday, 16 March 2018

Amendments to Espionage Bill supported, but more work still required

The Law Council of Australia has today welcomed the Attorney-General's proposed amendments to the Federal Government's *National Security Legislation Amendment (Espionage and Foreign Interference) Bill 2017* and has urged the Parliamentary Joint Committee on Intelligence and Security to recommend further improvements to the legislation.

The amendments supported by the Law Council include:

- changes to the secrecy offences to introduce a division between communications coming from current or former Commonwealth Officers from those of persons other than Commonwealth Officers;
- the broadening of the journalist defence;
- the tightened definition of 'security classification' to Secret and Top Secret classifications or equivalent classifications made by regulations; and
- the removal of strict liability for certain offences.

Law Council President, Morry Bailes, in his address to the [Committee](#), noted that while positive progress had been made, the Law Council still considers there is a need for improvements to be made to the Bill on a broad range of other proposed offences.

"We remain concerned about the definition of 'national security' in the Bill, as going beyond the security and defence of Australia to include Australia's political and economic relations with other countries," Mr Bailes said.

"The term 'news media' under the broadened 'journalist' defence also requires further clarification. A person who supplied information to a journalist would have no defence but the person who reported it in the news media would have a defence. The Law Council also remains opposed to the notion that the public interest exception should only be available to journalists or the news media. For example, it is unclear if it would pick up an individual blogger.

"In addition, amendments are required to the secrecy offences to broaden the defences and exceptions for legal advice, legal proceedings, and the dealing with information, not simply its communication."

Mr Bailes also noted that amendments were required to ensure that the innocent receipt of information, for example in a filing cabinet, is not captured by the offence provisions.

"The link between the defendant's intention and the harmful behaviours targeted requires further precision in the Bill," Mr Bailes said.

"We still have a considerable way to go and we look forward to continuing to work closely with the Committee, the Government and the Parliament to get these important measures right."

The opening statement, including an extended list of the Law Council's concerns, can be accessed [here](#). The Law Council's latest submission can be accessed [here](#).

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