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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

SENATE

**AUSTRALIAN SECURITY INTELLIGENCE ORGANISATION LEGISLATION  
AMENDMENT (TERRORISM) BILL 2002**

REVISED SUPPLEMENTARY EXPLANATORY MEMORANDUM

Amendments to be Moved on Behalf of the Government

(Circulated by authority of the Attorney-General,  
the Honourable Daryl Williams AM QC MP)

AMENDMENTS TO THE AUSTRALIAN SECURITY INTELLIGENCE  
ORGANISATION LEGISLATION AMENDMENT (TERRORISM) BILL 2002

**OUTLINE**

The Australian Security Intelligence Organisation Legislation Amendment (Terrorism) Bill 2002, as introduced into the House of Representatives, amends the *Australian Security Intelligence Organisation Act 1979* ('ASIO Act') to enhance the capacity of the Australian Security Intelligence Organisation ('ASIO') to combat terrorism. It achieves this by giving ASIO powers with regard to the collection of intelligence that may substantially assist in the investigation of terrorism offences.

The Government amendments to the Bill will:

- provide a new sunset clause in relation to Division 3 of Part III of the *Australian Security Intelligence Organisation Act 1979*;
- amend the commencement provision;
- provide that a police officer acting under the authority of a warrant or a direction of a prescribed authority may, in certain circumstances, enter premises in order to take a person into custody;
- provide that a police officer acting under the authority of a warrant or a direction of a prescribed authority may use necessary and reasonable force to take a person into custody and detain them;
- increase the minimum age of persons who may be subject to warrants from 14 years to 16 years;
- provide that a warrant be issued for questioning in 8 hour blocks over a maximum period of 7 days;
- provide a limitation on the exercise of authority under a warrant to question a person where they have already been questioned for a total period of 24 hours;
- provide that the subject of a warrant may access a lawyer of their choice;
- provide a range of safeguards to protect against the disclosure by a lawyer of sensitive information;
- increase the penalties for an unauthorised disclosure of information by lawyers, parents and other representatives from 2 years to 5 years; and
- correct the grammatical problems and stylistic inconsistencies contained in the current Bill.

**FINANCIAL IMPACT STATEMENT**

The amendments will have no financial impact.

## NOTES ON ITEMS

### Item 1

This item amends the table in clause 2 of the Bill as introduced by replacing the words “Division 72 of the *Criminal Code*” with “item 8 of Schedule 1”.

The effect of this amendment is that items 10 and 11 of Schedule 1 will commence immediately the day after this Act receives Royal Assent.

### Item 2

This item removes clause 4 of the Bill as introduced. Clause 4 was intended to provide that the detention and questioning regime set out in the Bill ceased to be in force at the end of 3 years after Royal Assent. The clause had the unintended effect of repealing the entire Bill after three years, including other amendments not directly related to the detention and questioning regime.

Item 63 will introduce a provision which will have the intended effect without inadvertently repealing the entire Act.

### Item 3

This item amends item 24 of Schedule 1 to the Bill as introduced by omitting the definition of “approved lawyer” in proposed section 34A.

### Item 4

This item amends item 24 of Schedule 1 to the Bill as introduced by inserting a new definition of “lawyer” in proposed section 34A.

A “lawyer” is defined as a person who is enrolled as a legal practitioner of a federal court or the Supreme Court of a State or Territory.

### Item 5

This item amends item 24 of Schedule 1 to the Bill as introduced by omitting the definition of “superior court” in proposed section 34A and replacing it with a definition in a form that is in accordance with current drafting practice. The substantive content of the definition remains unchanged.

A “superior court” is defined as the High Court, the Federal Court of Australia, the Family Court of Australia or of a State, the Supreme Court of a State or Territory, or the District Court (or equivalent) of a State or Territory.

### Item 6

This item amends item 24 of Schedule 1 to the Bill as introduced by removing proposed section 34AA.

Proposed section 34AA provided who could have been appointed as an “approved lawyer”.

#### **Item 7**

This item amends item 24 of Schedule 1 to the Bill as introduced by removing a comma from proposed subsection 34B(3) to ensure that the provision is grammatically correct.

#### **Item 8**

This item amends item 24 of Schedule 1 to the Bill as introduced by removing “the person” in proposed subsection 34B(4) to ensure that it is in accordance with current drafting practice.

#### **Item 9**

This item amends item 24 of Schedule 1 to the Bill as introduced by adding “the person has” to proposed subsection 34B(4)(a) to ensure that it is grammatically correct. It is consequential on item 8.

