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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

(Amendments to be moved on behalf of the Government)

TELECOMMUNICATIONS (INTERCEPTION) AMENDMENT BILL 1987

EXPLANATORY MEMORANDUM

(Circulated by authority of the Honourable Lionel Bowen  
M.P. Deputy Prime Minister and Attorney-General)

Notes on Amendments

Clause 8 - proposed section 6D

1. Proposed sub-section 6D(3) provides for declaration by the Minister, by notice in the Gazette, of Judges to be eligible Judges for the purposes of the legislation. The requirement that the declaration be by notice published in the Gazette may result in threats being made against eligible Judges. The amendments remove this requirement, substituting a requirement that the Minister may, by writing, declare Judges to be eligible Judges.

Clause 21 - proposed section 54

2. Proposed section 54 deals with when a warrant, other than a warrant issued to the Australian Federal Police, comes into force. Under the proposed section, warrants or notifications would have to be received by the Commissioner of Police. The amendments change this so that a warrant will come into force when the warrant or, in the case of a warrant issued on a telephone application, a notification under paragraph 53(1)(b), is received by or on behalf of the Commissioner of Police.

Clause 21 - proposed section 59

3. In line with the amendment to proposed section 54, proposed section 59 is the subject of amendment so that a warrant does not cease to be in force until the instrument of revocation is received by or on behalf of the Commissioner of Police.

Clause 21 - proposed section 88

4. Under proposed sub-sections 88(2), (3) and (4), the Ombudsman may require an officer of an agency to give information or attend before an inspecting officer. The provisions do not stipulate that the place and period or the time and day specified by the Ombudsman must be reasonable. The amendments correct this by inserting a new sub-section 88(5) providing that a requirement under section 88 shall be reasonable having regard to the circumstances in which the requirement is made.

Clause 21 - proposed section 89

5. Proposed sub-section 89(1) provides, in effect, that a person is not excused from giving information to the Ombudsman on the ground that doing so would contravene a law, be contrary to the public interest, tend to incriminate the person or make the person liable to a penalty, but the information given is not admissible in evidence against the person except in a prosecution for an offence against proposed section 108. However, this provision does not protect the person giving the information from any information or thing acquired as a direct or indirect consequence of the person being required to give the information. The amendment amends the provision to correct this.