

Tuesday, 26 June 2018

Implementing Foreign Influence Recommendations would significantly improve Bill, Law Council says

The Parliamentary Joint Committee on Intelligence and Security's [Advisory Report on the Foreign Influence Transparency Scheme Bill 2017](#), if accepted by Parliament, would result in a substantial improvement on the [Foreign Influence Transparency Scheme Bill](#), according to the Law Council of Australia.

Law Council President, Morry Bailes, acknowledged the Committee's report and recommendations largely reflected the serious concerns raised by the Law Council and others, particularly the charity sector, on this vitally important issue.

"The Committee's recommendations would signal a vast improvement on previous versions of this draft legislation," Mr Bailes said.

"The original Bill had the potential to create a chilling effect on public policy dialogue, due to the potential legislative over-reach of the scheme, the ambiguity of its key terms, and the significant penalties attached to non-compliance."

The Law Council is pleased to see a number of the Committee's recommendations including:

- A recommended exemption for charities, arts organisations and industrial associations from the proposed legislation;
- Changes to proposed subsection 11(3), which includes the clarification that an activity is only conducted on behalf of a foreign principal where both the person and foreign principal knew or expected that the activity would take place, and;
- The Committee's recommendation for the Australian Government to consider further amending section 25 and the exemption for legal advice/representation by covering activities that are 'incidental to' the matters currently listed in paragraphs (a) to (c).

Mr Bailes said recommendations to amend the transparency notice scheme to include a 'provisional' transparency notice, and a 'final' transparency notice was sensible, however needed to be carefully considered by the Parliament to determine whether they adequately address concerns raised regarding a lack of procedural fairness.

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