



Telecommunications (Interception) Amendment Act 1993

No. 103 of 1993

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Telecommunications (Interception) Amendment Act 1993

No. 103 of 1993

An Act to amend the *Telecommunications (Interception)* *Act 1979*, and for related purposes

[Assented to 22 December 1993]

The Parliament of Australia enacts:

Short title etc.

1.(1) This Act may be cited as the *Telecommunications (Interception) Amendment Act 1993*.

(2) In this Act, “**Principal Act**” means the *Telecommunications (Interception) Act 1979*¹.

Commencement

2.(1) Except for the sections referred to in subsection (2), this Act commences on the day on which it receives the Royal Assent.

(2) Subject to subsection (3), subsection 3(2) and sections 5, 12, 14, 15, 16, 17, 18, 24, 25, 26, 27 and 28 commence on a day to be fixed by Proclamation.

(3) If the provisions referred to in subsection (2) do not commence under that subsection before 1 March 1994, they commence on that day.

Interpretation

3.(1) Section 5 of the Principal Act is amended:

- (a) by omitting from the definition of “agency” in subsection (1) “Parts IIA and” (wherever occurring) and substituting “Part”;
- (b) by adding at the end of the definition of “chief officer” in subsection (1) the following word and paragraph:
 - “or (f) in the case of the Criminal Justice Commission—the Chairman of the Commission;”;
- (c) by omitting from subparagraph (a)(iv) of the definition of “class 2 offence” in subsection (1) “narcotic drugs” and substituting “prescribed substances”;
- (d) by inserting after paragraph (a) of the definition of “class 2 offence” in subsection (1) the following paragraph:
 - “(aa) an offence against a provision of Part VIA of the *Crimes Act 1914*; or”;
- (e) by omitting from paragraph (b) of the definition of “class 2 offence” in subsection (1) “paragraph (a)” and substituting “paragraph (a) or (aa)”;
- (f) by adding at the end of the definition of “eligible authority” in subsection (1) the following word and paragraph:
 - “or (c) in the case of Queensland—the Criminal Justice Commission;”;
- (g) by adding at the end of the definition of “officer” in subsection (1) the following word and paragraph:
 - “or (f) in the case of the Criminal Justice Commission:
 - (i) a Commissioner of the Commission; or
 - (ii) a person who is an officer of the Commission for the purposes of the Criminal Justice Act;”;
- (h) by omitting from paragraph (b) of the definition of “prescribed investigation” in subsection (1) “Drug” (wherever occurring);
- (i) by adding at the end of the definition of “prescribed investigation” in subsection (1) the following word and paragraph:
 - “or (d) in the case of the Criminal Justice Commission—means an investigation that the Commission is conducting in the performance of its functions under the Criminal Justice Act;”;
- (j) by omitting paragraph (c) of the definition of “record” in subsection (1);
- (k) by adding at the end of the definition of “relevant offence” in subsection (1) the following word and paragraph:

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“or (f) in the case of the Criminal Justice Commission—a prescribed offence that is an offence against the law of Queensland and to which a prescribed investigation relates;”;

- (l) by omitting from subsection (1) the definitions of “certifying officer”, “Commissioner” and “restricted record” and substituting respectively the following definitions:

“ ‘**certifying officer**’, in relation to an agency, or an eligible authority of a State, means:

- (a) in the case of the Australian Federal Police—the Commissioner of Police, a Deputy Commissioner of Police or a member of the rank of Assistant Commissioner; or
- (b) in the case of the Authority:
 - (i) a member of the Authority; or
 - (ii) a member of the staff of the Authority who is a Senior Executive Service officer within the meaning of the *Public Service Act 1922* and is authorised in writing by the Chairman of the Authority for the purposes of this paragraph; or
- (c) in the case of the Police Force of a State—the Commissioner, a Deputy Commissioner or an officer whose rank is equivalent to that of Assistant Commissioner of the Australian Federal Police; or
- (d) in the case of the Crime Commission—a member of the Crime Commission; or
- (e) in the case of the Independent Commission Against Corruption—the Commissioner or an Assistant Commissioner of the Independent Commission Against Corruption; or
- (f) in the case of the Criminal Justice Commission—a Commissioner of the Criminal Justice Commission;

