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Call on Government to implement PJCIS recommendations

Implementing the 24 recommendations of the Parliamentary Joint Committee on Intelligence and Security (PJCIS) advisory report on the Telecommunications Legislation Amendment (International Production Orders) Bill 2020 (IPO Bill), would be appropriate according to the Law Council of Australia.

The primary objective of the Bill is to establish a framework to give domestic legal effect to any future bilateral and multilateral agreements with foreign countries and be able to reciprocally obtain and grant cross-border access to electronic communications and related data.

President Dr Jacoba Brasch QC, said the introduction of measures that give the relevant agencies the ability to conduct their investigations, provided they are accompanied by commensurate safeguards and are proportionate to the threat, are supported by the Law Council.

“The implementation of the PJCIS’ recommendations would go some way to ensure that the proposed framework will include additional and stronger safeguards,” Dr Brasch QC said.

“This includes the publishing and tabling of designated international agreements within the regulations, subject to parliamentary scrutiny, and subject to a period of disallowance.”

“Other safeguards are also consistent with the Law Council position, including that countries seeking designated international agreements with Australia must meet certain criteria such as respect for rule of law, respect for human rights, and legal restrictions on electronic surveillance.”

“It is also important that if a country has offences punishable by death, a written assurance is received by the Minister regarding use of Australia-sourced information for proceedings for death penalty offence,” Dr Brasch QC said.

In addition to the implementation of the PJCIS’ recommendations, the Law Council suggests limiting the responsibility for issuing an IPO to judicial officers; or an Administrative Appeals Tribunal Deputy President, senior member or a member of the Security Division who has been admitted as a lawyer for at least five years.

“Parliament’s acceptance of the PJCIS recommendations would lead to improved legislation and contribute to an electronic communications and data information-sharing framework more closely aligned with the rule of law,” Dr Brasch QC said.

“The Law Council looks forward constructively assisting the Parliament to improve the international production orders regime.”

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