

1985

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

TELECOMMUNICATIONS (INTERCEPTION) AMENDMENT BILL ( No. 2 ) 1985

EXPLANATORY MEMORANDUM

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



TELECOMMUNICATIONS (INTERCEPTION) AMENDMENT BILL (NO.2) 1985

GENERAL OUTLINE

This Bill makes a number of amendments to the Telecommunication (Interception) Act 1979.

The first is to rectify an omission in an amendment to the Principal Act made by the Telecommunications (Interception) Act 1985. The amendment in question referred to documents or information which may be given to the Stewart Royal Commission. It included a definition of "unlawfully obtained material" as meaning certain documents or information which disclosed the commission or possible commission of an offence against a law of the Commonwealth or a law of a Territory. This Bill adds to that class certain documents which disclose the commission or possible commission of an offence against a law of a State. The Bill also provides that this amendment be deemed to have come into operation on 29 March 1985, the date upon which the Telecommunications (Interception) Act 1985 commenced operation.

The Bill also provides for evidence of formal matters in respect of acts done by Telecom employees for the purpose of enabling the execution of an interception warrant issued to the Australian Federal Police in the course of a narcotics investigation to be given in certain proceedings by a certificate signed by the Managing Director of Telecom. This provision is designed to protect the identity of Telecom employees engaged in such activities.

Finally, the Bill will enable officers of Telecom, when so requested by police, in specified emergency situations, to intercept a telephone call in order that the location of the caller can be identified and given to persons who can assist in handling the emergency. The most common example of an emergency situation is expected to be suicide threats.

Telecom may only so act when requested to do so by the police, and this extension to telephone interception powers will be monitored by requiring the Managing Director of Telecom to report annually to the Attorney-General.

This Bill has no financial implications.

## NOTES ON CLAUSES

### Clause 1 - Short title

Formal

### Clause 2 - Commencement

The legislation will come into operation on the day on which it receives the Royal Assent, except that the amendment made by section 5 is deemed to have come into operation on 29 March 1985.

### Clause 3 - Title

This clause amends the title of the Principal Act by adding a reference to tracing the location of callers in emergencies.

### Clause 4 - Interceptions not to be intercepted

This clause amends section 7 of the Principal Act, in particular -

- . by providing that it is not an offence to intercept a communication made following an emergency request, as provided for in clause 7
  
- . by providing that it is not an offence for police to communicate information obtained by an interception made following an emergency request to other police or to persons whose assistance may be required in dealing with the emergency
  
- . by making it clear that a reference in subsection 7(6) (which allows evidence obtained by interception to be lawfully given in specified proceedings) to a proceeding by way of a prosecution for an offence includes a reference to a proceeding with a view to the committal of a person for trial for the offence.

Clause 5 - Other documents or information may be given to the Stewart Royal Commission

This clause amends sub-section 7BA(1) of the Principal Act by including within the definition of "unlawfully obtained material" certain documents or information that disclose the commission of an offence or the possible commission of an

offence against a law of a State. This rectifies an omission in the original provision, which was limited to offences against a law of the Commonwealth or a law of a Territory.

Clause 6 - Evidentiary certificates

This clause provides that a certificate signed by the Managing Director of Telecom, setting out such facts as he considers relevant with respect to acts or things done by or in relation to officers of the Commission for the purpose of enabling the execution of an interception warrant issued to the Australian Federal Police for the purposes of a narcotics investigation is conclusive evidence of matters stated in the certificate in specified proceedings.

Clause 7 - new Part V

This clause inserts a new Part V into the Act, headed -

"PART V - EMERGENCY REQUESTS AUTHORIZING OFFICERS OF THE COMMISSION TO INTERCEPT TELECOMMUNICATIONS"

which provides as follows:

- . new section 29, "Interpretation", defines "member of a police force";
  
- . new section 30, "Emergency requests", which provides that where a caller conveys to another party to a telephone call information which leads that other person to form an honest belief that a specified emergency exists relating to serious injury or risk to life, and the other person does not know the location of the caller, he may report the matter to police who in turn may request an officer of Telecom to intercept the telephone call for the purpose of locating the caller. This will enable appropriate emergency existence to be speedily supplied;
  
- . new section 31, "Annual report to be made to Minister concerning interceptions requested under this Part" provides that the Managing Director of Telecom shall report annually to the Attorney-General on the circumstances of each interception made in situations of emergency. It also provides for the Attorney-General to table that report in Parliament.



Clause 8 - Application

This clause provides that the amendment which clarifies the meaning "proceeding by way of a prosecution", and the amendment which provides for an evidentiary certificate to be made by the Managing Director of Telecom, each apply in relation to proceedings instituted before or after the commencement of this Act.













