



Intelligence Services Amendment Act 2004

No. 57, 2004

**An Act to amend the *Intelligence Services Act 2001*,
and for related purposes**

Note: An electronic version of this Act is available in SCALEplus
(<http://scaleplus.law.gov.au/html/comact/browse/TOCN.htm>)

Contents

1	Short title.....	1
2	Commencement.....	2
3	Schedule(s).....	2
	Schedule 1—Functions of ASIS	3
	<i>Intelligence Services Act 2001</i>	3



Intelligence Services Amendment Act 2004

No. 57, 2004

An Act to amend the *Intelligence Services Act 2001*, and for related purposes

[Assented to 27 April 2004]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Intelligence Services Amendment Act 2004*.

2 Commencement

This Act commences on the day on which it receives the Royal Assent.

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Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Functions of ASIS

Intelligence Services Act 2001

1 At the end of subsection 6(3)

Add:

Note: If the Minister gives a direction under paragraph (1)(e), the Minister must give a copy of the direction to the Inspector-General of Intelligence and Security as soon as practicable after the direction is given to the head of ASIS (see section 32B of the *Inspector-General of Intelligence and Security Act 1986*).

2 Subsection 6(4)

Repeal the subsection (including the notes), substitute:

(4) In performing its functions, ASIS must not plan for, or undertake, activities that involve:

- (a) paramilitary activities; or
- (b) violence against the person; or
- (c) the use of weapons;

by staff members or agents of ASIS.

Note 1: This subsection does not prevent ASIS from being involved with the planning or undertaking of activities covered by paragraphs (a) to (c) by other organisations provided that staff members or agents of ASIS do not undertake those activities.

Note 2: For other limits on the agency's functions and activities see sections 11 and 12.

Note 3: For *paramilitary activities* see section 3.

(5) Subsection (4) does not prevent:

- (a) the provision of weapons, or training in the use of weapons or in self-defence techniques, in accordance with Schedule 2; or
- (b) the use of weapons or self-defence techniques in accordance with Schedule 2.

(6) ASIS must not provide weapons, or training in the use of weapons or in self-defence techniques, other than in accordance with Schedule 2.

2A After subsection 13(1)

Insert:

- (1A) However, an approval under paragraph (1)(c) does not enable ASIS to cooperate with an authority of another country in planning or undertaking activities covered by paragraphs 6(4)(a) to (c) unless, before giving the approval, the Minister consults with the Prime Minister and the Attorney-General.

2B At the end of section 42

Add:

- (2) The report must include information about any cooperation by ASIS with an authority of another country in planning or undertaking activities covered by paragraphs 6(4)(a) to (c). The report must set out the number of occasions on which such cooperation occurred and the broad nature of each cooperation.

3 At the end of the Act

Add:

Schedule 2—Limits on provision of weapons, training etc.

1 Provision of weapons, training etc.

- (1) The provision of a weapon, or training in the use of a weapon or in self-defence techniques, is not prevented by subsection 6(4) if it is provided:
- (a) to a person who is a staff member or agent of ASIS; and
 - (b) for the purpose of enabling the person:
 - (i) to protect himself or herself; or
 - (ii) to protect a staff member or agent of ASIS; or
 - (iii) to protect a person who is co-operating with ASIS in accordance with section 13; or
 - (iv) to provide training to staff members or agents of ASIS; and
 - (c) in accordance with a Ministerial approval given under subclause (3).

- (2) The use of a weapon or self-defence techniques is not prevented by subsection 6(4) if:
 - (a) the weapon or techniques are used:
 - (i) for a purpose covered by paragraph (1)(b); or
 - (ii) in training in accordance with subclause (1); and
 - (b) in a case covered by any of subparagraphs (1)(b)(i) to (iii)—the weapon or techniques are used outside Australia; and
 - (c) guidelines have been issued by the Director-General under subclause (6); and
 - (d) the weapon or techniques are used in compliance with those guidelines.
- (3) The Minister may, by written notice given to the Director-General, approve the provision of a weapon, or training in the use of a weapon or in self-defence techniques, to:
 - (a) a specified staff member or agent of ASIS; or
 - (b) the holder of a specified position in ASIS.
- (4) An approval for the provision of a weapon or training must specify:
 - (a) the purpose for which the weapon or training is provided; and
 - (b) any conditions that must be complied with in relation to the provision of the weapon or training; and
 - (c) if the approval is for the provision of a weapon or training in the use of a weapon—the kind or class of weapon involved.
- (5) As soon as practicable after giving the Director-General an approval, the Minister must give the Inspector-General of Intelligence and Security a copy of the approval.
- (6) The Director-General must issue guidelines for the purposes of this Schedule on matters related to the use of weapons and self-defence techniques.
- (7) As soon as practicable after making the guidelines, the Director-General must give the Inspector-General of Intelligence and Security a copy of the guidelines.

2 Application of certain State and Territory laws

A staff member or agent of ASIS is not required under, or by reason of, a law of a State or Territory:

- (a) to obtain or have a licence or permission for doing any act or thing in accordance with clause 1; or
- (b) to register any weapon provided in accordance with clause 1.

3 Reports to Inspector-General of Intelligence and Security

If:

- (a) a staff member or agent of ASIS uses a weapon for a purpose mentioned in any of subparagraphs 1(1)(b)(i) to (iii); and
- (b) during that use the weapon is discharged;

the Director-General must, as soon as practicable, give to the Inspector-General of Intelligence and Security a written report of the discharge which explains the circumstances in which the discharge occurred.

*[Minister's second reading speech made in—
House of Representatives on 15 October 2003
Senate on 31 March 2004]*

(164/03)

