



Home Affairs and Integrity Agencies Legislation Amendment Act 2018

No. 31, 2018

**An Act to deal with consequential matters arising
from the establishment of the Home Affairs
portfolio, and for related purposes**

Note: An electronic version of this Act is available on the Federal Register of Legislation
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Home Affairs and Integrity Agencies Legislation Amendment Act 2018

No. 31, 2018

**An Act to deal with consequential matters arising
from the establishment of the Home Affairs
portfolio, and for related purposes**

[Assented to 9 May 2018]

The Parliament of Australia enacts:

1 Short title

This Act is the *Home Affairs and Integrity Agencies Legislation
Amendment Act 2018*.

No. 31, 2018 *Home Affairs and Integrity Agencies Legislation Amendment Act 2018* 1

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.	9 May 2018
2. Schedule 1	A single day to be fixed by Proclamation. However, if the provisions do not commence within the period of 6 months beginning on the day this Act receives the Royal Assent, they commence on the day after the end of that period.	11 May 2018 (F2018N00038)
3. Schedule 2, Part 1	At the same time as the provisions covered by table item 2.	11 May 2018
4. Schedule 2, Part 2	The later of: (a) the commencement of the provisions covered by table item 2; and (b) immediately after the commencement of Schedule 1 to the <i>Crimes Legislation Amendment (International Crime Cooperation and Other Measures) Act 2018</i> . However, the provisions do not commence at all if the event mentioned in paragraph (b) does not occur.	22 November 2018 (paragraph (b) applies)
5. Schedule 2, Part 3	The later of: (a) the commencement of the provisions covered by table item 2; and (b) immediately after the commencement of item 4 of Schedule 13 to the <i>Crimes Legislation Amendment (Sexual Crimes</i>	Never commenced

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
	<p><i>Against Children and Community Protection Measures) Act 2018.</i></p> <p>However, the provisions do not commence at all if the event mentioned in paragraph (b) does not occur.</p>	
6. Schedule 2, Part 4	<p>The later of:</p> <p>(a) the commencement of the provisions covered by table item 2; and</p> <p>(b) immediately after the commencement of Schedule 1 to the <i>Telecommunications and Other Legislation Amendment Act 2017</i>.</p>	<p>18 September 2018</p> <p>(paragraph (b) applies)</p>
7. Schedule 2, Part 5	At the same time as the provisions covered by table item 2.	11 May 2018

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—Amendments

Anti-Money Laundering and Counter-Terrorism Financing Act 2006

1 After paragraph 128(13)(c)

Insert:

- (ca) an ASIO official may disclose AUSTRAC information to the Attorney-General if the disclosure is for the purposes of, or in connection with:
 - (i) the performance of the Attorney-General’s functions under an Act mentioned in paragraph (b) or (c); or
 - (ii) security (within the meaning of *the Australian Security Intelligence Organisation Act 1979*);

2 After paragraph 128(13B)(c)

Insert:

- (ca) an official of a defence intelligence agency may disclose AUSTRAC information to the Attorney-General if the disclosure is for the purposes of, or in connection with, the performance of the Attorney-General’s functions under the *Telecommunications (Interception and Access) Act 1979*;

3 After paragraph 128(13C)(b)

Insert:

- (ba) an official of ONA may disclose AUSTRAC information to the Attorney-General if the disclosure is for the purposes of, or in connection with, the performance of the Attorney-General’s functions under the *Telecommunications (Interception and Access) Act 1979*;

Independent National Security Legislation Monitor Act 2010

4 Paragraph 6(1)(c)

Omit “the Prime Minister”, substitute “a Minister under section 7”.

5 Section 7

Repeal the section, substitute:

7 References to the Independent National Security Legislation Monitor by the Prime Minister or the Attorney-General

- (1) The Prime Minister or the Attorney-General may refer a matter relating to counter-terrorism or national security to the Independent National Security Legislation Monitor, either at the Monitor's suggestion or on his or her own initiative.
- (2) A Minister who refers a matter under subsection (1) may alter the terms of the reference.
- (3) The Prime Minister may give the Independent National Security Legislation Monitor directions about the order in which he or she is to deal with references.

6 Subsection 11(2)

Repeal the subsection, substitute:

- (2) Before a recommendation is made to the Governor-General for the appointment of a person as the Independent National Security Legislation Monitor, the Prime Minister must consult with the Leader of the Opposition in the House of Representatives.

Note: This item re-enacts the existing provision to re-insert the reference to the Prime Minister: see item 3 of the table in subsection 19(1) of the *Acts Interpretation Act 1901*.

7 Section 14

Omit "Prime Minister", substitute "Attorney-General".

8 Saving provision—leave of absence

A grant of leave, made before the commencement of this item under section 14 of the *Independent National Security Legislation Monitor Act 2010* for a period that ends after that commencement, continues in effect on and after that commencement as if made under that section as amended by this Schedule.

9 Section 15

Omit "Prime Minister's", substitute "Attorney-General's".

10 Saving provision—consent to paid employment

A consent to engage in paid employment, that is in effect for the purposes of section 15 of the *Independent National Security Legislation Monitor Act 2010* immediately before the commencement of this item, continues in effect on and after that commencement as if given for the purposes of that section as amended by this Schedule.

11 Section 16 (heading)

Repeal the heading, substitute:

16 Disclosure of interests to the Attorney-General

12 Section 16

Omit “Prime Minister”, substitute “Attorney-General”.

13 Transitional provision—disclosure of interests

If the Independent National Security Legislation Monitor gave notice of an interest in accordance with section 16 of the *Independent National Security Legislation Monitor Act 2010* before the commencement of this item, the Monitor must also give notice of the interest to the Attorney-General as soon as practicable after that commencement.

14 Paragraph 19(2)(c)

Omit “Prime Minister’s”, substitute “Attorney-General’s”.

15 Section 20

Omit “Prime Minister”, substitute “Attorney-General”.

16 Saving provision—acting appointments

An appointment of a person to act as the Independent National Security Legislation Monitor, that is in effect under section 20 of the *Independent National Security Legislation Monitor Act 2010* immediately before the commencement of this item, continues in effect on and after that commencement as if made in accordance with that section as amended by this Schedule.

17 Subsections 29(1), (2), (2A), (5) and (8)

Omit “Prime Minister”, substitute “Attorney-General”.

18 Section 30 (heading)

Repeal the heading, substitute:

30 Report on a reference by the Prime Minister or the Attorney-General**19 Subsection 30(1)**

Repeal the subsection, substitute:

Giving reports to referring Minister

- (1) The Independent National Security Legislation Monitor must report on a reference made under section 7 to the Minister who made the reference (the *referring Minister*).

20 Subsection 30(2)

Omit “Prime Minister”, substitute “referring Minister”.

21 Subsection 30(3)

Omit “Prime Minister” (wherever occurring), substitute “referring Minister”.

22 After subsection 30(3)

Insert:

Giving copies of reports to non-referring Minister

- (3A) The Independent National Security Legislation Monitor may, if he or she considers it appropriate to do so, give a copy of a report under subsection (1), (2) or (3) to the Minister mentioned in section 7 who did not make the reference.

Declassified reports

23 Subsection 30(4)

Omit “Prime Minister” (wherever occurring), substitute “referring Minister”.

24 Before subsection 30(6)

Insert:

Presenting copies of reports to the Parliament

25 Subsection 30(6)

Omit “Prime Minister”, substitute “referring Minister”.

26 Paragraph 30(6)(a)

Repeal the paragraph, substitute:

- (a) a report given to the referring Minister under subsection (1) or (3); or

27 Application of amendments

The *Independent National Security Legislation Monitor Act 2010*, as amended by this Act, applies in relation to a reference made under section 7 of that Act:

- (a) on or after the commencement of this item; or
- (b) before that commencement, if the report on the reference was not given to the Prime Minister before that commencement.

Inspector-General of Intelligence and Security Act 1986

27A Subsection 3(4)

Omit “Minister”, substitute “Attorney-General”.

27B Saving provision—declared Commonwealth agencies

A declaration of a body as a Commonwealth agency, that is in effect under subsection 3(4) of the *Inspector-General of Intelligence and Security Act 1986* immediately before the commencement of this item, continues in effect on and after that commencement as if made under that subsection as amended by this Schedule.

28 Paragraph 4(c)

Omit “Attorney-General”, substitute “responsible Minister for ASIO”.

29 Subsection 6(3)

Repeal the subsection, substitute:

- (3) Before a recommendation is made to the Governor-General for the appointment of a person as Inspector-General, the Prime Minister

must consult with the Leader of the Opposition in the House of Representatives.

Note: This item re-enacts the existing provision to re-insert the reference to the Prime Minister: see item 3 of the table in subsection 19(1) of the *Acts Interpretation Act 1901*.

30 Subsection 6A(1)

Omit “Prime Minister”, substitute “Attorney-General”.

31 Subsection 6A(1) (note)

Omit “section”, substitute “sections 33AB and”.

32 Subsection 6A(2)

Repeal the subsection, substitute:

- (2) Before the Attorney-General appoints a person to act as the Inspector-General, the Prime Minister must consult with the Leader of the Opposition in the House of Representatives about the appointment.

