



Parliamentary Joint Committee on Law Enforcement Act 2010

No. 128, 2010

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About this compilation

This compilation

This is a compilation of the *Parliamentary Joint Committee on Law Enforcement Act 2010* that shows the text of the law as amended and in force on 1 December 2014 (the **compilation date**).

This compilation was prepared on 1 December 2014.

The notes at the end of this compilation (the **endnotes**) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on ComLaw (www.comlaw.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on ComLaw for the compiled law.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on ComLaw for the compiled law.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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An Act to establish a Parliamentary Joint Committee on Law Enforcement, and for related purposes

Part 1—Preliminary

1 Short title

This Act may be cited as the *Parliamentary Joint Committee on Law Enforcement Act 2010*.

2 Commencement

This Act commences on the day after this Act receives the Royal Assent.

3 Definitions

In this Act:

ACC means the Australian Crime Commission established by section 7 of the *Australian Crime Commission Act 2002*.

ACC operation/investigation has the same meaning as in the *Australian Crime Commission Act 2002*.

AFP means the Australian Federal Police.

AFP appointee has the same meaning as in the *Australian Federal Police Act 1979*.

AFP conduct or practices issue has the same meaning as in the *Australian Federal Police Act 1979*.

CEO of the ACC means the Chief Executive Officer of the ACC.

intelligence operation has the same meaning as in the *Australian Crime Commission Act 2002*.

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law enforcement agency means:

- (a) the ACC; or
- (b) the AFP; or
- (c) a Police Force of a State; or
- (d) any other authority or person responsible for the enforcement of the laws of the Commonwealth or of the States.

member means a member of the Committee.

member of the staff of the ACC has the same meaning as in the *Australian Crime Commission Act 2002*.

relevant criminal activity has the same meaning as in the *Australian Crime Commission Act 2002*.

sensitive information means information that, if disclosed:

- (a) could prejudice:
 - (i) the security, defence or international relations of Australia; or
 - (ii) relations between the Commonwealth Government and the Government of a State or between the Government of a State and the Government of another State; or
- (b) would disclose:
 - (i) deliberations or decisions of the Cabinet, or of a Committee of the Cabinet, of the Commonwealth or of a State; or
 - (ii) deliberations or decisions of the Australian Capital Territory Executive or of a committee of that Executive; or
 - (iii) deliberations or advice of the Federal Executive Council or the Executive Council of a State or the Northern Territory; or
- (c) could reveal, or enable a person to ascertain, the existence or identity of a confidential source of information in relation to:
 - (i) the enforcement of the criminal law of the Commonwealth, a State or Territory or a foreign country; or

- (ii) an investigation relating to misconduct or alleged misconduct by an AFP appointee; or
- (iii) an investigation relating to misconduct or alleged misconduct by a member of the staff of the ACC; or
- (iv) an investigation into an AFP conduct or practices issue; or
- (v) an ACC operation/investigation (including an ACC operation/investigation that has been concluded); or
- (d) could endanger a person's life or physical safety; or
- (e) could prejudice the protection of public safety; or
- (f) could prejudice the fair trial of a person or the impartial adjudication of a matter; or
- (g) could prejudice the proper enforcement of the law or the operations of law enforcement agencies; or
- (h) could prejudice a person's reputation; or
- (i) would disclose information the disclosure of which is prohibited (absolutely or subject to qualifications) by or under another law of the Commonwealth; or
- (j) would unreasonably disclose personal information (within the meaning of the *Privacy Act 1988*); or
- (k) would unreasonably disclose confidential commercial information.

State includes the Australian Capital Territory and the Northern Territory.

the Committee means the Parliamentary Joint Committee on Law Enforcement for the time being constituted under this Act.

4 Extension to external Territories

This Act extends to every external Territory.