#### **Item 10**

This item amends item 24 of Schedule 1 to the Bill as introduced by removing subsection (5) from proposed section 34B, which provided that a person could only be appointed as a prescribed authority for three years.

Section 34B(5) is no longer necessary because the warrant provisions in the Bill will cease to have effect three years from Royal Assent (see item 63).

#### **Item 11**

This item amends item 24 of Schedule 1 to the Bill as introduced by removing proposed subsections 34B(6), 34B(7) and 34B(8).

These subsections required that the Minister keep a list of those persons who had consented to being appointed as prescribed authorities and outlined the procedure for removing a person’s name from that list.

This administrative regime is no longer necessary because the warrant provisions in the Bill will cease to have effect three years from Royal Assent (see item 63).

#### **Item 12**

This item amends item 24 of Schedule 1 to the Bill as introduced by removing proposed subsection 34B(9).

Proposed subsection 34B(9) provided that a person who was appointed as a prescribed authority was to be remunerated an appropriate amount, as determined by the Remuneration Tribunal. This subsection is unnecessary because the *Remuneration Tribunal Act 1973* will

provide a basis for ensuring that a person acting as either an issuing or prescribed authority under the Bill will be appropriately remunerated.

### **Item 13**

This item amends item 24 of Schedule 1 to the Bill as introduced to amend proposed subsection 34C(3)(c)(iii) and is consequential on item 14 which removes paragraph 3(d) from proposed section 34C(3).

### **Item 14**

This item amends item 24 of Schedule 1 to the Bill as introduced and removes paragraph 3(d) from proposed section 34C. Proposed paragraph 34C(3)(d) required that a warrant not authorise that a person be detained for longer than 168 hours.

Later amendments to the Bill render proposed section 34C(3)(d) unnecessary.

### **Item 15**

This item amends item 24 of Schedule 1 to the Bill as introduced by removing and substituting a new proposed section 34C(3B).

New section 34C(3B) provides that, when consenting to the grant of a warrant, the Minister must ensure that the warrant to be requested permits the subject of a warrant to contact a lawyer of the person's choice at any time, subject to the limitations set out in proposed section 34TA (see item 45).

### **Item 16**

This item amends item 24 of Schedule 1 to the Bill as introduced to remove proposed section 34C(3C).

Proposed section 34C(3C) provided the grounds on which the Minister might delay access to an approved lawyer when consenting to the issuing of a warrant. Amendments to permit the subject to contact a lawyer of the person's choice render the proposed provision unnecessary (see item 15).

### **Item 17**

This item amends item 24 of Schedule 1 to the Bill as introduced to remove proposed section 34C(5).

Proposed section 34C(5) provided the process for the request of a warrant by the Director-General, in circumstances where the person could be detained for a continuous period of more than 96 hours. Amendments to set out alternative application procedures render the proposed provision unnecessary.

### **Item 18**

This item amends item 24 of Schedule 1 to the Bill as introduced to amend proposed subsection 34D(1)(a) to omit the words “and with subsection 34C(5) if relevant”.

This item is contingent on item 17.

### **Item 19**

This item amends item 24 of Schedule 1 to the Bill as introduced to make a minor technical change to proposed section 34D(1)(b). This item is contingent on item 20.

### **Item 20**

This item amends item 24 of Schedule 1 to the Bill as introduced to remove paragraph (c) of proposed section 34D(1).

Paragraph (c) referred to the grounds which the issuing authority must have been satisfied of before issuing a warrant. Amendments to set out alternative issuing criteria render the proposed provision unnecessary.

### **Item 21**

This item amends item 24 of Schedule 1 to the Bill as introduced to amend proposed subsection 34D(2)(b)(i) to remove the reference to “a specified period of not more than 48 hours” and replace it with the questioning period defined in proposed subsection 34D(3). This is contingent on item 22.

### **Item 22**

This item amends item 24 of Schedule 1 to the Bill as introduced to remove and replace proposed section 34D(3).

New proposed section 34D(3) provides that the questioning period commences when a person is brought before a prescribed authority under a warrant and ends the first time one of the following events occurs: someone exercising authority under the warrant informs the prescribed authority before whom the person is appearing for questioning that the Organisation does not have any further requests to make of the person; section 34HB prohibits anyone exercising authority under the warrant from questioning the person under the warrant; the passage of 168 hours starting when the person was first brought before a prescribed authority under the warrant.