‘**Commissioner**’ means:

- (a) in relation to the Police Force of a State—the Commissioner of Police (however designated) of that State; or
- (b) in relation to the Criminal Justice Commission—a member of the Commission, including the Chairman;

‘**restricted record**’ means a record obtained by means of an interception, whether or not in contravention of subsection 7(1), of a communication passing over a telecommunications system;”;

- (m) by omitting from subsection (1) the definition of “telegram”;
- (n) by inserting in subsection (1) the following definitions:

“ ‘**Criminal Justice Act**’ means the *Criminal Justice Act 1989* of Queensland;

‘**Criminal Justice Commission**’ means the Criminal Justice Commission of Queensland;

‘**Deputy Director-General of Security**’ means an officer of the Organization who holds office as Deputy Director-General of Security;

‘**prescribed substance**’ means a substance that is a narcotic drug or psychotropic substance for the purposes of the *Crimes (Traffic in Narcotic Drugs and Psychotropic Substances) Act 1990*;

‘**secretary**’ has the same meaning as in the Corporations Law;

‘**staff member**’, in relation to the Australian Federal Police, has the same meaning as in the *Australian Federal Police Act 1979*;”.

(2) Section 5 of the Principal Act is amended by inserting in subsection (1) the following definition:

“ ‘**Register**’ means the Register of Warrants kept under section 81A;”.

(3) An authorisation in force for the purposes of paragraph (c) of the definition of “prescribed officer” in subsection 60(4) of the Principal Act immediately before the commencement of this section has effect, for the purposes of the Principal Act as amended by this Act, as if it were an authorisation for the purposes of subparagraph (b)(ii) of the definition of “certifying officer” in subsection 5(1) of the Principal Act, as amended by this Act.

Communicating etc. certain information

4. Section 5A of the Principal Act is amended:

(a) by omitting “obtained:” and paragraphs (a) and (b) and substituting “obtained by an interception, whether or not in contravention of subsection 7(1), of a communication”;

(b) by omitting “, or by virtue of the warrant, as the case may be,”.

Interception of a communication

5. Section 6 of the Principal Act is amended:

(a) by omitting from subsection (2) “, or in a vessel, vehicle or aircraft,”;

(b) by omitting subsections (3) and (4).

Investigation of an offence

6. Section 6A of the Principal Act is amended by inserting in paragraph (1)(c) “, the Criminal Justice Commission” after “Crime Commission”.

Lawfully obtained information

7. Section 6E of the Principal Act is amended:

- (a) by omitting from subsection (1) “this section):” and paragraphs (a) and (b) and substituting “this section) by intercepting, otherwise than in contravention of subsection 7(1), a communication passing over a telecommunications system.”;
- (b) by omitting paragraphs (2)(a), (b) and (c) and substituting the following paragraphs:
 - “(a) information obtained, whether before or after the commencement of this section, by intercepting a communication under a warrant issued to the agency or authority; or
 - (b) information communicated to the agency or authority in accordance with section 65A.”.

Relevant proceeding

8. Section 6L of the Principal Act is amended by adding at the end of subsection (2) the following word and paragraph:

“or (c) in the case of the Criminal Justice Commission—a reference to:

- (i) a proceeding by way of a prosecution for a prescribed offence that is an offence against the law of Queensland and to which a prescribed investigation relates or related; or
- (ii) a proceeding under a law of Queensland for the confiscation or forfeiture of property, or for the imposition of a pecuniary penalty, in connection with the commission of a prescribed offence.”.

9. After section 6M of the Principal Act, the following section is inserted in Part IA:

Declaration of staff members of State Police Forces

“6N.(1) This section applies to an agency that is the Police Force of a State.

“(2) The Minister may make a written declaration that members of an agency included in a specified class of members of the agency occupy positions corresponding to those of staff members of the Australian Federal Police.