33 Saving provision—acting appointments

An appointment of a person to act as the Inspector-General, that is in effect under section 6A of the *Inspector-General of Intelligence and Security Act 1986* immediately before the commencement of this item, continues in effect on and after that commencement as if made in accordance with that section as amended by this Schedule.

34 Subsections 8(1), (2) and (3)

After “request of” (wherever occurring), insert “the Attorney-General or”.

35 Subsection 9(1) (not including the heading)

Repeal the subsection, substitute:

- (1) The Prime Minister may request the Inspector-General to inquire into a matter relating to an intelligence agency.

Note: This item re-enacts the existing provision to re-insert the reference to the Prime Minister: see item 3 of the table in subsection 19(1) of the *Acts Interpretation Act 1901*.

35A Subsection 9(3) (not including the heading)

Repeal the subsection, substitute:

- (3) The Prime Minister may request the Inspector-General to inquire into an intelligence or security matter relating to a Commonwealth agency.

Note: This item re-enacts the existing provision to re-insert the reference to the Prime Minister: see item 3 of the table in subsection 19(1) of the *Acts Interpretation Act 1901*.

35B Saving provision—inquiries requested by Prime Minister

The amendments of section 9 of the *Inspector-General of Intelligence and Security Act 1986* made by this Schedule do not affect an inquiry started before the commencement of this item.

36 Subparagraph 9AA(a)(i)

Omit “section 9—the Prime Minister”, substitute “section 8 by the Attorney-General or section 9 by the Prime Minister—the Minister who made the request”.

37 Application of amendment

The amendment of subparagraph 9AA(a)(i) of the *Inspector-General of Intelligence and Security Act 1986* made by this Schedule applies in relation to an inquiry started on or after the commencement of this item.

38 Subsection 17(8)

After “Prime Minister”, insert “or the Attorney-General (or both)”.

39 Application of amendment

Subsection 17(8) of the *Inspector-General of Intelligence and Security Act 1986*, as in force on and after the commencement of this item, applies in relation to an inquiry whether started before, on or after that commencement.

40 Subsections 22(4A) and (5)

Repeal the subsections, substitute:

- (5) The Inspector-General must give a copy of the final agency copy or version given to the responsible Minister under subsection (4) to the following:
- (a) if the inquiry was conducted as a result of a request under section 8 by the Attorney-General or section 9 by the Prime Minister—the Minister who made the request;

-
- (b) in any case—the Prime Minister or the Attorney-General, if the relevant Minister requests it.
- (6) In addition, the Inspector-General may give the Prime Minister or the Attorney-General a copy of the final agency copy or version given to the responsible Minister under subsection (4) if the Inspector-General considers it appropriate to do so.

41 Application of amendment

Subsections 22(5) and (6) of the *Inspector-General of Intelligence and Security Act 1986*, as in force on and after the commencement of this item, apply in relation to a copy or version of a final agency copy that is given to the responsible Minister under subsection 22(4) of that Act on or after that commencement, even if the inquiry was started before that commencement.

42 Section 24 (heading)

Repeal the heading, substitute:

24 Action as a result of reports—general

43 Subsection 24(2)

Omit all the words after “appropriate”, substitute:

in the circumstances:

- (a) the Inspector-General may discuss the matter with the responsible Minister and prepare a report relating to that matter; and
- (b) if the Inspector-General prepares such a report, he or she must give a copy of the report to:
 - (i) if the inquiry was conducted as a result of a request made by the Prime Minister under section 9—the Prime Minister; and
 - (ii) in any case—the Attorney-General.

44 At the end of section 24

Add:

- (3) In addition, the Inspector-General may give a copy of a report prepared under paragraph (2)(a) to the Prime Minister if the Inspector-General considers it appropriate to do so.

45 Application of amendments

Subsections 24(2) and (3) of the *Inspector-General of Intelligence and Security Act 1986*, as in force on and after the commencement of this item, apply in relation to a report prepared under paragraph 24(2)(a) of that Act on or after commencement, even if it relates to an inquiry started before that commencement.

46 Section 24A (heading)

Repeal the heading, substitute:

24A Action as a result of certain reports relating to heads of Commonwealth agencies

47 Paragraph 24A(3)(b)

Repeal the paragraph, substitute:

- (b) if the Inspector-General prepares such a report, he or she must give a copy of the report to:
- (i) if the inquiry was conducted as a result of a request made by the Prime Minister under section 9—the Prime Minister; and
 - (ii) in any case—the Attorney-General.

48 At the end of section 24A

Add:

- (4) In addition, the Inspector-General may give a copy of a report prepared under paragraph (3)(a) to the Prime Minister if the Inspector-General considers it appropriate to do so.

49 Application of amendments

Subsections 24A(3) and (4) of the *Inspector-General of Intelligence and Security Act 1986*, as in force on and after the commencement of this item, apply in relation to a report prepared under paragraph 24A(3)(a) of that Act on or after commencement, even if it relates to an inquiry started before that commencement.

50 Section 25

Omit “Where”, substitute “(1) If”.

51 Section 25

Omit “Prime Minister”, substitute “Attorney-General”.

52 At the end of section 25

Add:

- (2) In addition, the Inspector-General may give a copy of the report to the Prime Minister if the Inspector-General considers it appropriate to do so.

53 Application of amendments

Section 25 of the *Inspector-General of Intelligence and Security Act 1986*, as in force on and after the commencement of this item, applies if a copy of a report in relation to an inquiry is given to the responsible Minister on or after that commencement, even if the inquiry started before that commencement.

54 Subsection 28(2)

Repeal the subsection, substitute:

- (2) The Attorney-General may grant to a person appointed as Inspector-General leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Attorney-General determines.

55 Saving provision—leave of absence

- (1) A determination of terms and conditions, that is in effect under subsection 28(2) of the *Inspector-General of Intelligence and Security Act 1986* immediately before the commencement of this item, continues in effect on and after that commencement as if made under that subsection as amended by this Schedule.
- (2) A grant of leave, made before the commencement of this item under subsection 28(2) of the *Inspector-General of Intelligence and Security Act 1986* for a period that ends after that commencement, continues in effect on and after that commencement as if made under that subsection as amended by this Schedule.

56 Subparagraph 30(2)(b)(i)

Omit “Prime Minister”, substitute “Attorney-General”.

57 Saving provision—approval of paid employment

An approval to engage in paid employment, that is in effect for the purposes of subparagraph 30(2)(b)(i) of the *Inspector-General of Intelligence and Security Act 1986* immediately before the commencement of this item, continues in effect on and after that commencement as if given for the purposes of that subparagraph as amended by this Schedule.

58 Subsection 32A(5)

Omit “Minister” (wherever occurring), substitute “responsible Minister”.

59 Subsection 32B(3)

Repeal the subsection.

59A Subsection 35(2)

Omit “to the Minister”.

60 Subsection 35(3)

Omit “The Prime Minister shall give a copy of a report referred to in subsection (2)”, substitute “A copy of a report referred to in subsection (2) must be given”.

61 Subsections 35(4) and (5)

Omit “Prime Minister” (wherever occurring), substitute “Attorney-General”.

Intelligence Services Act 2001

62 Paragraph 9(1A)(b)

Omit “Minister responsible for administering the *Australian Security Intelligence Organisation Act 1979*”, substitute “Attorney-General”.

63 Saving provision—agreement to authorisations

An agreement, that is in effect under paragraph 9(1A)(b) of the *Intelligence Services Act 2001* immediately before the commencement of this item (including such an agreement given in accordance with subsection 9(1AA) of that Act), continues in effect on and after that commencement as if given under that paragraph as amended by this Schedule.

64 Subsection 9(1AA) (heading)

Repeal the heading, substitute:

Agreement of the Attorney-General

65 Subsections 9(1AA) and (1AC)

Omit “Minister responsible for administering the *Australian Security Intelligence Organisation Act 1979*”, substitute “Attorney-General”.

66 Subsection 9(1AC) (note)

Omit “Minister”, substitute “Attorney-General”.

67 Subsection 9A(2) (note)

Omit “Minister responsible for administering the *Australian Security Intelligence Organisation Act 1979*”, substitute “Attorney-General”.

68 At the end of paragraph 9A(3)(b)

Add:

; (v) the Minister responsible for administering the
Australian Security Intelligence Organisation Act 1979.

69 Subsection 9B(2) (note)

Omit “Minister responsible for administering the *Australian Security Intelligence Organisation Act 1979*”, substitute “Attorney-General”.

70 Section 9C (heading)

Repeal the heading, substitute:

9C Authorisations in an emergency—Attorney-General unavailable

71 Subparagraph 9C(1)(c)(i)

Omit “Minister responsible for administering the *Australian Security Intelligence Organisation Act 1979* (the *ASIO Minister*)”, substitute “Attorney-General”.

72 Subparagraph 9C(1)(c)(iii)

Omit “ASIO Minister”, substitute “Attorney-General”.

73 Subsections 9C(2) and (3)

Omit “ASIO Minister”, substitute “Attorney-General”.

74 Subsection 9C(4)

Repeal the subsection, substitute:

Notifying Attorney-General, ASIO Minister and Inspector-General of Intelligence and Security

- (4) The relevant agency head must notify the following that an authorisation was given under section 9A or 9B (as the case requires) in accordance with this section:
- (a) the Attorney-General;
 - (b) the Minister responsible for administering the *Australian Security Intelligence Organisation Act 1979* (the *ASIO Minister*);
 - (c) the Inspector-General of Intelligence and Security.
- The notification must state whether the agreement of the Director-General of Security was obtained.