### **Item 23**

This item amends item 24 of Schedule 1 to the Bill as introduced to remove the reference to an “approved lawyer” and replace it with the words “a lawyer of the person’s choice” in proposed subsection 34D(4).

Proposed section 34D(4) provides that the warrant may identify a person whom the person detained under the warrant is permitted to contact. It provides that the warrant may refer to “a lawyer of the person’s choice” as someone that the person may contact.

**Item 24**

This item amends item 24 of Schedule 1 to the Bill as introduced to add a note to the end of proposed section 34D(4). This is a note to assist in the interpretation of proposed subsection 34D(4).

This note provides that a warrant which authorises the person to be taken into custody and detained must permit the person to contact a lawyer of the person's choice. Consequently, the warrant must identify such a lawyer.

**Item 25**

This item amends item 24 of Schedule 1 to the Bill as introduced to insert a new proposed subsection 34D(4A).

Proposed subsection 34D(4A) specifies the times when a person is permitted to contact the lawyer of their choice. A person may contact a lawyer of their choice while the person is in detention in connection with a warrant and after the person has been brought before a prescribed authority for questioning, has informed the prescribed authority of the lawyer they wish to contact, and after a person exercising authority under the warrant has had an opportunity to request the prescribed authority to direct under proposed section 34TA that the person be prevented from contacting that lawyer.

**Item 26**

This item amends item 24 of Schedule 1 to the Bill as introduced to remove the words "is an approved lawyer or" in proposed subsection 34F(1)(d).

This provides that when a person is before a prescribed authority for questioning, the prescribed authority may give a direction permitting the person to contact an identified person. Such persons include a person who has a particular legal or familial relationship with the person.

**Item 27**

This item amends item 24 of Schedule 1 to the Bill as introduced to remove and substitute paragraphs in proposed section 34F(4).

This substitution clarifies that a direction under proposed section 34F(1) must not result in either a person being detained after the end of the questioning period described in proposed section 34D or a person's detention being arranged by anyone other than a police officer.

**Item 28**

This item amends item 24 of Schedule 1 to the Bill as introduced to insert new proposed section 34HB.

This provision establishes a mechanism under which the prescribed authority's permission is required in order to authorise the continuation of questioning if the person has been questioned for a total of 8 hours and 16 hours. These maximum periods would be calculated by reference to the total amount of time that the person has appeared before a prescribed authority for questioning under the warrant, and would exclude other periods (e.g. during breaks in questioning).

Proposed subsection 34HB(1) provides that a person may not be questioned for longer than a total of 8 hours under a warrant unless the prescribed authority, before whom the person was questioned, has permitted questioning to extend beyond this time.

Where the questioning has extended beyond 8 hours, proposed subsection 34HB(2) provides that a person may not be questioned for longer than a total of 16 hours unless the prescribed authority has permitted questioning to extend beyond this time.

Proposed subsection 34HB(3) provides, for the purposes of subsections (1) and (2), that anyone exercising authority under a warrant may request the prescribed authority to extend the questioning. This request may be made in the absence of the person being questioned, that person's lawyer, that person's parent, that person's guardian and any other person who meets the requirements of subsection 34NA(7) in relation to that person. This also applies to any other person the person being questioned is allowed to contact under a direction under section 34F (see item 26).

Proposed subsection 34HB(4) provides that the prescribed authority may extend the questioning time but only if he or she is satisfied that there are reasonable grounds for believing that permitting the continuation of questioning will substantially assist the collection of intelligence that is important in relation to a terrorism offence and that the persons exercising authority under the warrant have conducted the questioning of the person properly and without delay in the period specified.

Proposed subsection 34HB(5) provides that the prescribed authority may revoke the permission referred to in proposed subsection 34HB(4). However, the revocation of this permission does not affect the legality of anything done in relation to the person under the warrant prior to the revocation.

Proposed subsection 34HB(6) provides that anyone exercising authority under a warrant must not question a person under the warrant if the person has already been questioned for a total of 24 hours.

Proposed subsection 34HB(7) provides that the prescribed authority must, at whichever time is relevant, direct that the person be released immediately from detention. These times are: at the end of the period referred to in subsections (1), (2) and (6) and immediately after the revocation of the prescribed authority's permission. This subsection notes that subsection 34F(2) does not prevent the prescribed authority from giving a direction that is in accordance with proposed subsection 34HB(7). Subsection 34F(2) provides that, in most circumstances,

the prescribed authority may only give a direction that is consistent with the warrant or has been approved in writing by the Minister (see proposed subsection 34C(3)).