“(3) Members included in the class of members of an agency specified in a declaration are referred to in this Act, in relation to the agency concerned, as staff members.”.

Telecommunications not to be intercepted

10. Section 7 of the Principal Act is amended:

- (a) by inserting after paragraph (2)(aa) the following paragraphs:

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- “(ab) the interception of a communication by a person lawfully engaged in duties relating to the installation, connection or maintenance of equipment used, or to be used, for the interception of communications under warrants;
- (ac) the interception of a communication where the interception results from, or is incidental to, action taken by an officer of the Organization, in the lawful performance of his or her duties, for the purpose of:
 - (i) discovering whether a listening device is being used at, or in relation to, a particular place; or
 - (ii) determining the location of a listening device;”;
- (b) by adding at the end the following subsections:
 - “(3) In subsection (2), ‘**listening device**’ has the same meaning as in Division 2 of Part III of the *Australian Security Intelligence Organization Act 1979*.
 - “(4) Subsection (1) does not apply to, or in relation to, an act done by an officer of an agency in relation to a communication if the following conditions are satisfied:
 - (a) the officer or another officer of the agency is a party to the communication; and
 - (b) there are reasonable grounds for suspecting that another party to the communication has:
 - (i) done an act that has resulted, or may result, in loss of life or the infliction of serious personal injury; or
 - (ii) threatened to kill or seriously injure another person or to cause serious damage to property; or
 - (iii) threatened to take his or her own life or to do an act that would or may endanger his or her own life or create a serious threat to his or her health or safety; and
 - (c) because of the urgency of the need for the act to be done, it is not reasonably practicable for an application for a Part VI warrant to be made.
 - “(5) Subsection (1) does not apply to, or in relation to, an act done by an officer of an agency in relation to a communication if the following conditions are satisfied:
 - (a) the person to whom the communication is directed has consented to the doing of the act; and
 - (b) there are reasonable grounds for believing that that person is likely to receive a communication from a person who has:
 - (i) done an act that has resulted, or may result, in loss of life or the infliction of serious personal injury; or

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- (ii) threatened to kill or seriously injure another person or to cause serious damage to property; or
 - (iii) threatened to take his or her own life or to do an act that would or may endanger his or her own life or create a serious threat to his or her health or safety; and
- (c) because of the urgency of the need for the act to be done, it is not reasonably practicable for an application for a Part VI warrant to be made.

“(6) As soon as practicable after the doing of an act in relation to a communication under the provisions of subsection (4) or (5), an officer of the agency which is concerned with the communication shall cause an application for a Part VI warrant to be made in relation to the matter.

“(7) Where after considering an application made in relation to a matter arising under subsections (4) or (5) and (6) a judge does not issue a warrant in relation to the application, the chief officer of the agency concerned shall ensure that no further action is taken by the agency to intercept the communication or to cause it to be intercepted.

“(8) Subsections (4), (5), (6) and (7) only apply where the agency concerned is:

- (a) the Australian Federal Police; or
- (b) the Police Force of a State.

“(9) If, apart from this subsection, the doing of an act referred to in subparagraph (4)(b)(ii) or (iii) or (5)(b)(ii) or (iii) would not constitute a class 1 offence or a class 2 offence in a particular case, it is to be taken to constitute a class 2 offence.

“(10) Subsection (9) has effect only to the extent necessary:

- (a) to enable an application to be made for the purposes of subsection (6); and
- (b) to enable a decision to be made on such an application and, if a Judge so decides, a Part VI warrant to be issued; and
- (c) to enable this Act to operate in relation to a Part VI warrant issued on such an application.

“(11) Nothing in this section limits the operation of subsection 6(2).”.

11. After section 17 of the Principal Act the following section is inserted in Part III:

Evidentiary certificates

“18.(1) The Managing Director or secretary of a carrier may issue a written certificate signed by him or her setting out such facts as he or she considers relevant with respect to acts or things done by, or in relation to, employees of the carrier in order to enable a warrant to be executed.