75 Paragraph 9C(5)(a)

After “given to”, insert “the Attorney-General or”.

76 After subsection 13G(1)

Insert:

- (1A) Before making guidelines under subsection (1), the responsible Ministers must consult with the Attorney-General.

77 After subparagraph 29(1)(b)(i)

Insert:

(ia) the Attorney-General; or

78 Paragraph 29(1)(c)

Omit “and to the responsible Minister”, substitute “, to the responsible Minister and to the Attorney-General”.

79 Subsection 29(2)

After “Minister” (wherever occurring), insert “or the Attorney-General”.

Schedule 2—Other amendments

Part 1—Amendments commencing on Proclamation

Administrative Appeals Tribunal Act 1975

1 Subsection 3(1)

Insert:

ASIO Minister means the Minister administering the *Australian Security Intelligence Organisation Act 1979*.

2 Subsection 38A(1)

Omit “Attorney-General”, substitute “ASIO Minister”.

3 Subsection 38A(2)

Omit “Attorney-General”, substitute “ASIO Minister”.

4 Subsection 39A(8)

Omit “Minister administering the *Australian Security Intelligence Organisation Act 1979* (the *responsible Minister*)”, substitute “ASIO Minister”.

5 Paragraph 39A(9)(b)

Omit “responsible Minister”, substitute “ASIO Minister”.

6 Subsection 39B(2) (heading)

Omit “*Attorney-General*”, substitute “*ASIO Minister*”.

7 Subsection 39B(2)

Omit “Attorney-General”, substitute “ASIO Minister”.

8 Paragraphs 39B(5)(a), (5)(b) and (6)(b)

Omit “Attorney-General”, substitute “ASIO Minister”.

9 Subsections 39B(9) and (10)

Omit “Attorney-General”, substitute “ASIO Minister”.

10 Subsection 43AAA(4)

Omit “Attorney-General”, substitute “ASIO Minister”.

Administrative Decisions (Judicial Review) Act 1977

11 Paragraphs (daa) and (daaa) of Schedule 1

Omit “Attorney-General”, substitute “Minister administering the *Australian Security Intelligence Organisation Act 1979*”.

12 Paragraph (dab) of Schedule 1

Omit “Attorney-General”, substitute “Minister administering the *Australian Federal Police Act 1979*”.

A New Tax System (Family Assistance) Act 1999

13 Subsection 3(1) (definition of *Attorney-General’s Secretary*)

Repeal the definition.

14 Subsection 3(1)

Insert:

Home Affairs Minister means the Minister administering the *Australian Security Intelligence Organisation Act 1979*.

15 Subsection 3(1) (definition of *Immigration Minister*)

Repeal the definition.

16 Section 57GJ (heading)

Omit “Attorney-General”, substitute “**Home Affairs Minister**”.

17 Subsection 57GJ(1)

Omit “Attorney-General” (first occurring), substitute “Home Affairs Minister”.

18 Paragraph 57GJ(1)(a)

Omit “Attorney-General”, substitute “Home Affairs Minister”.

19 Paragraph 57GJ(1)(b)

Repeal the paragraph, substitute:

- (b) the individual's visa is cancelled under section 116 or 128 of the *Migration Act 1958* because of an assessment by the Australian Security Intelligence Organisation that the individual is directly or indirectly a risk to security (within the meaning of section 4 of the *Australian Security Intelligence Organisation Act 1979*); or
- (c) the individual's visa is cancelled under section 134B of the *Migration Act 1958* (emergency cancellation on security grounds) and the cancellation has not been revoked because of subsection 134C(3) of that Act; or
- (d) the individual's visa is cancelled under section 501 of the *Migration Act 1958* and there is an assessment by the Australian Security Intelligence Organisation that the individual is directly or indirectly a risk to security (within the meaning of section 4 of the *Australian Security Intelligence Organisation Act 1979*).

20 Subsection 57GJ(3)

Omit "Attorney-General" (wherever occurring), substitute "Home Affairs Minister".

21 Subsection 57GJ(4)

Omit "Attorney-General's Secretary", substitute "Secretary of the Department administered by the Home Affairs Minister".

22 Paragraph 57GJ(4)(b)

Omit "Attorney-General", substitute "Home Affairs Minister".

23 Section 57GK

Omit "Attorney-General", substitute "Home Affairs Minister".

24 Section 57GL

Repeal the section.

25 Sections 57GNA and 57GO

Omit "Attorney-General" (wherever occurring), substitute "Home Affairs Minister".

Anti-Money Laundering and Counter-Terrorism Financing Act 2006

26 Section 5 (definition of Attorney-General's Department)

Omit “the Attorney-General”, substitute “the Attorney-General”.

Note: This item re-inserts the reference to the Attorney-General: see item 3 of the table in subsection 19(1) of the *Acts Interpretation Act 1901*.

AusCheck Act 2007

27 Subsection 4(1) (definition of Transport Secretary)

Repeal the definition.

28 Subparagraph 8(3)(a)(ii)

Omit “to the Transport Secretary”, substitute “under regulations made under the *Aviation Transport Security Act 2004* or the *Maritime Transport and Offshore Facilities Security Act 2003*”.

29 Subparagraph 8(3)(a)(iv)

Omit “to the Transport Secretary”, substitute “under regulations made under either of those Acts”.

30 Subparagraph 8(3)(a)(v)

Omit “by an issuing body, the Secretary or the Transport Secretary”, substitute “made under regulations made under either of those Acts, or a decision made under the AusCheck scheme,”.

31 Subsection 10(3)

Omit “or the Transport Secretary”.

32 Subparagraph 10(3)(a)(ii)

Omit “to the Transport Secretary”, substitute “under regulations made under the *Aviation Transport Security Act 2004* or the *Maritime Transport and Offshore Facilities Security Act 2003*”.

33 Subparagraph 10(3)(a)(iv)

Omit “to the Transport Secretary”, substitute “under regulations made under either of those Acts”.

34 Subparagraph 10(3)(a)(v)

Omit “by an issuing body, the Secretary or the Transport Secretary”, substitute “made under regulations made under either of those Acts, or a decision made under the AusCheck scheme,”.

35 Paragraph 11(3)(b)

Repeal the paragraph.

36 Paragraph 11(3)(c)

Omit “subsection (4);”, substitute “subsection (4).”.

37 Paragraph 11(3)(d)

Repeal the paragraph.

38 Subparagraph 14(2)(b)(ia)

Omit “the Secretary or the Transport Secretary”, substitute “a Secretary of a Department”.

Australian Citizenship Act 2007

39 Subsection 6A(1)

Omit “Attorney-General”, substitute “Minister”.

Australian Crime Commission Act 2002

40 Paragraphs 12(1)(a) and (1A)(a)

Omit “Attorney-General of the Commonwealth”, substitute “Attorney-General of the Commonwealth”.

Note: This item re-inserts the references to the Attorney-General of the Commonwealth: see item 3 of the table in subsection 19(1) of the *Acts Interpretation Act 1901*.

41 Section 16

Omit “Attorney-General of the Commonwealth”, substitute “Attorney-General of the Commonwealth”.

Note: This item re-inserts the reference to the Attorney-General of the Commonwealth: see item 3 of the table in subsection 19(1) of the *Acts Interpretation Act 1901*.

Australian Federal Police Act 1979

42 Subsection 43(1)

Omit “Minister”, substitute “Minister administering the *Crimes (Superannuation Benefits) Act 1989*”.

43 Subsection 43(3)

Omit “Minister” (first occurring), substitute “Minister administering the *Crimes (Superannuation Benefits) Act 1989*”.

44 Subsection 43(3)

Omit “the Minister” (second occurring), substitute “that Minister”.

45 Paragraph 44(b)

Omit “Minister”, substitute “Minister administering the *Crimes (Superannuation Benefits) Act 1989*”.

46 Section 44

Omit “the Minister” (second occurring), substitute “that Minister”.

47 Subsection 47B(3)

Omit “the Minister” (wherever occurring), substitute “the Minister administering the *Crimes (Superannuation Benefits) Act 1989*”.

48 Paragraph 49P(1)(c)

Omit “Minister”, substitute “Minister administering the *Crimes (Superannuation Benefits) Act 1989*”.

49 Subparagraph 51(3)(b)(iii)

Omit “Minister”, substitute “Minister administering the *Crimes (Superannuation Benefits) Act 1989*”.

Australian Security Intelligence Organisation Act 1979

50 After subsection 8A(1)

Insert:

(1A) Before making guidelines under subsection (1), the Minister must consult with the Attorney-General.

51 After subsection 8A(2)

Insert:

(2A) Before varying or replacing guidelines given under subsection (2), the Minister must consult with the Attorney-General.

52 Subsection 18C(3)

Omit “Attorney-General”, substitute “Attorney-General”.

Note: This item re-inserts the reference to the Attorney-General: see item 3 of the table in subsection 19(1) of the *Acts Interpretation Act 1901*.

53 Subsection 18C(3)

Omit “Attorney-General’s”, substitute “Attorney-General’s”.