### **Item 29**

This item amends item 24 of Schedule 1 to the Bill as introduced to insert new proposed sections 34JA and 34JB.

Proposed section 34JA provides that a police officer may enter premises to take a person who is the subject of a warrant or of a direction of a prescribed authority into custody and that the police officer may use such force as is necessary and reasonable in the circumstances. In these circumstances, the police officer must not enter the dwelling house between the hours of 9.00pm and 6.00am, unless it would not be practicable to enter the dwelling house at another time.

Proposed section 34JB provides that a police officer may use such force as is necessary and reasonable in the circumstances to take the subject of a warrant or of a direction of a prescribed authority into custody, detain the person, prevent the person from escaping custody, or to bring the person before a prescribed authority for questioning.

In the course of such an act, proposed subsection 34JB(2) prevents a police officer from using greater force or from subjecting the person to greater indignity than is necessary and reasonable.

Proposed subsection 34JB(3) further provides that a police officer must not do anything that is likely to cause the death of, or grievous bodily harm to, the person unless the police officer believes, on reasonable grounds, that such action is necessary in order to protect the life of, or to prevent serious injury to, another person or, where the person is seeking to avoid being taken into custody by fleeing, that the person cannot be taken into custody in any other manner.

### **Item 30**

This item amends item 24 of Schedule 1 to the Bill as introduced to amend proposed subsection 34M(1)(e). Proposed section 34M provides that a strip-search which is undertaken pursuant to proposed section 34L is subject to the rules under proposed section 34M.

The purpose of this item is to increase the age at which a strip-search may be conducted on a person under proposed section 34L. The age at which a strip-search may be undertaken is increased from 14 years to 16 years.

### **Item 31**

This item amends item 24 of Schedule 1 to the Bill as introduced to amend proposed subsection 34M(1)(f). Proposed section 34M provides that a strip-search which is undertaken pursuant to proposed section 34L is subject to the rules under proposed section 34M.

The item provides that where, in a prescribed authority's opinion, the person being searched is incapable of managing his or her affairs, the strip-search may only be conducted in certain circumstances. The amendment increases the age at which a strip-search may be undertaken from 14 years to 16 years.

### **Item 32**

This item amends item 24 of Schedule 1 to the Bill as introduced by amending the heading of "Rules for persons under 14" to "Rules for persons under 16".

This amendment reflects the increase in the minimum age of persons who may be subject to warrants from 14 years to 16 years.

### **Item 33**

This item amends item 24 of Schedule 1 to the Bill as introduced to amend proposed subsection 34NA(1) to increase the age at which a person may be subject to a warrant under section 34D from 14 to 16 years.

This amendment reflects the increase in the minimum age of persons who may be subject to warrants from 14 years to 16 years.

### **Item 34**

This item amends item 24 of Schedule 1 to the Bill as introduced to amend proposed section 34NA(2) to provide that where a prescribed authority is satisfied on reasonable grounds that a person is under the age of 16, the prescribed authority must, as soon as practicable, give a direction that the person is not to be questioned, and if the person is in detention, give a direction that the person be released from detention.

This amendment reflects the increase in the minimum age of persons who may be subject to warrants from 14 years to 16 years.

### **Item 35**

This item amends item 24 of Schedule 1 to the Bill as introduced to change the sub-heading in proposed section 34NA from 'Rules for persons who are at least 14 but under 18' to 'Rules for persons who are at least 16 but under 18'.

This amendment reflects the increase in the minimum age of persons who may be subject to warrants from 14 years to 16 years.

### **Item 36**

This item amends item 24 of Schedule 1 to the Bill as introduced to amend proposed subsection 34NA(4) to increase the age of a person with respect to whom the Director-General seeks the consent of the Minister before a warrant may be issued in relation to that person from 14 to 16 years.

This amendment reflects the increase in the minimum age of persons who may be subject to warrants from 14 years to 16 years.

### **Item 37**

This item amends item 24 of Schedule 1 to the Bill as introduced to amend proposed subsection 34NA(5) to increase the age from 14 to 16 of a person who may be subject to the issuing of a warrant which meets the requirements in subsection 34NA(6).

This amendment reflects the increase in the minimum age of persons who may be subject to warrants from 14 years to 16 years.