“(2) A document purporting to be a certificate issued under subsection (1) and purporting to be signed by the Managing Director or secretary of a carrier is to be received in evidence in an exempt proceeding without further proof and is, in an exempt proceeding, conclusive evidence of the matters stated in the document.

“(3) The Director-General of Security or the Deputy Director-General of Security may issue a written certificate signed by him or her setting out such facts as he or she considers relevant with respect to acts or things done:

- (a) in order to enable, or in connection with enabling, a warrant issued under this Part to be executed; or
- (b) in connection with the execution of a warrant issued under this Part.

“(4) The Director-General of Security or the Deputy Director-General of Security may issue a written certificate signed by him or her setting out such facts as he or she considers relevant with respect to:

- (a) anything done by an officer or employee of the Organization in connection with the execution of a warrant issued under this Part; or
- (b) anything done by an officer or employee of the Organization in connection with:
 - (i) the communication by a person to another person of; or
 - (ii) the making use of; or
 - (iii) the making of a record of; or
 - (iv) the custody of a record of; or
 - (v) the giving in evidence of;

information obtained by the execution of such a warrant.

“(5) A document purporting to be a certificate issued under subsection (3) or (4) by the Director-General of Security or the Deputy Director-General of Security and to be signed by him or her is to be received in evidence in an exempt proceeding without further proof and is, in an exempt proceeding, *prima facie* evidence of the matters stated in the document.

“(6) In subsections (1) and (2), a reference to the Managing Director or secretary of a carrier includes a reference to the Managing Director or secretary of a body corporate of which the carrier is a subsidiary.

“(7) For the purposes of this section, the question whether a body corporate is a subsidiary of another body corporate is to be determined in the same manner as the question is determined under the Corporations Law.”.

12. Section 33 of the Principal Act is repealed and the following section is substituted:

Functions

“33. The functions of the Telecommunications Interception Division are:

- (a) to take action to enable warrants issued to agencies other than the Australian Federal Police to be executed; and
- (b) such other functions as are assigned to the Division in writing by the Commissioner of Police.”.

Agency may apply for warrant

13. Section 39 of the Principal Act is amended:

- (a) by adding at the end of paragraphs (2)(a), (b) and (c) “or”;
- (b) by adding at the end of subsection (2) the following word and paragraph:

“or (f) in the case of the Criminal Justice Commission:

- (i) a Commissioner of the Commission; or
- (ii) an officer of the Police Force of Queensland who is an officer of the Commission.”;

- (c) by omitting subsection (3).

Limit on authority conferred by warrant under section 45 or 46

14. Section 47 of the Principal Act is amended by inserting in paragraph (b) “, and by a member or staff member of the Australian Federal Police,” after “carrier”.

Judge may revoke warrant where section 51 contravened

15. Section 52 of the Principal Act is amended by omitting from paragraph (2)(b) “the instrument” and substituting “a copy of the instrument”.

Notification to Australian Federal Police of issue of warrants to other agencies

16. Section 53 of the Principal Act is amended:

- (a) by adding at the end of paragraph (1)(a) “and”;
- (b) by omitting paragraph (1)(c) and substituting the following paragraphs:

“(c) in the case of a warrant issued under section 48—must cause the warrant to be given to the Commissioner of Police as soon as practicable; and

- (d) in the case of a warrant issued under section 45 or 46—must cause a copy of the warrant to be given to the Commissioner of Police as soon as practicable.”.

17.(1) Sections 54 and 55 of the Principal Act are repealed and the following sections are substituted:

Entry into force of certain warrants

“54.(1) A warrant under section 45 or 46 issued to an agency other than the Australian Federal Police does not come into force until:

- (a) in any case, a copy of the warrant; or
- (b) in the case of a warrant issued on a telephone application, a notification under paragraph 53(1)(b) of the issue of the warrant; is received by or on behalf of the Commissioner of Police.