Part 2—Parliamentary Joint Committee on Law Enforcement

5 Parliamentary Joint Committee on Law Enforcement

- (1) As soon as practicable after the commencement of the first session of each Parliament, a joint committee of members of the Parliament, to be known as the Parliamentary Joint Committee on Law Enforcement, is to be appointed according to the practice of the Parliament.
- (2) The Committee is to consist of 10 members, namely, 5 members of the Senate appointed by the Senate, and 5 members of the House of Representatives appointed by that House.
- (3) A member of the Parliament is not eligible for appointment as a member of the Committee if he or she is:
 - (a) a Minister; or
 - (b) the President of the Senate; or
 - (c) the Speaker of the House of Representatives.
- (4) A member ceases to hold office:
 - (a) when the House of Representatives expires by effluxion of time or is dissolved; or
 - (b) if he or she becomes the holder of an office specified in any of the paragraphs of subsection (3); or
 - (c) if he or she ceases to be a member of the House of the Parliament by which he or she was appointed; or
 - (d) if he or she resigns his or her office as provided by subsection (5) or (6).
- (5) A member appointed by the Senate may resign his or her office by writing signed by him or her and delivered to the President of the Senate.

- (6) A member appointed by the House of Representatives may resign his or her office by writing signed by him or her and delivered to the Speaker of that House.
- (7) Either House of the Parliament may appoint one of its members to fill a vacancy amongst the members of the Committee appointed by that House.

6 Powers and proceedings of the Committee

All matters relating to the powers and proceedings of the Committee are to be determined by resolution of both Houses of the Parliament.

7 Functions of the Committee

- (1) The Committee has the following functions:
 - (a) to monitor and to review the performance by the ACC of its functions;
 - (b) to report to both Houses of the Parliament, with such comments as it thinks fit, upon any matter appertaining to the ACC or connected with the performance of its functions to which, in the opinion of the Committee, the attention of the Parliament should be directed;
 - (c) to examine each annual report on the ACC and report to the Parliament on any matter appearing in, or arising out of, any such annual report;
 - (d) to monitor and to review the performance by the AFP of its functions;
 - (e) to report to both Houses of the Parliament, with such comments as it thinks fit, upon any matter appertaining to the AFP or connected with the performance of its functions to which, in the opinion of the Committee, the attention of the Parliament should be directed;
 - (f) to examine each annual report on the AFP and report to the Parliament on any matter appearing in, or arising out of, any such annual report;

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- (g) to examine trends and changes in criminal activities, practices and methods and report to both Houses of the Parliament any change which the Committee thinks desirable to the functions, structure, powers and procedures of the ACC or the AFP;
- (h) to inquire into any question in connection with its functions which is referred to it by either House of the Parliament, and to report to that House upon that question.

Note 1: For the functions of the ACC, see section 7A of the *Australian Crime Commission Act 2002*.

Note 2: For the functions of the AFP, see section 8 of the *Australian Federal Police Act 1979*.

- (2) The functions of the Committee do not include:
 - (a) undertaking an intelligence operation or investigating a matter relating to a relevant criminal activity; or
 - (b) reconsidering the findings of the ACC in relation to a particular ACC operation/investigation (including an ACC operation/investigation that has been concluded); or
 - (c) reviewing sensitive operational information or operational methods available to the ACC or the AFP; or
 - (d) reviewing particular operations or investigations that have been, are being or are proposed to be undertaken by the ACC or the AFP; or
 - (e) reviewing information provided by, or by an agency of, a foreign government where that government does not consent to the disclosure of the information; or
 - (f) conducting inquiries into individual complaints about the activities of the ACC or the AFP; or
 - (g) monitoring, reviewing or reporting on the performance by the AFP of its functions under Part 5.3 of the *Criminal Code*.
- (3) To avoid doubt, the Committee may examine, and report to both Houses of the Parliament on, information given to it under section 8 or 9.

8 Disclosure to Committee by CEO of the ACC

- (1) Subject to subsection (2), the CEO of the ACC:
 - (a) must comply with a request by the Committee to give the Committee information in relation to an ACC operation/investigation (including an ACC operation/investigation that has been concluded); and
 - (b) must when requested by the Committee, and may at such other times as the CEO thinks appropriate, inform the Committee concerning the general performance of the ACC's functions.
- (2) The CEO of the ACC may decide not to comply with the request if the CEO is satisfied that:
 - (a) the information is sensitive information; and
 - (b) the public interest that would be served by giving the information to the Committee is outweighed by the prejudicial consequences that might result from giving the information to the Committee.
- (3) If the CEO of the ACC does not give information to the Committee because of subsection (2), the Committee may refer the request to the Minister responsible for the ACC.
- (4) If the Committee refers the request to the Minister responsible for the ACC, the Minister responsible for the ACC:
 - (a) must determine in writing whether:
 - (i) the information is sensitive information; and
 - (ii) if it is, whether the public interest that would be served by giving the information to the Committee is outweighed by the prejudicial consequences that might result from giving the information to the Committee; and
 - (b) must provide copies of that determination to the CEO of the ACC and the Committee.
- (5) The Minister responsible for the ACC is not required to disclose his or her reasons for making a determination under subsection (4).