### **Item 38**

This item amends item 24 of Schedule 1 to the Bill as introduced to omit subparagraph (iii) from proposed subsection 34NA(6)(a). This reflects the omission of the definition of “approved lawyer” in item 3.

### **Item 39**

This item amends item 24 of Schedule 1 to the Bill as introduced to amend proposed section 34NA(8) to increase the minimum age from 14 to 16 of a person with respect to whom a prescribed authority must, if he or she is satisfied on reasonable grounds that the person is at least 16 but under 18, inform that person of certain matters.

This amendment reflects the increase in the minimum age of persons who may be subject to warrants from 14 years to 16 years.

### **Item 40**

This item amends item 24 of Schedule 1 to the Bill as introduced to amend proposed section 34NA(8)(iii) to replace and substitute words to reflect that a person in detention has a choice of lawyer.

### **Item 41**

This item amends item 24 of Schedule 1 to the Bill as introduced to amend proposed subsection 34NA(8)(d) to omit the reference to proposed subsection 34NA(8)(a)(iii).

A warrant which authorises the person to be taken into custody and detained must permit the person to contact a lawyer of the person’s choice. This renders the proposed provision unnecessary.

### **Item 42**

This item amends item 24 of Schedule 1 to the Bill as introduced to add a new sub-section (10) to proposed section 34NA. This new provision clarifies that the application of proposed section 34HB is not limited by the application of the proposed subsections 34NA(6)(b) and 34NA(8)(e).

**Item 43**

This item amends item 24 of Schedule 1 to the Bill as introduced to insert a new subsection (4A) to proposed section 34NB. Proposed section 34NB provides penalties for officials who do not comply with specified provisions of the Bill.

The proposed new subsection creates offences with a maximum penalty of 2 years imprisonment. A person commits an offence in relation to the exercise of authority conferred by a warrant issued under section 34D if that person's questioning under that authority contravenes section 34HB and the person knowingly contravenes these provisions.

**Item 44**

This item amends item 24 of Schedule 1 to the Bill as introduced to amend proposed section 34NC(1) to omit the words "procedural statement" and to substitute "written statement of procedures".

**Item 45**

This item amends item 24 of Schedule 1 to the Bill as introduced to insert new proposed sections 34TA and 34TB.

Proposed section 34TA addresses the limitations on the contact that a person may have with their lawyer of choice. It provides that the subject of a warrant issued under section 34D (that meets the requirement in paragraph 34D(2)(b)) may be prevented from contacting a lawyer of their choice if so directed by the prescribed authority before whom the subject appears.

The prescribed authority may make a direction only if they are satisfied that there is a risk that such contact may alert a person involved in a terrorism offence that the offence is being investigated or that a record or thing that the person may be requested in accordance with the warrant to produce may be destroyed, damaged or altered. It further provides that this section does not prevent the person from choosing another lawyer but these provisions may apply to any subsequent lawyer.

Proposed section 34TB allows a person to be questioned under a warrant issued under section 34D in the absence of a lawyer of the person's choice. This provision does not permit the questioning of a person under a warrant at a time when a person exercising authority under a warrant is prohibited from questioning the person. For example, this section does not permit the person to be questioned when a person exercising authority under the warrant is required by section 34H or section 34HAA to defer questioning because an interpreter is not present.

**Item 46**

This item amends item 24 of Schedule 1 to the Bill as introduced to amend proposed section 34U(1) to omit the words "(whether the adviser is an approved lawyer or not)".

This amendment clarifies that a person may contact another person as a legal adviser.

**Item 47**

This item amends item 24 of Schedule 1 to the Bill as introduced to amend proposed section 34U to add a new proposed sub-section (2A).

Proposed sub-section 34U(2A) provides that a person exercising authority under the warrant must give the legal adviser of a person being questioned a copy of the warrant. This subsection provides that only one copy of a warrant needs to be given to a legal adviser. This provision does not entitle the legal adviser access to any documentation other than the warrant.

**Item 48**

This item amends item 24 of Schedule 1 to the Bill as introduced to amend proposed section 34U(6) to omit the words “an approved lawyer other than the legal adviser” and substitute “someone else as a legal adviser”.

This reflects the omission of the definition of “approved lawyer” in item 3.

**Item 49**

This item amends item 24 of Schedule 1 to the Bill as introduced to amend proposed section 34U(7)(a) to remove the words “(whether in connection with the warrant or another warrant issued under section 34D)” and substitute “in connection with the warrant”.