“(2) A warrant under section 48 issued to an agency other than the Australian Federal Police does not come into force until:

- (a) in any case, the warrant; or
- (b) in the case of a warrant issued on a telephone application, a notification under paragraph 53(1)(b) of the issue of the warrant; is received by or on behalf of the Commissioner of Police.

Exercise of authority conferred by warrant

“55.(1) The authority conferred by a warrant issued to an agency under section 45 or 46 may only be exercised by an officer or staff member of the agency in relation to whom an approval under subsection (3) is in force in relation to the warrant.

“(2) The authority conferred by a warrant issued under section 48 may only be exercised by a member of the Australian Federal Police in relation to whom an approval under subsection (3) is in force in relation to the warrant.

“(3) The chief officer of an agency, or an officer of an agency in relation to whom an appointment under subsection (4) is in force, may approve in writing officers or staff members of the agency, or classes of officers or staff members of the agency, to exercise the authority conferred by warrants or classes of warrants.

“(4) The chief officer of an agency may appoint in writing an officer of the agency to be an approving officer for the purposes of subsection (3).

“(5) In spite of subsections (1) and (2), a designated officer may provide technical assistance to an officer or staff member of an agency who is exercising the authority conferred by a warrant.

“(6) A reference in subsection (5) to the provision of technical assistance includes a reference to:

- (a) the doing of any act involved in the interception of a communication under a warrant; and

(b) the doing of any act in connection with:

- (i) the installation of equipment for the purposes of intercepting a communication in accordance with a warrant; or
- (ii) the maintenance, testing or use of such equipment; or
- (iii) the removal of such equipment.

“(7) The chief officer of an agency or a person who is an approving officer for an agency under subsection (4) may, in writing, declare persons to be designated officers for the purposes of subsection (5).

“(8) A declaration under subsection (7) may only be made in relation to a person who is a staff member of an agency.

“(9) A person who is a designated officer of an agency ceases to be a designated officer of that agency if the person ceases to be a staff member of that agency.”.

(2) An approval in force under subsection 55(2) of the Principal Act immediately before the commencement of this section has effect after that commencement as if it were an approval under subsection 55(3) of the Principal Act, as amended by this Act.

(3) A declaration of a person as a designated technical officer in force under subsection 55(6) of the Principal Act immediately before the commencement of this section has effect after that commencement as a declaration of a designated officer as if it had been made under subsection 55(7) of the Principal Act, as amended by this Act.

Revocation of warrant issued to Australian Federal Police

18. Section 56 of the Principal Act is amended by omitting from subsection (2) “the Commissioner of Police or a Deputy Commissioner of Police” and substituting “a certifying officer of the Australian Federal Police”.

Revocation of warrant by chief officer of other agency

19. Section 57 of the Principal Act is amended:

- (a) by omitting from paragraph (3)(b) “the instrument” and substituting “a copy of the instrument”;
- (b) by adding at the end the following subsection:

“(4) The chief officer of an agency may delegate his or her power under subsection (2) to a certifying officer of the agency.”.

Notification to Managing Director of carrier of issue or revocation of certain warrants

20. Section 60 of the Principal Act is amended:

- (a) by omitting from paragraph (1)(d) “prescribed” and substituting “certifying”;
- (b) by omitting subsection (4).

Evidentiary certificates

21. Section 61 of the Principal Act is amended:

- (a) by inserting in subsection (1) “or secretary” after “Managing Director”;
- (b) by inserting in subsection (2) “or secretary” after “Managing Director”;
- (c) by omitting subsections (3), (4) and (5) and substituting the following subsections:

“(3) A certifying officer of the Australian Federal Police may issue a written certificate signed by him or her setting out such facts as he or she considers relevant with respect to acts or things done in order to enable, or in connection with enabling, a warrant issued under section 45 or 46 to another agency to be executed.

“(4) A certifying officer of an agency may issue a written certificate signed by him or her setting out such facts as he or she considers relevant with respect to:

- (a) anything done by an officer or staff member of the agency in connection with the execution of a warrant issued to the agency under section 45, 46 or 48; or
- (b) anything done by an officer or staff member of the agency in connection with:
 - (i) the communication by a person to another person of; or
 - (ii) the making use of; or
 - (iii) the making of a record of; or
 - (iv) the custody of a record of; or
 - (v) the giving in evidence of:

information obtained by the execution of such a warrant.