Note: This item re-inserts the reference to the Attorney-General: see item 3 of the table in subsection 19(1) of the *Acts Interpretation Act 1901*.

54 Subsection 18C(4)

Omit “Attorney-General”, substitute “Attorney-General”.

Note: This item re-inserts the reference to the Attorney-General: see item 3 of the table in subsection 19(1) of the *Acts Interpretation Act 1901*.

55 Paragraph 27A(1)(a)

Omit “Minister (the *issuing Minister*) requesting the issuing Minister”, substitute “Attorney-General requesting the Attorney-General”.

56 Paragraph 27A(1)(b)

Omit “issuing Minister”, substitute “Attorney-General”.

57 Subsection 27A(1)

Omit “issuing Minister may”, substitute “Attorney-General may”.

58 Subsection 27A(1)

Omit “issuing Minister considers”, substitute “Attorney-General considers”.

59 Subsection 27A(3)

Omit “issuing Minister”, substitute “Attorney-General”.

60 Paragraph 27B(a)

Omit “Minister (the *authorising Minister*) requesting the authorising Minister”, substitute “Attorney-General requesting the Attorney-General”.

61 Paragraph 27B(b)

Omit “authorising Minister”, substitute “Attorney-General”.

62 Section 27B

Omit “authorising Minister may, by writing signed by the authorising Minister”, substitute “Attorney-General may, by writing signed by the Attorney-General”.

63 Sections 38 and 38A

Omit “Attorney-General” (wherever occurring), substitute “Minister”.

64 Section 65 (heading)

Omit “Minister”, substitute “Attorney-General”.

65 Subsection 65(1)

Omit “Minister” (first occurring), substitute “Attorney-General”.

66 Subsection 65(1)

Omit “Minister” (second and third occurring), substitute “Attorney-General and the Minister”.

67 Subsection 65(1A)

Omit “Minister” (first occurring), substitute “Attorney-General”.

68 Subsection 65(1A)

Omit “Minister” (second occurring), substitute “Attorney-General and the Minister”.

69 Subsection 65(3)

Omit “Minister” (wherever occurring), substitute “Attorney-General”.

70 Subsection 92(3)

Omit “Attorney-General”, substitute “Attorney-General”.

Schedule 2 Other amendments**Part 1** Amendments commencing on Proclamation

Note: This item re-inserts the reference to the Attorney-General: see item 3 of the table in subsection 19(1) of the *Acts Interpretation Act 1901*.

71 Amendments of listed provisions—substituting references to Minister with references to Attorney-General

Substituting references to Minister with references to Attorney-General			
Item	Provision	Omit (wherever occurring)	Substitute
1	Sections 25, 25A, 26, 26A, 27, 27AA, 27C, 27D, 27E, 27F, 27G, 27H, 27J, 29, 29A, 30 and 31A	Minister	Attorney-General
2	Subsections 32(1), (2) and (3)	Minister	Attorney-General
3	Subsection 32(3)	Minister's	Attorney-General's
4	Subsection 32(4)	Minister	Attorney-General
5	Sections 34, 34AB, 34B and 34C	Minister	Attorney-General
6	Subsections 34D(1) and (3)	Minister's	Attorney-General's
7	Subsection 34D(3)	Minister	Attorney-General
8	Subsection 34D(4) (heading)	Minister's	Attorney-General's
9	Subsections 34D(4), (5) and (6)	Minister	Attorney-General
10	Paragraph 34D(6)(b)	Minister's	Attorney-General's
11	Subsections 34F(1) and (3)	Minister's	Attorney-General's
12	Subsection 34F(3)	Minister	Attorney-General
13	Subsection 34F(4) (heading)	Minister's	Attorney-General's
14	Subsections 34F(4) and (5)	Minister	Attorney-General
15	Subsection 34F(6)	Minister's	Attorney-General's
16	Paragraphs 34F(6)(a) and (b)	Minister	Attorney-General

Substituting references to Minister with references to Attorney-General			
Item	Provision	Omit (wherever occurring)	Substitute
17	Paragraph 34F(6)(b)	Minister's	Attorney-General's
18	Subsection 34F(7)	Minister	Attorney-General
19	Paragraph 34F(7)(b)	Minister's	Attorney-General's
20	Subparagraph 34G(2)(b)(i)	Minister's	Attorney-General's
21	Paragraph 34K(2)(b)	Minister	Attorney-General
22	Subsection 34W(1)	Minister's	Attorney-General's
23	Paragraph 34W(2)(a)	Minister	Attorney-General
24	Paragraphs 34X(1)(a) and (c)	Minister's	Attorney-General's
25	Subparagraph 34X(1)(c)(i)	Minister	Attorney-General
26	Subsection 34ZE(4)	Minister's	Attorney-General's
27	Subsection 34ZE(4)	Minister	Attorney-General
28	Section 34ZH	Minister	Attorney-General
29	Paragraph 34ZI(a)	Minister	Attorney-General
30	Paragraph 34ZI(a)	Minister's	Attorney-General's
31	Subsection 34ZJ(2)	Minister	Attorney-General
32	Subsection 34ZJ(2) (note)	Minister's	Attorney-General's
33	Paragraph 34ZK(a)	Minister	Attorney-General
34	Subsection 34ZS(5) (paragraph (h) of the definition of <i>permitted disclosure</i>)	Minister	Attorney-General
35	Subsections 34ZS(8) and (9)	Minister	Attorney-General
36	Sections 34ZX, 34ZY, 35B, 35C, 35F, 35K, 35Q and 35R	Minister	Attorney-General

Aviation Transport Security Act 2004

72 Paragraph 127(1)(aa)

Repeal the paragraph.

73 Subsection 127(4)

Repeal the subsection.

Crimes Act 1914

74 Subsections 3ZZAE(1) and (2)

Omit “Minister”, substitute “Minister administering the *Judiciary Act 1903*”.

75 Subsection 3ZZAF(1)

Omit “Minister”, substitute “Minister administering the *Administrative Appeals Tribunal Act 1975* (the ***AAT Minister***)”.

76 Subsections 3ZZAF(2) and (3)

Omit “Minister”, substitute “AAT Minister”.

77 Section 9A

Omit “Attorney-General”, substitute “Minister administering the *Proceeds of Crime Act 2002*”.

78 Section 15GG (heading)

Omit “**Minister**”, substitute “**AAT Minister**”.

79 Subsection 15GG(1)

Omit “Minister”, substitute “Minister administering the *Administrative Appeals Tribunal Act 1975* (the ***AAT Minister***)”.

80 Subsections 15GG(2) and (3)

Omit “Minister”, substitute “AAT Minister”.

81 Subsection 15LD(1)

Omit “Minister” (first occurring), substitute “Minister administering the *Law Enforcement Integrity Commissioner Act 2006* (the **LEIC Minister**)”.

82 Paragraph 15LD(1)(g)

Omit “Minister”, substitute “LEIC Minister”.

83 Subsections 15LD(2) and (3)

Omit “Minister” (wherever occurring), substitute “LEIC Minister”.

84 Subsection 23WJ(6) (including the note)

Omit “Attorney-General” (wherever occurring), substitute “Attorney-General”.

Note: This item re-inserts the references to the Attorney-General: see item 3 of the table in subsection 19(1) of the *Acts Interpretation Act 1901*.

85 Paragraph 23WT(1)(ca)

Omit “Attorney-General”, substitute “Attorney-General”.

Note: This item re-inserts the reference to the Attorney-General: see item 3 of the table in subsection 19(1) of the *Acts Interpretation Act 1901*.

86 Paragraph 23XWU(1)(d)

Omit “Attorney-General”, substitute “Attorney-General”.

Note: This item re-inserts the reference to the Attorney-General: see item 3 of the table in subsection 19(1) of the *Acts Interpretation Act 1901*.

87 Sections 23YQA and 23YQB

Omit “Attorney-General” (wherever occurring), substitute “Attorney-General”.

Note: This item re-inserts the references to the Attorney-General: see item 3 of the table in subsection 19(1) of the *Acts Interpretation Act 1901*.

88 Section 23YUK

Repeal the section.

Crimes (Aviation) Act 1991

89 Section 3 (paragraph (c) of the definition of *authorised person*)

Omit “Attorney-General’s Department”, substitute “Department”.

90 Paragraph 37(6)(c)

Omit “Attorney-General”, substitute “Attorney-General”.

Note: This item re-inserts the reference to the Attorney-General: see item 3 of the table in subsection 19(1) of the *Acts Interpretation Act 1901*.

91 Subsection 41(1)

Omit “Attorney-General” (wherever occurring), substitute “Attorney-General”.

Note: This item re-inserts the references to the Attorney-General: see item 3 of the table in subsection 19(1) of the *Acts Interpretation Act 1901*.

92 Subsections 48(4), (5) and (7)

Omit “Attorney-General”, substitute “Attorney-General”.

Note: This item re-inserts the references to the Attorney-General: see item 3 of the table in subsection 19(1) of the *Acts Interpretation Act 1901*.

Crimes (Biological Weapons) Act 1976

93 Section 13

Before “The Governor-General”, insert “(1)”.