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- (6) A determination made by the Minister responsible for the ACC under subsection (4) is not a legislative instrument.

9 Disclosure to Committee by Commissioner of the AFP

- (1) Subject to subsection (2), the Commissioner of the AFP:
- (a) must comply with a request by the Committee to give the Committee information in relation to an investigation that the AFP has conducted or is conducting; and
 - (b) must when requested by the Committee, and may at such other times as the Commissioner thinks appropriate, inform the Committee concerning the general performance of the AFP's functions.
- (2) The Commissioner of the AFP may decide not to comply with the request if the Commissioner is satisfied that:
- (a) the information is sensitive information; and
 - (b) the public interest that would be served by giving the information to the Committee is outweighed by the prejudicial consequences that might result from giving the information to the Committee.
- (3) If the Commissioner of the AFP does not give information to the Committee because of subsection (2), the Committee may refer the request to the Minister responsible for the AFP.
- (4) If the Committee refers the request to the Minister responsible for the AFP, the Minister responsible for the AFP:
- (a) must determine in writing whether:
 - (i) the information is sensitive information; and
 - (ii) if it is, whether the public interest that would be served by giving the information to the Committee is outweighed by the prejudicial consequences that might result from giving the information to the Committee; and
 - (b) must provide copies of that determination to the Commissioner of the AFP and the Committee.

- (5) The Minister responsible for the AFP is not required to disclose his or her reasons for making a determination under subsection (4).
- (6) A determination made by the Minister responsible for the AFP under subsection (4) is not a legislative instrument.

10 Ombudsman to brief Committee about controlled operations

- (1) At least once in each calendar year the Ombudsman must provide a briefing to the Committee about the involvement of the ACC and the AFP in controlled operations under Part IAB of the *Crimes Act 1914* during the preceding 12 months.
- (2) For the purposes of receiving a briefing from the Ombudsman under subsection (1), the Committee must meet in private.

Part 3—Miscellaneous

11 Regulations

The Governor-General may make regulations prescribing matters:

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

Endnotes about misdescribed amendments and other matters are included in a compilation only as necessary.

Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the amendment is set out in the endnotes.

Endnotes

Endnote 2—Abbreviation key

Endnote 2—Abbreviation key

A = Act	orig = original
ad = added or inserted	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
am = amended	pres = present
amdt = amendment	prev = previous
c = clause(s)	(prev...) = previously
C[x] = Compilation No. x	Pt = Part(s)
Ch = Chapter(s)	r = regulation(s)/rule(s)
def = definition(s)	Reg = Regulation/Regulations
Dict = Dictionary	reloc = relocated
disallowed = disallowed by Parliament	renum = renumbered
Div = Division(s)	rep = repealed
exp = expires/expired or ceases/ceased to have effect	rs = repealed and substituted
F = Federal Register of Legislative Instruments	s = section(s)/subsection(s)
gaz = gazette	Sch = Schedule(s)
LI = Legislative Instrument	Sdiv = Subdivision(s)
LIA = <i>Legislative Instruments Act 2003</i>	SLI = Select Legislative Instrument
(md) = misdescribed amendment	SR = Statutory Rules
mod = modified/modification	Sub-Ch = Sub-Chapter(s)
No. = Number(s)	SubPt = Subpart(s)
o = order(s)	<u>underlining</u> = whole or part not commenced or to be commenced
Ord = Ordinance	

Endnote 3—Legislation history

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Parliamentary Joint Committee on Law Enforcement Act 2010	128, 2010	24 Nov 2010	25 Nov 2010 (s 2)	
Counter-Terrorism Legislation Amendment (Foreign Fighters) Act 2014	116, 2014	3 Nov 2014	Sch 1 (items 135A, 135B): 1 Dec 2014 (s 2(1) item 2)	Sch 1 (item 135B)

Endnotes

Endnote 4—Amendment history

Endnote 4—Amendment history

Provision affected	How affected
Part 2 heading	
s 7	am No 116, 2014