“(5) A document purporting to be a certificate issued under subsection (3) or (4) by a certifying officer of an agency and to be signed by him or her is to be received in evidence in an exempt proceeding without further proof and is, in an exempt proceeding, *prima facie* evidence of the matters stated in the document.

“(6) In subsections (1) and (2), a reference to the Managing Director or secretary of a carrier includes a reference to the Managing Director or secretary of a body corporate of which the carrier is a subsidiary.

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“(7) For the purposes of this section, the question whether a body corporate is a subsidiary of another body corporate is to be determined in the same manner as the question is determined under the Corporations Law.”.

Certified copy of warrant

22. Section 61A of the Principal Act is amended by omitting “the Australian Federal Police” and substituting “an agency”.

23. Section 65A of the Principal Act is repealed and the following section is substituted:

Employee of carrier may communicate information to agency

“65A. An employee of a carrier may, for a purpose or purposes connected with the investigation by an agency of a serious offence, and for no other purpose, communicate to an officer of the agency lawfully obtained information other than section 11A information.”.

Destruction of restricted records

24.(1) Section 79 of the Principal Act is amended by adding at the end the following subsection:

“(2) In spite of subsection (1), a restricted record must not be destroyed unless the agency has received from the Commissioner of Police written notice that the entry in the Register relating to the warrant under which the record was obtained has been inspected by the Minister.”.

(2) In spite of sections 3 and 33 of this Act, section 79 of the Principal Act, as in force immediately before the commencement of this section, continues to apply to a record obtained by virtue of a warrant under section 11 or Part IV of the Principal Act as if this section had not been enacted and the definition of “restricted record” had not been amended by this Act.

Commonwealth agencies to keep documents connected with issue of warrants

25.(1) Section 80 of the Principal Act is amended:

(a) by omitting paragraph (1)(a);

(b) by omitting paragraph (1)(d) and substituting the following paragraphs:

“(d) a copy of each warrant issued to another agency under section 45 or 46;

(da) each warrant issued to another agency under section 48 and given to the Commissioner of Police under subsection 53(1);”;

- (c) by omitting from paragraph (1)(e) “each instrument that revoked a warrant issued to another agency and is” and substituting “each copy”;
- (d) by omitting from paragraph (1)(g) “a copy of”;
- (e) by omitting paragraph (2)(a) and substituting the following paragraph:
 - “(a) each warrant issued to the Authority;”;
- (f) by omitting paragraph (2)(c) and substituting the following paragraph:
 - “(c) each instrument revoking such a warrant;”;
- (g) by omitting from paragraph (2)(e) “a copy of”.

(2) Section 80 of the Principal Act, as in force immediately before the commencement of this section, continues to apply in relation to a document to which this subsection applies as if this Act had not been enacted.

(3) Subsection (2) applies to a document that was given to the Commissioner of Police before the commencement of this section in accordance with section 53 of the Principal Act as then in force.

Other records to be kept by Commonwealth agencies in connection with interceptions

26. Section 81 of the Principal Act is amended:

- (a) by omitting from paragraph (1)(b) “IV or”;
- (b) by omitting paragraph (1)(d);
- (c) by omitting from subparagraph (1)(e)(i) “or obtained by virtue of a warrant under Part IV,”;
- (d) by omitting paragraph (1)(g) and substituting the following paragraph:
 - “(g) particulars of each communication of lawfully obtained information by an officer or staff member of the agency to a person other than an officer or staff member of the agency; and”.

27. After section 81 of the Principal Act, the following sections are inserted:

Register of Warrants

“81A.(1) The Commissioner of Police is to cause a Register of Warrants to be kept.

