

Australian Security Intelligence Organisation Regulation 2016

made under the

Australian Security Intelligence Organisation Act 1979

**Compilation No. 1**

**Compilation date:** 6 February 2021

**Includes amendments up to:** F2021L00098

**Registered:** 18 February 2021

**About this compilation**

**This compilation**

This is a compilation of the *Australian Security Intelligence Organisation Regulation 2016* that shows the text of the law as amended and in force on 6 February 2021 (the ***compilation date***).

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 the Legislation Register (www.legislation.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 the Legislation Register 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.

**Editorial changes**

For more information about any editorial changes made in this compilation, see 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 the Legislation Register 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If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

Contents

1 Name 1

3 Authority 1

5 Definitions 1

6 Co‑operation with intelligence and law enforcement agencies etc. 1

7 Secrecy relating to questioning warrants 1

8 Lawyers’ access to security information for proceedings relating to warrant 1

9 Prescribed form of information 2

Schedule 1—Forms 3

Form 1—Information concerning right to apply to Administrative Appeals Tribunal 3

Endnotes 4

Endnote 1—About the endnotes 4

Endnote 2—Abbreviation key 5

Endnote 3—Legislation history 6

Endnote 4—Amendment history 7

1 Name

 This is the *Australian Security Intelligence Organisation Regulation 2016*.

3 Authority

 This instrument is made under the *Australian Security Intelligence Organisation Act 1979*.

5 Definitions

 In this instrument:

***Act*** means the *Australian Security Intelligence Organisation Act 1979*.

***security information*** means information to which access is controlled or limited on security grounds, otherwise than by section 8.

6 Co‑operation with intelligence and law enforcement agencies etc.

 For paragraph 19A(1)(e) of the Act, the Defence Department is prescribed.

7 Secrecy relating to questioning warrants

 For the purposes of subsection 34GF(6) of the Act, a prescribed authority must not give a direction to a lawyer for the subject of a questioning warrant to communicate to anyone else information that:

 (a) is obtained during:

 (i) questioning of the subject under the warrant; or

 (ii) apprehension of the subject in connection with the warrant; and

 (b) relates to:

 (i) sources or holdings of intelligence; or

 (ii) the Organisation’s method of operations.

Note: A disclosure of information in contravention of a direction given by a prescribed authority under subsection 34GF(6) of the Act may not be a permitted disclosure for the purposes of section 34GF of the Act.

8 Lawyers’ access to security information for proceedings relating to warrant

 (1) For the purposes of section 34FH of the Act, this section regulates access to security information by a lawyer acting for a person in connection with proceedings for a remedy relating to:

 (a) a questioning warrant in relation to the person; or

 (b) the treatment of the person in connection with such a warrant.

 (2) Access to security information may be given to the lawyer only if:

 (a) the lawyer has been given a security clearance in relation to the information at the level considered appropriate by the Secretary of the Department; or

 (b) the Secretary of the Department is satisfied that giving the lawyer access to the information would not be prejudicial to the interests of security.

Note: Security clearances are given in accordance with the Australian Government Protective Security Policy Framework.

 (3) Access to security information may be given to the lawyer subject to any conditions that the Secretary of the Department considers appropriate, including conditions relating to the use, handling, storage or disclosure of the information.

 (4) Nothing in this section entitles a lawyer who has been given a security clearance to be given access to security information.

9 Prescribed form of information

 For subsection 38(1) of the Act, the information to be contained in a notice under that subsection must be in accordance with Form 1 set out in Schedule 1.

Schedule 1—Forms

Note: See section 9.

Form 1—Information concerning right to apply to Administrative Appeals Tribunal

1. You may apply in writing to the Security Division of the Administrative Appeals Tribunal for a review of the assessment attached to this notice.

2. You must give with your application a copy of the assessment as given to you.

3. You must give with your application a statement indicating any part of the assessment you do not agree with and set out the grounds on which your application is made.

4. Your application must be made within 28 days after receipt of the notification of the assessment or within such further time as the Administrative Appeals Tribunal, either before or after the expiration of the 28 days, allows.

5. After the completion of a review of the assessment (other than a review of a security assessment made for the purposes of subsection 202(1) of the *Migration Act 1958*), you may apply for a review of the findings of the Administrative Appeals Tribunal on the ground that you have fresh evidence of material significance that was not available at the time of the previous review.

Note: See subsection 54(2) of the Act.

6. You must give with your application for a review of the findings of the Administrative Appeals Tribunal a statement setting out the grounds on which the application is made.

7. The application may be lodged at the Registry of the Administrative Appeals Tribunal for your State or Territory, or sent to GPO Box 9955, Canberra, ACT 2601.

Note: Information about the Registries of the Administrative Appeals Tribunal could in 2016 be viewed on the Administrative Appeals Tribunal’s website (http://www.aat.gov.au).

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

**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.

**Editorial changes**

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

**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 abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.

Endnote 2—Abbreviation key

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

Endnote 3—Legislation history

| Name | Registration | Commencement | Application, saving and transitional provisions |
| --- | --- | --- | --- |
| Australian Security Intelligence Organisation Regulation 2016 | 31 Mar 2016 (F2016L00460) | 1 Apr 2016 (s 2(1) item 1) |  |
| Australian Security Intelligence Organisation Amendment (Permitted Disclosure) Regulations 2021 | 5 Feb 2021 (F2021L00098) | 6 Feb 2021 (s 2(1) item 1) | — |

Endnote 4—Amendment history

| Provision affected | How affected |
| --- | --- |
| s 2  | rep LA s 48D |
| s 4  | rep LA s 48C |
| s 5  | am F2021L00098 |
| s 7  | rs F2021L00098 |
| s 8  | am F2021L00098 |
| Schedule 2  | rep LA s 48C |