This amendment reflects the single warrant regime proposed in the Bill.

**Item 50**

This item amends item 24 of Schedule 1 to the Bill as introduced to amend proposed section 34U(7)(a) to remove “any of those warrants” and substitute “the warrant”.

This amendment reflects the single warrant regime proposed in the Bill.

**Item 51**

This item amends item 24 of Schedule 1 to the Bill as introduced to amend proposed subsection 34U(7)(c)(ii) to remove “any of those warrants” and substitute “the warrant”.

This amendment reflects the single warrant regime proposed in the Bill.

**Item 52**

This item amends item 24 of Schedule 1 to the Bill as introduced to amend proposed subsection 34U(7).

Proposed subsection 34U(7) creates an offence with a penalty of a maximum of 2 years imprisonment for the unauthorised disclosure of information by the legal adviser. This item increases the penalty for such disclosure from 2 years to 5 years.

**Item 53**

This item amends item 24 of Schedule 1 to the Bill as introduced to amend proposed section 34U(11) to remove “such a” and substitute “the”.

This amendment reflects the single warrant regime proposed in the Bill.

**Item 54**

This item amends item 24 of Schedule 1 to the Bill as introduced to amend proposed subsection 34V(5)(a) to remove and replace words in proposed subsection.

This amendment reflects the single warrant regime proposed in the Bill.

**Item 55**

This item amends item 24 of Schedule 1 to the Bill as introduced to amend proposed subsection 34V(5)(a) to remove “any of those warrants” and substitute “the warrant”.

This amendment reflects the single warrant regime proposed in the Bill.

**Item 56**

This item amends item 24 of Schedule 1 to the Bill as introduced to amend proposed subsection 34V(5)(c)(iii) to remove “any of those warrants” and substitute “the warrant”.

This amendment reflects the single warrant regime proposed in the Bill.

**Item 57**

This item amends item 24 of Schedule 1 to the Bill as introduced by amending proposed subsection 34V(5).

Proposed subsections 34V(4) and (5) deal with the disclosure of information by a representative of the subject of a warrant. Proposed subsection 34V(5) creates an offence with a maximum penalty of 2 years imprisonment. A representative will commit the offence if, during the period that a person is being detained, the representative communicates to a third person (who is not a parent, guardian or sibling of the person, a prescribed authority, a person exercising authority under a warrant, the IGIS or the Ombudsman) information relating to the questioning or detention of the person, and the prescribed authority has not given permission for the communication under proposed subsection 34V(4). This amendment increases the penalty in subsection 34V(5) from 2 years to 5 years.

**Item 58**

This item amends item 24 of Schedule 1 to the Bill as introduced to amend proposed subsection 34V(6)(a) to remove “a warrant issued under section 34D” and substitute “the warrant”.

This amendment reflects the single warrant regime proposed in the Bill.

### **Item 59**

This item amends item 24 of Schedule 1 to the Bill as introduced to amend proposed subsection 34V(6)(c) to remove “(whether in connection with the warrant mentioned in paragraph (a) or another warrant issued under section 34D)” and substitute “in connection with the warrant”.

This amendment reflects the single warrant regime proposed in the Bill.

### **Item 60**

This item amends item 24 of Schedule 1 to the Bill as introduced to amend proposed subsection 34V(6)(d)(iv) to remove “any of those warrants” and substitute “the warrant”.

This amendment reflects the single warrant regime proposed in the Bill.

### **Item 61**

This item amends item 24 of Schedule 1 to the Bill as introduced to amend proposed subsection 34V(6).

Proposed subsection 34V(6) creates an offence with a maximum penalty of 2 years imprisonment for the unauthorised disclosure of information by a representative, parent, guardian or sibling of the subject of a warrant. This item increases the penalty for such disclosure from 2 years to 5 years.

### **Item 62**

This item amends item 24 of Schedule 1 to the Bill as introduced to insert proposed section 34VA.

Proposed section 34VA provides that the regulations may prohibit or regulate the access to information by a lawyer or lawyers, acting on behalf of the subject of a warrant. Access to information may be prohibited where it has been otherwise controlled or limited on security grounds.

### **Item 63**

This item amends item 24 of Schedule 1 to the Bill as introduced to insert proposed section 34Y.

Proposed section 34Y provides that Division 3 of Part III ceases to have effect three years after commencement of the Bill. This ensures that the entire Bill is not repealed in three years (see Item 2).