“(2) The Commissioner of Police is to cause to be recorded in the Register in relation to each warrant issued under section 45, 46 or 48 particulars of:

- (a) the date of issue of the warrant; and

- (b) the Judge who issued the warrant; and
- (c) the agency to which the warrant was issued; and
- (d) the telecommunications service to which the warrant relates; and
- (e) the name of the person specified in the warrant as a person using or likely to use the telecommunications service; and
- (f) the period for which the warrant is to be in force; and
- (g) each serious offence in relation to which the Judge who issued the warrant was satisfied, on the application for the warrant, as mentioned in paragraph 45(d) or 46(1)(d), as the case may be.

Regular submission of Register to Minister

“81B.(1) Within 3 months after the commencement of section 27 of the *Telecommunications (Interception) Amendment Act 1993*, the Commissioner of Police must deliver the Register to the Minister for inspection by the Minister.

“(2) Once at least within each succeeding period of 3 months, the Commissioner of Police must deliver to the Minister, for inspection by the Minister, any part of the Register that represents information recorded since the Register, or any part of the Register, was last delivered to the Minister.”.

Functions of Ombudsman

28. Section 82 of the Principal Act is amended by omitting paragraph (a) and substituting the following paragraph:

- “(a) to inspect a Commonwealth agency’s records in order to ascertain:
- (i) the accuracy of entries in the Register; and
 - (ii) so far as is practicable, the extent of compliance, in relation to those records, with sections 79, 80 and 81; and”.

29. After section 92 of the Principal Act, the following section is inserted in Part VIII:

Exchange of information between Ombudsman and State inspecting authorities

“92A.(1) In this section:

‘**State agency**’ means an eligible authority of a State that is an agency;
‘**State inspecting authority**’, in relation to a State agency, means the authority that, under the law of the State concerned, has the function of making inspections of the kind referred to in paragraph 35(1)(h).

“(2) The Ombudsman may give information that:

- (a) relates to a State agency; and
 - (b) was obtained by the Ombudsman under this Act;
- to the authority that is the State inspecting authority in relation to the agency.

“(3) The Ombudsman may only give information to an authority under subsection (2) if the Ombudsman is satisfied that the giving of the information is necessary to enable the authority to perform its functions in relation to the State agency.

“(4) The Ombudsman may receive from a State inspecting authority information relevant to the performance of the Ombudsman’s functions under this Act.”.

Annual reports regarding applications and warrants under Part VI

30. Section 94 of the Principal Act is amended:

- (a) by omitting from paragraph (2)(a) “, or inspecting telegrams, as the case requires,”;
- (b) by inserting after subsection (3) the following subsection:

“(3A) A report under subsection (3) must include a statement of the total expenditure (including expenditure of a capital nature) incurred by the agency concerned in connection with the execution of warrants during the year to which the report relates.”.

Annual reports by State authorities

31. Section 96 of the Principal Act is amended:

- (a) by inserting in paragraph (1)(a) “or 102A” after “section 102”;
- (b) by inserting after subsection (1) the following subsection:

“(1A) A report under subsection (1) must include a statement of the total expenditure (including expenditure of a capital nature) incurred by the eligible authority concerned in connection with the execution of warrants during the year to which the report relates.”;

- (c) by omitting from subsection (2) “subsection (1)” and substituting “subsections (1) and (1A)”.

32. Section 103 of the Principal Act is repealed and the following sections are substituted:

Report regarding interceptions without warrant

“102A. The report must state, for each agency referred to in subsection 7(8), the number of occasions on which an officer or staff member of the agency intercepted a communication in reliance on subsection 7(4) or (5).

Other information to be included in report

“103. The report must set out:

- (a) the total expenditure (including expenditure of a capital nature) incurred by agencies to which the report relates in connection with the execution of warrants during the year to which the report relates; and

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(b) such other information (if any) as is prescribed.”.

Repeals

33. Parts IIA and IV and sections 8, 11 and 98 are repealed.

Further amendments

34. The Principal Act is further amended as set out in the Schedule.

SCHEDULE

Section 34

FURTHER AMENDMENTS

Subsection 5(1) (definition of “chief officer”):

Add at the end of each of paragraphs (a), (b) and (c) “or”.