94 At the end of section 13

Add:

- (2) For the purposes of the *Legislation Act 2003*, the Minister administering the *Australian Federal Police Act 1979* is the rule-maker for regulations made:
 - (a) for the purposes of section 8 (offences) or 9 (forfeiture and seizure) of this Act; or
 - (b) for or in relation to the matter mentioned in paragraph (1)(a) of this section.

- (3) Subsection (2) applies despite subsection 6(1) of the *Legislation Act 2003*.

Crimes (Currency) Act 1981

95 Section 30

Before “The Governor-General”, insert “(1)”.

96 At the end of section 30

Add:

- (2) For the purposes of the *Legislation Act 2003*, the Minister administering the *Australian Federal Police Act 1979* is the rule-maker for regulations made for the purposes of Part II (offences) of this Act.
- (3) Subsection (2) applies despite subsection 6(1) of the *Legislation Act 2003*.

Crimes (Traffic in Narcotic Drugs and Psychotropic Substances) Act 1990

97 At the end of section 22

Add:

- (3) For the purposes of the *Legislation Act 2003*, the Minister administering the *Australian Federal Police Act 1979* is the rule-maker for regulations made for the purposes of this Act.
- (4) Subsection (3) applies despite subsection 6(1) of the *Legislation Act 2003*.

Criminal Code Act 1995

98 Section 5

Before “The Governor-General”, insert “(1)”.

99 At the end of section 5

Add:

- (2) For the purposes of the *Legislation Act 2003*, the Minister administering the *Australian Federal Police Act 1979* is the rule-maker for regulations made for the purposes of the following provisions of the *Criminal Code*:
- (a) Division 71 (offences against United Nations and associated personnel);
 - (b) Division 72 (explosives and lethal devices);
 - (c) Division 73 (people smuggling and related offences);
 - (d) Part 5.1 (treason, urging violence and advocating terrorism or genocide);
 - (e) Part 5.2 (offences relating to espionage and similar activities);
 - (f) Part 5.3 (terrorism), other than Division 100 (preliminary provisions);
 - (g) Part 5.4 (harming Australians);
 - (h) Part 5.5 (foreign incursions and recruitment);
 - (i) Division 270 (slavery and slavery-like conditions);
 - (j) Division 271 (trafficking in persons and debt bondage);
 - (k) Division 272 (child sex offences outside Australia);
 - (l) Division 273 (offences involving child pornography material or child abuse material outside Australia);
 - (m) Chapter 9 (dangers to the community);
 - (n) Chapter 10 (national infrastructure).
- (3) Subsection (2) applies despite subsection 6(1) of the *Legislation Act 2003*.

100 Section 72.28 of the *Criminal Code*

Repeal the section, substitute:

72.28 Delegation by AFP Minister

- (1) The AFP Minister may, by writing, delegate to:
- (a) the Secretary of the Department administered by that Minister; or
 - (b) an SES employee, or an acting SES employee, in that Department, where the employee occupies or acts in a position with a classification of Senior Executive Band 3;

all or any of the AFP Minister's powers under sections 72.18, 72.19, 72.24 and 72.25.

- (2) A delegate is, in the exercise of a power delegated under subsection (1), subject to the written directions of the AFP Minister.

101 Section 72.36 of the *Criminal Code*

Insert:

AFP Minister means the Minister administering the *Australian Federal Police Act 1979*.

102 Subsection 100.1(1) of the *Criminal Code*

Insert:

AFP Minister means the Minister administering the *Australian Federal Police Act 1979*.

103 Subsections 105.2(1) and (2) of the *Criminal Code*

Omit "Minister", substitute "Attorney-General".

104 Subsection 105.37(4) of the *Criminal Code*

Omit "by the Department", substitute "by the Australian Government Security Vetting Agency or by another Commonwealth, State or Territory agency that is authorised or approved by the Commonwealth to issue security clearances".

105 Subparagraphs 105A.19(3)(a)(iii) and (iv) of the *Criminal Code*

Omit "Department", substitute "Department administered by the AFP Minister".

106 Paragraph 105A.20(a) of the *Criminal Code*

Omit "Department", substitute "Department administered by the AFP Minister".

107 Paragraph 105A.20(b) of the *Criminal Code*

Omit "the Department", substitute "that Department".

108 Subsection 117.1(1) of the *Criminal Code*

Insert:

AFP Minister means the Minister administering the *Australian Federal Police Act 1979*.

109 Section 300.2 of the *Criminal Code*

Insert:

AFP Minister means the Minister administering the *Australian Federal Police Act 1979*.

110 Section 470.1 of the *Criminal Code*

Insert:

AFP Minister means the Minister administering the *Australian Federal Police Act 1979*.

111 Section 473.1 of the *Criminal Code*

Insert:

AFP Minister means the Minister administering the *Australian Federal Police Act 1979*.

112 Paragraph 474.17(2)(d) of the *Criminal Code*

Omit “Attorney-General’s Department”, substitute “Department administered by the AFP Minister”.

113 Amendments of listed provisions—substituting references to Minister with references to AFP Minister

Substituting references to Minister with references to AFP Minister			
Item	Provision of the <i>Criminal Code</i>	Omit (wherever occurring)	Substitute
1	Section 72.36 (paragraph (a) of the definition of <i>responsible Minister</i>)	Minister	AFP Minister
2	Subsections 102.1(2), (2A), (4), (5), (17) and	Minister	AFP Minister

Substituting references to Minister with references to AFP Minister			
Item	Provision of the <i>Criminal Code</i>	Omit (wherever occurring)	Substitute
	(18)		
3	Subsections 102.1AA(1), (2) and (4)	Minister	AFP Minister
4	Subsection 117.1(2)	Minister	AFP Minister
5	Section 119.8	Minister	AFP Minister
6	Section 300.2 (definition of <i>determined</i>)	Minister	AFP Minister
7	Paragraphs 301.1(1)(c), 301.2(1)(b), 301.3(1)(c), 301.4(c), 301.5(b) and 301.6(1)(d)	Minister	AFP Minister
8	Sections 301.7, 301.8, 301.10, 301.11, 301.12, 301.13, 301.14, 301.15, 301.16 and 301.17	Minister	AFP Minister
9	Paragraphs 471.18(2)(d) and 471.21(2)(d)	Minister	AFP Minister
10	Paragraphs 474.21(2)(d) and 474.24(2)(d)	Minister	AFP Minister

114 Amendments of listed provisions—substituting references to Attorney-General with references to AFP Minister

Substituting references to Attorney-General with references to AFP Minister			
Item	Provision of the <i>Criminal Code</i>	Omit (wherever occurring)	Substitute
1	Section 104.2 (heading)	Attorney-General's	AFP Minister's
2	Subsections 104.2(1), (2) and (3)	Attorney-General's	AFP Minister's

Schedule 2 Other amendments

Part 1 Amendments commencing on Proclamation

Substituting references to Attorney-General with references to AFP Minister			
Item	Provision of the <i>Criminal Code</i>	Omit (wherever occurring)	Substitute
3	Subsection 104.2(3)	Attorney-General	AFP Minister
4	Subsection 104.2(4)	Attorney-General's	AFP Minister's
5	Subsection 104.2(4)	Attorney-General	AFP Minister
6	Subsection 104.2(5)	Attorney-General's	AFP Minister's
7	Section 104.3	Attorney-General	AFP Minister
8	Paragraph 104.3(f)	Attorney-General's	AFP Minister's
9	Sections 104.6, 104.7, 104.8 and 104.9	Attorney-General's	AFP Minister's
10	Section 104.10 (heading)	Attorney-General's	AFP Minister's
11	Subsection 104.10(1)	Attorney-General's	AFP Minister's
12	Subsection 104.10(2)	Attorney-General	AFP Minister
13	Subsection 104.10(2) (note)	Attorney-General's	AFP Minister's
14	Sections 104.29, 104.30 and 105.47	Attorney-General	AFP Minister
15	Subsections 105A.5(1), (2A), (5) and (6)	Attorney-General	AFP Minister
16	Paragraph 105A.5(6)(a)	Attorney-General's	AFP Minister's
17	Sections 105A.6, 105A.7, 105A.9, 105A.10, 105A.12, 105A.19, 105A.20, 105A.21 and 105A.22	Attorney-General	AFP Minister

Criminology Research Act 1971

115 Paragraphs 33(4)(a) and (b)

Omit “Attorney-General of the government that the person represents”, substitute “Minister of the Commonwealth, State or Territory who appointed the person”.

116 Amendment of listed provisions—substituting references to Attorney-General with references to the Minister

Substituting references to Attorney-General with references to the Minister			
Item	Provision	Omit (wherever occurring)	Substitute
1	Sections 6A, 15 and 16	Attorney-General	Minister
2	Subsections 17(4) and 19(2)	Attorney-General	Minister
3	Sections 20, 21, 22 and 23	Attorney-General	Minister
4	Paragraph 33(3)(a)	Attorney-General	Minister

Customs Act 1901

117 Subsection 208DA(1) (definition of *prescribed officer*)

Omit “Attorney-General’s”.

118 Subsection 208DA(4)

Omit “Attorney-General” (wherever occurring), substitute “Minister”.

Maritime Transport and Offshore Facilities Security Act 2003

119 Paragraph 202(1)(b)

Repeal the paragraph.

120 Subsection 202(4)

Repeal the subsection.

Migration Act 1958

121 Section 143 (heading)

Omit “Attorney-General”, substitute “Minister”.

