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## Report exposes need for reform of secrecy laws

The Law Council of Australia has welcomed the final report of the Independent National Security Legislation Monitor's (INSLM) review of Commonwealth secrecy offences and calls on the Government to promptly act on its findings.

"We have long called for amendment of this nation's secrecy laws to ensure a better balance between preventing the release of information which could harm essential public interests and the need for open and accountable government," Law Council President, Mr Greg McIntyre SC said.

"Therefore, we endorse the 15 recommendations contained in the INSLM's comprehensive and measured report as a starting point for future reform.

"In our submissions and evidence to the INSLM's inquiry we have explained that the current regime offends against key rule of law principles, for example, that the intended scope and operation of offence provisions should be unambiguous and key terms should be precisely defined. We have explained why uncertain offence provisions are also more difficult to enforce.

"Accordingly, the Law Council strongly supports the INSLM's recommendations directed to addressing these rule of law defects, including: removing reference to administrative documents, that can be varied without scrutiny, in determining the scope of prohibited conduct under a criminal offence; and narrowing the operation of broadly framed deemed harm offences, currently applicable to a wide range of security and intelligence agency information, to instead focus on covert intelligence activities.

"The uncertain reach of secrecy laws undermines trust in government and disproportionately interferes with the important role of a free press and civil society groups. For this reason, we strongly endorse the INSLM's recommendation to repeal the offence proscribing dealing with certain information that currently applies to people who do not work for the government, including journalists and lawyers. We have previously warned that catch-all offences applying to the conduct of civil society actors risk criminalising an unacceptably wide range of conduct—including the mere receipt of security classified information.

"The Law Council congratulates the INSLM and his office for the inclusive and efficient manner in which this inquiry was conducted, noting prominence given to civil society and media organisations concerned about the chilling effect of secrecy laws on democratic debate. This was accompanied by careful consideration of evidence from government and security agencies.

"We are conscious that consideration is currently being given to replacing the general secrecy offence for Commonwealth officials and service providers, which may include a new offence applying to disclosures that are considered prejudicial to the effective working of government or where the disclosure would breach a confidentiality obligation. We endorse Recommendation 11 in the INSLM's report which explains why broad and uncertain language such as 'functioning of government' should be avoided in the framing of such an offence.

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# Media Release



“It is now up to Government to carefully consider the INSLM’s report when it introduces legislation this year to renew key aspects of our secrecy regime. We look forward to contributing to careful scrutiny by Parliament, including review by the Parliamentary Joint Committee on Intelligence and Security, to ensure that this opportunity for reform is not missed.”

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