Subsection 5(1) (definition of “officer”):

Add at the end of each of paragraphs (a), (b) and (c) “or”.

Subsection 5(1) (definition of “prescribed investigation”):

Add at the end of paragraph (a) “or”.

Subsection 5(1) (definition of “record”):

(a) Add at the end of paragraph (a) “or”.

(b) Omit from paragraph (b) “or” (last occurring).

Subsection 5(1) (definition of “relevant offence”):

Add at the end of each of paragraphs (a), (b) and (c) “or”.

Heading to Part II:

Omit “AND TELEGRAMS”.

Heading to Part III:

Omit “AND TELEGRAMS”.

Paragraph 11A(1)(a):

Omit “, or authorising a carrier to do acts or things referred to in subsection 11(1) in relation to a person identified in the notice,”.

Subsection 11A(1):

Omit “or the carrier, as the case may be” and “or that person, as the case may be,”.

Paragraph 11A(2)(a):

Omit “in the case of a warrant in respect of a telecommunications service—”.

Subsection 11A(6):

Omit the subsection.

Section 13:

(a) Omit “, 11”.

(b) Omit “, or the inspection of telegrams, as the case may be,”.

SCHEDULE—continued

Paragraph 14(a):

Omit all words after “11A” (first occurring).

Subsection 15(2):

Omit the subsection.

Subsection 15(2A):

Omit the subsection.

Subsection 15(5):

Omit the subsection.

Paragraphs 15(6)(b) and (d):

Omit the paragraphs.

Paragraph 15(6)(c):

Add at the end “and”.

Section 17:

(a) Omit “, 11”.

(b) Omit “, or the inspection of telegrams, as the case may be,”.

Paragraph 63A(1)(d):

Omit “section 11 or 11A or Part IV”, substitute “section 11A”.

Subsection 77(1):

Omit “8H,” (wherever occurring).

Subsection 77(2):

Omit “section 11 or 11A or Part IV”, substitute “section 11A”.

Heading to Part IX:

Omit “IV,”.

Section 97:

Omit “20A, 20B,”.

Paragraphs 97(a) and (b):

Omit the paragraphs, substitute:

“(a) to enable, or in connection with enabling, communications to be intercepted under the warrant; and

(b) to ensure discontinuance of interceptions under the warrant;”.

SCHEDULE—continued

Subsection 100(3):

Omit the subsection.

Subsection 101(4):

Omit the subsection.

Subsection 104(3):

Omit “Parts IV, VI”, substitute “Parts VI”.

Subsection 105(2):

Omit “a fine not exceeding \$5,000 or”.

Subsection 105(4):

Omit “a fine not exceeding \$1,000 or”.

Section 106:

Omit “\$1,000 or imprisonment”, substitute “Imprisonment”.

Section 107:

Omit “\$1,000 or imprisonment”, substitute “Imprisonment”.

NOTE

1. No. 114, 1979, as amended. For previous amendments, see No. 181, 1979; Nos. 114 and 116, 1983; Nos. 6 and 116, 1984; Nos. 8 and 63, 1985; No. 102, 1986 (as amended by No. 28, 1991); No. 89, 1987 (as amended by No. 120, 1987) and No. 120, 1987; Nos. 5, 65, 66, 99 and 121, 1988; No. 63, 1989 (as amended by No. 11, 1991); No. 11; 1990; and Nos. 28 and 99, 1991.

NOTE ABOUT SECTION HEADINGS

1. On the commencement of section 34 of this Act:
 - (a) the heading to section 97 of the *Telecommunications (Interception) Act 1979* is altered by omitting “**Part IV or VI**” and substituting “**Part VI**”;
 - (b) the heading to section 99 of the *Telecommunications (Interception) Act 1979* is altered by omitting “**Parts IV and VI**” and substituting “**Part VI**”.

[Minister's second reading speech made in—
House of Representatives on 31 August 1993
Senate on 21 October 1993]