

Friday, 20 October 2017

Vital independent counter-terrorism reports back many Law Council concerns

The Law Council has welcomed the release of the Independent National Security Legislation Monitor's [\(INSLM\) reports](#) on a range of counter-terrorism laws, which reflects numerous positions of the peak legal body.

The INSLM, Dr James Renwick SC, has released his completed reports on Statutory Deadline Reviews which include the following legislation:

- [Stop, Search & Seize powers](#), (Division 3A of Part IAA of the Crimes Act);
- [Declared Areas](#), (Sections 119.2 and 119.3 of the Criminal Code); and
- [Control Orders & Preventative Detention Orders](#) – including the interoperability of the control order regime and the High-Risk Terrorist Offenders Act 2016, (Divisions 104 and 105 of the Criminal Code).

Importantly, the INSLM has made key recommendations aimed at improving the safeguards of the regimes, several which are consistent with Law Council positions, including that:

- The Criminal Code be amended to allow for variations of an interim control order;
- There should be no costs orders in control order proceedings, and the adequacy of legal aid for controlees should be considered by the Attorney-General;
- There be further consideration of any outstanding recommendations made by the second INSLM in his review of control order safeguards;
- State and Territory Courts be given jurisdiction to make an extended supervision order in terrorism cases;
- The Attorney-General should continue to be the applicant for continuing detention orders; and
- Safeguards should be required, in the form of reporting requirements to the relevant minister, the Commonwealth Ombudsman, the Parliamentary Joint Committee on Intelligence and Security and the INSLM so that each such body can review any exercise of stop, search and seize powers.

The INSLM has concluded that these laws continue for a further period of five years, have the capacity to be effective and are consistent with our international obligations.

The President of the Law Council of Australia, Fiona McLeod SC, said the INSLM's reports are a vital part of ensuring that Australia's counter-terrorism laws represent a necessary and proportionate response to the terrorism threat.

"The INSLM is required to discharge the difficult function of balancing the vital interests of the rule of law, international obligations and national security in an evidenced-based way," Ms McLeod said.

"This type of independent review is critical to ensuring our laws both protect the community from the threat of terrorism while remaining consistent with the values we hold dear."

The Law Council is carefully considering the recommendations and will develop a response through the current Parliamentary Joint Committee on Intelligence and Security inquiries.

The INSLM reports are available [here](#).

Patrick Pantano: Public Affairs
P 02 6246 3715
E Patrick.Pantano@lawcouncil.asn.au

Anil Lambert, Media
P 0416 426 722
E anil@hortonadvisory.com.au

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