122 Subsection 143(1)

Omit “Attorney-General”, substitute “Minister”.

123 Paragraph 143(1)(a)

Omit “Attorney-General’s”.

124 Paragraph 143(1)(b)

Omit “that Department”, substitute “the Department”.

125 Subsections 143(2) and (4)

Omit “Attorney-General”, substitute “Minister”.

126 Section 144

Omit “Attorney-General may”, substitute “Minister may”.

127 Subsections 145(1), 146(2) and 147(1)

Omit “Attorney-General” (wherever occurring), substitute “Minister”.

128 Paragraph 162(1)(a)

Omit “, the Attorney-General”, substitute “—the Minister”.

129 Subsection 162(2)

Omit “the certificate, the Attorney-General or authorised official”, substitute “a certificate given under section 146 or 148, an authorised official”.

130 Subsection 202(3)

Omit all the words from and including “unless”, substitute “unless the Tribunal confirms the assessment”.

Offshore Petroleum and Greenhouse Gas Storage Act 2006

131 Paragraph 604(5)(a)

Omit “Attorney-General”, substitute “Minister administering the *Australian Federal Police Act 1979*”.

132 Paragraph 604(5)(b)

Omit “the Attorney-General’s”, substitute “that Minister’s”.

133 Paragraph 610(4)(a)

Omit “Attorney-General”, substitute “Minister administering the *Australian Federal Police Act 1979*”.

134 Paragraph 610(4)(b)

Omit “the Attorney-General’s”, substitute “that Minister’s”.

Ombudsman Act 1976

135 Subsection 14(3)

Omit “Attorney-General” (first occurring), substitute “Minister administering the *Australian Security Intelligence Organisation Act 1979* (the *ASIO Minister*)”.

136 Subsection 14(3)

Omit “Attorney-General” (second occurring), substitute “ASIO Minister”.

137 Subsection 14(3)

Omit “that Minister”, substitute “such a Minister”.

138 Section 16

Omit “Prime Minister” (wherever occurring), substitute “Prime Minister”.

Note: This item re-inserts the references to the Prime Minister: see item 3 of the table in subsection 19(1) of the *Acts Interpretation Act 1901*.

139 Subsection 35B(1)

Omit “Attorney-General”, substitute “Minister administering section 7 of the *Australian Crime Commission Act 2002*”.

Paid Parental Leave Act 2010

140 Section 6 (definition of *Attorney-General’s Secretary*)

Repeal the definition.

141 Section 6

Insert:

Home Affairs Minister means the Minister administering the *Australian Security Intelligence Organisation Act 1979*.

142 Section 6 (definition of *Immigration Minister*)

Repeal the definition.

143 Subsection 200C(4)

Omit all the words after “must give”, substitute “a copy of the order, and information likely to facilitate identification of the person, to the Secretary of the Department administered by the Minister administering the *Migration Act 1958*, for the purposes of administering that Act”.

144 Section 278C (heading)

Omit “Attorney-General”, substitute “Home Affairs Minister”.

145 Subsection 278C(1)

Omit “Attorney-General” (first occurring), substitute “Home Affairs Minister”.

146 Paragraph 278C(1)(a)

Omit “Attorney-General”, substitute “Home Affairs Minister”.

147 Paragraph 278C(1)(b)

Repeal the paragraph, substitute:

- (b) the person’s visa is cancelled under section 116 or 128 of the *Migration Act 1958* because of an assessment by the Australian Security Intelligence Organisation that the person is directly or indirectly a risk to security (within the meaning of section 4 of the *Australian Security Intelligence Organisation Act 1979*); or
- (c) the person’s visa is cancelled under section 134B of the *Migration Act 1958* (emergency cancellation on security grounds) and the cancellation has not been revoked because of subsection 134C(3) of that Act; or
- (d) the person’s visa is cancelled under section 501 of the *Migration Act 1958* and there is an assessment by the Australian Security Intelligence Organisation that the person is directly or indirectly a risk to security (within the meaning

of section 4 of the *Australian Security Intelligence Organisation Act 1979*).

148 Subsection 278C(2)

Omit “Attorney-General” (wherever occurring), substitute “Home Affairs Minister”.

149 Subsection 278C(3)

Omit “Attorney-General’s Secretary”, substitute “Secretary of the Department administered by the Home Affairs Minister”.

150 Paragraph 278C(3)(b)

Omit “Attorney-General”, substitute “Home Affairs Minister”.

151 Section 278D

Omit “Attorney-General”, substitute “Home Affairs Minister”.

152 Section 278E

Repeal the section.

153 Sections 278GA and 278H

Omit “Attorney-General” (wherever occurring), substitute “Home Affairs Minister”.

Proceeds of Crime Act 1987

154 Subsection 4(1) (paragraphs (a) and (c) of the definition of equitable sharing program)

Omit “Attorney-General”, substitute “Minister”.

155 Subsection 4(1) (definition of prescribed officer)

Omit “the Attorney-General’s Department”, substitute “the Department”.

156 Subsection 20(3A)

Omit “Attorney-General” (wherever occurring), substitute “Minister”.

157 Subsection 23(2)

Omit “Attorney-General or of a person authorised by the Attorney-General”, substitute “Minister administering the Mutual Assistance Act or of a person authorised by that Minister”.

158 Subsection 30(4A)

Omit “Attorney-General” (wherever occurring), substitute “Minister”.

159 Subparagraph 34C(1)(a)(i)

Omit “Attorney-General”, substitute “Minister”.

160 Subparagraphs 34C(1)(a)(ii) and (iii)

Omit “Attorney-General”, substitute “Minister administering the Mutual Assistance Act”.

161 Subsection 34D(1)

Omit “Attorney-General”, substitute “Minister”.

162 Subsections 69(2) and 72(3)

Omit “Attorney-General”, substitute “Minister administering the Mutual Assistance Act”.

163 Subsection 75(2)

Omit “Attorney-General or to an officer of the Attorney-General’s Department specified by the Attorney-General”, substitute “Minister administering the Mutual Assistance Act or to an officer, of the Department administered by that Minister, specified by that Minister”.

Proceeds of Crime Act 2002

164 Paragraph 297(c)

Omit “Minister”, substitute “Minister administering the *Mutual Assistance in Criminal Matters Act 1987*”.

165 Paragraph 297(d)

Omit “Attorney-General”, substitute “Minister administering the *Mutual Assistance in Criminal Matters Act 1987*”.

166 Section 338 (definition of *senior Departmental officer*)

Omit “Attorney-General’s”.

Public Order (Protection of Persons and Property) Act 1971

167 Section 13A (subparagraph (b)(i) of the definition of *authorised officer*)

Omit “Attorney-General”, substitute “Minister”.

Service and Execution of Process Act 1992

168 Subsection 100(4)

Omit “Attorney-General for the Commonwealth”, substitute “Minister administering the *Australian Security Intelligence Organisation Act 1979*”.

Social Security Act 1991

169 Subsection 23(1) (definition of *Attorney-General’s Secretary*)

Repeal the definition.

170 Subsection 23(1)

Insert:

Home Affairs Minister means the Minister administering the *Australian Security Intelligence Organisation Act 1979*.

171 Subsection 23(1) (definition of *Immigration Minister*)

Repeal the definition.

172 Section 38N (heading)

Omit “Attorney-General”, substitute “**Home Affairs Minister**”.

173 Subsection 38N(1)

Omit “Attorney-General” (first occurring), substitute “Home Affairs Minister”.

174 Paragraph 38N(1)(a)

Omit “Attorney-General”, substitute “Home Affairs Minister”.

175 Paragraph 38N(1)(b)

Repeal the paragraph, substitute:

- (b) the person’s visa is cancelled under section 116 or 128 of the *Migration Act 1958* because of an assessment by the Australian Security Intelligence Organisation that the person is directly or indirectly a risk to security (within the meaning of section 4 of the *Australian Security Intelligence Organisation Act 1979*); or
- (c) the person’s visa is cancelled under section 134B of the *Migration Act 1958* (emergency cancellation on security grounds) and the cancellation has not been revoked because of subsection 134C(3) of that Act; or
- (d) the person’s visa is cancelled under section 501 of the *Migration Act 1958* and there is an assessment by the Australian Security Intelligence Organisation that the person is directly or indirectly a risk to security (within the meaning of section 4 of the *Australian Security Intelligence Organisation Act 1979*).

176 Subsection 38N(2)

Omit “Attorney-General” (wherever occurring), substitute “Home Affairs Minister”.

177 Subsection 38N(3)

Omit “Attorney-General’s Secretary”, substitute “Secretary of the Department administered by the Home Affairs Minister”.

178 Paragraph 38N(3)(b)

Omit “Attorney-General”, substitute “Home Affairs Minister”.

179 Section 38P

Omit “Attorney-General”, substitute “Home Affairs Minister”.

180 Section 38Q

Repeal the section.

181 Sections 38SA and 38T

Omit “Attorney-General” (wherever occurring), substitute “Home Affairs Minister”.

Surveillance Devices Act 2004

182 Subsection 12(2)

Omit “by the Minister under subsection (3)”, substitute “under subsection (3) by the Minister referred to in that subsection”.

183 Subsection 12(3)

Omit “Minister”, substitute “Minister administering the *Judiciary Act 1903*”.

184 Subsection 13(1)

Omit “Minister”, substitute “Minister administering the *Administrative Appeals Tribunal Act 1975* (the ***AAT Minister***)”.

185 Subsection 13(2)

Omit “Minister”, substitute “AAT Minister”.

186 Paragraph 13(3)(b)

Omit “Minister”, substitute “AAT Minister”.

187 Subsection 42(6)

Omit “Minister”, substitute “Attorney-General”.

Telecommunications Act 1997

188 Section 7

Insert:

AFP Minister means the Minister administering the *Australian Federal Police Act 1979*.

Home Affairs Department means the Department administered by the Home Affairs Minister.

Home Affairs Minister means the Minister administering the *Australian Security Intelligence Organisation Act 1979*.

Home Affairs Secretary means the Secretary of the Home Affairs Department.

189 Subsections 58A(1) and (4)

Omit “Attorney-General” (wherever occurring), substitute “Home Affairs Minister”.

190 Subsections 275B(2) and (5)

Omit “Minister administering the *Administrative Decisions (Judicial Review) Act 1977*”, substitute “AFP Minister”.

191 Subsection 275D(2)

Omit “Minister administering the *Administrative Decisions (Judicial Review) Act 1977*”, substitute “AFP Minister”.

192 Paragraph 295Y(b)

Omit “Minister administering the *Administrative Decisions (Judicial Review) Act 1977*”, substitute “AFP Minister”.

193 Subsections 295ZB(1) and (2)

Omit “Minister administering the *Administrative Decisions (Judicial Review) Act 1977*”, substitute “AFP Minister”.

194 Subsection 295ZD(1)

Omit “Minister administering the *Administrative Decisions (Judicial Review) Act 1977*”, substitute “AFP Minister”.

195 Subsection 581(3)

Omit “Attorney-General” (wherever occurring), substitute “Home Affairs Minister”.

196 After paragraph 55A(1)(a) of Schedule 3A

Insert:

(aa) the Home Affairs Secretary; and

197 Subclause 55A(2) of Schedule 3A

Omit “the Secretary of the Attorney-General’s Department”, substitute “each of the Secretaries mentioned in paragraphs (1)(a) and (aa)”.

198 Subclause 55A(3) of Schedule 3A

Omit “the Secretary of the Attorney-General’s Department received the copy of the application, the Secretary of the Attorney-General’s Department”, substitute “a Secretary receives a copy of the application, that Secretary”.

199 Paragraph 55A(3)(c) of Schedule 3A

Omit “the Secretary of the Attorney-General’s Department”, substitute “he or she”.

200 Subclause 55A(7) of Schedule 3A

Omit “The Secretary of the Attorney-General’s Department”, substitute “A Secretary who gives a notice under paragraph (3)(a)”.

201 Subclause 55A(7) of Schedule 3A

After “the notice”, insert “under paragraph (3)(a)”.

202 Subclause 55A(8) of Schedule 3A

Repeal the subclause, substitute:

- (8) A Secretary who gives a notice under paragraph (3)(a) may revoke the notice by giving the ACMA a further written notice.

203 Subclause 55A(10) of Schedule 3A

Omit “Secretary of the Attorney-General’s Department”, substitute “Secretary who gave the notice”.

204 Paragraph 55A(11)(b) of Schedule 3A

Omit “Secretary of the Attorney-General’s Department”, substitute “Secretary making the submission”.

205 Paragraph 57(a) of Schedule 3A

After “Secretary of the Attorney-General’s Department”, insert “or the Home Affairs Secretary”.

206 Subclauses 57A(1) and (4) of Schedule 3A

Omit “Attorney-General” (wherever occurring), substitute “Home Affairs Minister”.

207 Subclause 58(5) of Schedule 3A (heading)

Omit “*given by Secretary of the Attorney-General’s Department*”, substitute “*preventing grant of permit is*”.

208 Paragraph 58(5)(b) of Schedule 3A

After “Secretary of the Attorney-General’s Department”, insert “or the Home Affairs Secretary”.

209 After paragraph 70(1)(a) of Schedule 3A

Insert:

(aa) the Home Affairs Secretary; and

210 Subclause 70(2) of Schedule 3A

Omit “the Secretary of the Attorney-General’s Department”, substitute “each of the Secretaries mentioned in paragraphs (1)(a) and (aa)”.

211 Subclause 70(3) of Schedule 3A

Omit “the Secretary of the Attorney-General’s Department received the copy of the application, the Secretary of the Attorney-General’s Department”, substitute “a Secretary receives a copy of the application, that Secretary”.

212 Paragraph 70(3)(c) of Schedule 3A

Omit “the Secretary of the Attorney-General’s Department”, substitute “he or she”.

213 Subclause 70(7) of Schedule 3A

Omit “The Secretary of the Attorney-General’s Department”, substitute “A Secretary who gives a notice under paragraph (3)(a)”.

214 Subclause 70(7) of Schedule 3A

After “the notice”, insert “under paragraph (3)(a)”.

215 Subclause 70(8) of Schedule 3A

Repeal the subclause, substitute:

- (8) A Secretary who gives a notice under paragraph (3)(a) may revoke the notice by giving the ACMA a further written notice.

216 Subclause 70(10) of Schedule 3A

Omit “Secretary of the Attorney-General’s Department”, substitute “Secretary who gave the notice”.

217 Paragraph 70(11)(b) of Schedule 3A

Omit “Secretary of the Attorney-General’s Department”, substitute “Secretary making the submission”.

218 Paragraph 71(aa) of Schedule 3A

After “Secretary of the Attorney-General’s Department”, insert “or the Home Affairs Secretary”.

219 Subclauses 72A(1) and (4) of Schedule 3A

Omit “Attorney-General” (wherever occurring), substitute “Home Affairs Minister”.

220 Subclause 73(5) of Schedule 3A (heading)

Omit “*given by Secretary of the Attorney-General’s Department*”, substitute “*preventing grant of permit is*”.

221 Paragraph 73(5)(b) of Schedule 3A

After “Secretary of the Attorney-General’s Department”, insert “or the Home Affairs Secretary”.

222 At the end of Part 5 of Schedule 3A

Add:

90 Delegation by the Home Affairs Secretary

- (1) The Home Affairs Secretary may, by writing, delegate any or all of his or her powers under this Schedule to an SES employee, or acting SES employee, in the Home Affairs Department.

- (2) A delegate must comply with any directions of the Home Affairs Secretary.

223 Application of amendments relating to consultation about permits

- (1) Clauses 55A, 57, and 58 of Schedule 3A to the *Telecommunications Act 1997*, as amended by this Schedule, apply in relation to the making of a decision on or after the commencement of this item on an application for a protection zone installation permit, even if the application was made before that commencement.
- (2) Clauses 70, 71 and 73 of Schedule 3A to the *Telecommunications Act 1997*, as amended by this Schedule, apply in relation to the making of a decision on or after the commencement of this item on an application for a non-protection zone installation permit, even if the application was made before that commencement.

Telecommunications (Interception and Access) Act 1979

224 Subsection 5(4)

Omit “Attorney-General” (wherever occurring), substitute “Attorney-General”.

Note: This item re-inserts the references to the Attorney-General: see item 3 of the table in subsection 19(1) of the *Acts Interpretation Act 1901*.

225 Paragraph 68(l)

After “Department”, insert “administered by that Minister”.

226 Section 68A (heading)

Omit “Secretary”, substitute “Secretary of the Attorney-General’s Department”.

227 Subsection 68A(1)

After “Department”, insert “administered by the Attorney-General”.

228 Paragraph 68A(1)(a)

Omit “the Secretary”, substitute “that Secretary”.

229 At the end of paragraph 71(2)(a)

Add “or”.

230 After paragraph 71(2)(a)

Insert:

(aa) the Minister; or

231 At the end of paragraph 71(2)(b)

Add “or”.

232 Subsection 140(1)

Omit “Attorney-General”, substitute “Minister”.

233 Paragraphs 180M(1)(b), (c) and (d)

Omit “Minister”, substitute “Attorney-General”.

234 Paragraph 180M(4)(a)

Omit “Minister”, substitute “Attorney-General”.

235 Paragraph 180M(4)(b)

Omit “Minister” (first occurring), substitute “Attorney-General”.

236 After subparagraph 180M(4)(b)(i)

Insert:

(ia) the most senior Minister administering this Act;

237 Subsections 180M(7) and (8)

Omit “Minister”, substitute “Attorney-General”.

238 Amendments of listed provisions—re-inserting references to the Attorney-General

Re-inserting references to the Attorney-General

Item	Provision	Omit (wherever occurring)	Substitute
1	Sections 9, 9A, 9B, 10, 11A, 11B, 11C, 11D, 13, 15 and 17	Attorney-General	Attorney-General

Schedule 2 Other amendments

Part 1 Amendments commencing on Proclamation

Re-inserting references to the Attorney-General

Item	Provision	Omit (wherever occurring)	Substitute
2	Sections 31, 31A and 31D	Attorney-General	Attorney-General
3	Subsection 65(2)	Attorney-General	Attorney-General
4	Paragraphs 68(1), 71(2)(a) and 105(3)(a)	Attorney-General	Attorney-General
5	Sections 107P, 107Q and 107R	Attorney-General	Attorney-General
6	Subsection 137(3)	Attorney-General	Attorney-General
7	Paragraph 142A(1)(c)	Attorney-General	Attorney-General
8	Sections 180B and 180E	Attorney-General	Attorney-General

Note: This item re-inserts the references to the Attorney-General: see item 3 of the table in subsection 19(1) of the *Acts Interpretation Act 1901*.

239 Amendments of listed provisions—substituting references to Minister with references to Attorney-General

Substituting references to Minister with references to Attorney-General

Item	Provision	Omit (wherever occurring)	Substitute
1	Sections 6D, 6DA, 6DB and 6DC	Minister	Attorney-General
2	Subparagraph 176(6)(b)(ii)	Minister	Attorney-General
3	Sections 180J, 180K, 180L, 180N and 180P	Minister	Attorney-General
4	Paragraphs 180X(2)(a) and 185D(1)(b)	Minister	Attorney-General

Terrorism Insurance Act 2003

240 Subsection 6(1)

Omit “, after consulting the Attorney-General,”.

241 After subsection 6(4)

Insert:

- (4A) Before making a declaration under this section, the Minister must consult the Minister administering the *Australian Security Intelligence Organisation Act 1979*.

**Part 2—Amendments contingent on the Crimes
Legislation Amendment (International Crime
Cooperation and Other Measures) Act 2018**

Telecommunications (Interception and Access) Act 1979

242 Paragraph 68(la)

Omit “Attorney-General”, substitute “Attorney-General”.

Note: This item re-inserts the reference to the Attorney-General: see item 3 of the table in subsection 19(1) of the *Acts Interpretation Act 1901*.

243 Subparagraph 68(la)(ii)

After “Department”, insert “administered by that Minister”.

244 Paragraph 68(lb)

Omit “Attorney-General”, substitute “Attorney-General”.

Note: This item re-inserts the reference to the Attorney-General: see item 3 of the table in subsection 19(1) of the *Acts Interpretation Act 1901*.

245 Subparagraph 68(lb)(ii)

After “Department”, insert “administered by that Minister”.

246 Section 68A (heading)

Omit “Secretary”, substitute “Secretary of the Attorney-General’s Department”.

247 Subsection 68A(1)

After “Department”, insert “administered by the Attorney-General”.

248 Paragraph 68A(2)(a)

Omit “the Department”, substitute “that Department”.

249 Paragraph 68A(2)(b)

Omit “the Secretary”, substitute “that Secretary”.

**Part 3—Amendments contingent on the Crimes
Legislation Amendment (Sexual Crimes
Against Children and Community Protection
Measures) Act 2018**

Crimes Act 1914

250 Subsection 22B(1)

Omit “Attorney-General”, substitute “Minister administering the
Australian Security Intelligence Organisation Act 1979 (the *ASIO
Minister*)”.

251 Subsection 22B(2)

Omit “Attorney-General”, substitute “the ASIO Minister”.

Part 4—Amendments contingent on the Telecommunications and Other Legislation Amendment Act 2017

Telecommunications Act 1997

252 Section 7

Repeal the following definitions:

- (a) definition of *Attorney-General's Department*;
- (b) definition of *Attorney-General's Secretary*.

253 Section 311

Omit:

- The Attorney-General may give directions to a carrier or a carriage service provider in certain circumstances where certain activities may be prejudicial to security.
- The Attorney-General's Secretary may obtain information from carriers, carriage service providers and carriage service intermediaries if the information is relevant to assessing compliance with the duty of those persons to protect telecommunications networks and facilities from unauthorised interference or unauthorised access.

substitute:

- The Home Affairs Minister may give directions to a carrier or a carriage service provider in certain circumstances where certain activities may be prejudicial to security.
- The Home Affairs Secretary may obtain information from carriers, carriage service providers and carriage service intermediaries if the information is relevant to assessing compliance with the duty of those persons to protect telecommunications networks and facilities from unauthorised interference or unauthorised access.

254 Division 5 of Part 14 (heading)

Omit “Attorney-General”, substitute “Home Affairs Minister”.

255 Sections 315A and 315B

Omit “Attorney-General” (wherever occurring), substitute “Home Affairs Minister”.

256 Division 6 of Part 14 (heading)

Omit “Attorney-General’s Secretary’s”, substitute “Home Affairs Secretary’s”.

257 Section 315C (heading)

Omit “Attorney-General’s Secretary”, substitute “Home Affairs Secretary”.

258 Subsections 315C(1), (2) and (4)

Omit “Attorney-General’s Secretary”, substitute “Home Affairs Secretary”.

259 Sections 315E and 315F

Omit “Attorney-General’s Secretary” (wherever occurring), substitute “Home Affairs Secretary”.

260 Section 315G (heading)

Omit “Attorney-General’s Secretary”, substitute “Home Affairs Secretary”.

261 Subsections 315G(1) and (2)

Omit “Attorney-General’s Secretary”, substitute “Home Affairs Secretary”.

262 Subsection 315J(1)

Omit “Attorney-General’s Secretary”, substitute “Home Affairs Secretary”.

263 Subsection 315J(1)

Omit “Attorney-General”, substitute “Home Affairs Minister”.

264 Paragraphs 315J(1A)(a) and (b)

Omit “Attorney-General”, substitute “Home Affairs Minister”.

265 Paragraph 315J(1A)(f)

Omit “Attorney-General’s Secretary”, substitute “Home Affairs Secretary”.

266 Subsection 315J(2)

Omit “Attorney-General’s Secretary”, substitute “Home Affairs Secretary”.

267 Subsection 315J(2)

Omit “Attorney-General”, substitute “Home Affairs Minister”.

268 Subsection 315J(3)

Omit “Attorney-General”, substitute “Home Affairs Minister”.

269 Subsection 315K(3)

Omit “Attorney-General”, substitute “Home Affairs Minister”.

270 Subsections 564(1) and (2)

Omit “Attorney-General”, substitute “Home Affairs Minister”.

271 Subsection 564(3A) (heading)

Omit “Attorney-General”, substitute “Home Affairs Minister”.

272 Subsection 564(3A)

Omit “Attorney-General”, substitute “Home Affairs Minister”.

273 Subsection 571(1)

Omit “Attorney-General”, substitute “Home Affairs Minister”.

274 Subsection 571(4) (heading)

Omit “Attorney-General”, substitute “Home Affairs Minister”.

275 Subsection 571(4)

Omit “Attorney-General”, substitute “Home Affairs Minister”.

276 Section 572A

Omit “Attorney-General”, substitute “Home Affairs Minister”.

277 Subsections 572B(1), (3), (4) and (5)

Omit “Attorney-General”, substitute “Home Affairs Minister”.

278 Subsection 572B(5)

Omit “Attorney-General’s Department’s”, substitute “Home Affairs Department’s”.

279 Subsection 572B(5A)

Omit “Attorney-General”, substitute “Home Affairs Minister”.

280 Subsection 572B(5B)

Omit “Attorney-General’s”, substitute “Home Affairs Minister’s”.

281 Subsection 572C(1)

Omit “Attorney-General” (wherever occurring), substitute “Home Affairs Minister”.

282 Subsection 572C(3)

Omit “Attorney-General’s”, substitute “Home Affairs Minister’s”.

***Telecommunications and Other Legislation Amendment Act
2017***

283 Subitems 35(2) and (3)

After “Attorney-General”, insert “or the Home Affairs Minister”.

Part 5—Transitional rules

284 Transitional rules

- (1) A Minister administering an Act amended by this Schedule (the *amended Act*) may, by legislative instrument, make rules prescribing matters of a transitional nature (including prescribing any saving or application provisions) relating to the following:
- (a) the amendments or repeals of the amended Act made by this Schedule;
 - (b) the effect of section 19 or 19A of the *Acts Interpretation Act 1901*, in relation to a provision of the amended Act, because of an Administrative Arrangements Order made during the period:
 - (i) beginning on 20 December 2017; and
 - (ii) ending on the day before this item commences;
 - (c) the effect of a substituted reference order, made during the period mentioned in paragraph (b) of this subitem under section 19B of the *Acts Interpretation Act 1901*, in relation to a provision of the amended Act.

Note: Subparagraph (b)(i)—20 December 2017 is the day an Administrative Arrangements Order was made to provide for certain matters to be dealt with by a Department of Home Affairs.

- (2) To avoid doubt, the rules may not do the following:
- (a) create an offence or civil penalty;
 - (b) provide powers of:
 - (i) arrest or detention; or
 - (ii) entry, search or seizure;
 - (c) impose a tax;
 - (d) set an amount to be appropriated from the Consolidated Revenue Fund under an appropriation in an Act;
 - (e) directly amend the text of an Act.
- (3) This Schedule (other than subitem (2)) does not limit the rules that may be made for the purposes of subitem (1).
- (4) Rules made for the purposes of this item that are registered under the *Legislation Act 2003* before the end of the period of 12 months starting on the commencement of this item:

- (a) may be expressed to take effect from a date before the rules are registered; and
 - (b) apply despite subsection 12(2) (retrospective application of legislative instruments) of that Act.
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*[Minister's second reading speech made in—
House of Representatives on 7 December 2017
Senate on 9 May 2018]*

(280/17)
