Genetic Privacy and Non-discrimination Bill 1998

No.    , 1998

(Senator Stott Despoja)

A Bill for an Act to protect the genetic privacy of individuals, to prohibit genetic discrimination and to provide for the collection, storage and analysis of DNA samples, and for related purposes
## Contents

### Part 1—Preliminary

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Short title</td>
<td>1</td>
</tr>
<tr>
<td>2</td>
<td>Commencement</td>
<td>2</td>
</tr>
<tr>
<td>3</td>
<td>Saving of certain State and Territory laws</td>
<td>2</td>
</tr>
<tr>
<td>4</td>
<td>Act to bind the Crown</td>
<td>2</td>
</tr>
<tr>
<td>5</td>
<td>Extension to external Territories</td>
<td>2</td>
</tr>
<tr>
<td>6</td>
<td>Objects of Act</td>
<td>2</td>
</tr>
<tr>
<td>7</td>
<td>Interpretation</td>
<td>3</td>
</tr>
</tbody>
</table>

### Part 2—Disclosure of genetic information to third persons

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>8</td>
<td>Disclosure of genetic information</td>
<td>6</td>
</tr>
<tr>
<td>9</td>
<td>Authorisation for disclosure</td>
<td>6</td>
</tr>
<tr>
<td>10</td>
<td>Inspection and copying of genetic records</td>
<td>7</td>
</tr>
<tr>
<td>11</td>
<td>Amendment of genetic records</td>
<td>8</td>
</tr>
</tbody>
</table>

### Part 3—Collection, storage and analysis of DNA samples

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>12</td>
<td>Collection of samples</td>
<td>10</td>
</tr>
<tr>
<td>13</td>
<td>Storage of DNA sample and conduct of genetic analysis</td>
<td>10</td>
</tr>
<tr>
<td>14</td>
<td>Notice of rights and assurances</td>
<td>10</td>
</tr>
<tr>
<td>15</td>
<td>Information to be provided to the individual</td>
<td>11</td>
</tr>
<tr>
<td>16</td>
<td>Authorisation to collect, store and analyse DNA samples</td>
<td>12</td>
</tr>
</tbody>
</table>

### Part 4—Discrimination prohibited

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>17</td>
<td>Genetic discrimination to be unlawful</td>
<td>14</td>
</tr>
<tr>
<td>18</td>
<td>Discrimination by employers or potential employers</td>
<td>14</td>
</tr>
<tr>
<td>19</td>
<td>Discrimination by insurers</td>
<td>15</td>
</tr>
</tbody>
</table>

### Part 5—Research

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>20</td>
<td>Research involving genetic analysis</td>
<td>16</td>
</tr>
<tr>
<td>21</td>
<td>Disclosure of genetic information for research purposes</td>
<td>16</td>
</tr>
<tr>
<td>22</td>
<td>DNA samples collected prior to the commencement date</td>
<td>18</td>
</tr>
</tbody>
</table>

### Part 6—Miscellaneous

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>23</td>
<td>Transferred possession of DNA samples</td>
<td>20</td>
</tr>
<tr>
<td>24</td>
<td>Genetic information, etc. derived from the unborn</td>
<td>20</td>
</tr>
</tbody>
</table>

### Part 7—Privacy and discrimination complaints

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>25</td>
<td>Investigation and determinations by the Privacy Commissioner</td>
<td>22</td>
</tr>
</tbody>
</table>
A Bill for an Act to protect the genetic privacy of individuals, to prohibit genetic discrimination and to provide for the collection, storage and analysis of DNA samples, and for related purposes

The Parliament of Australia enacts:

Part 1—Preliminary

1 Short title

This Act may be cited as the Genetic Privacy and Non-discrimination Act 1998.
Part 1  Preliminary

Section 2

2  Commencement

This Act commences on a day to be fixed by Proclamation.

3  Saving of certain State and Territory laws

It is the intention of the Parliament that this Act is not to affect the
operation of a law of a State or of a Territory that is capable of
operating concurrently with this Act.

4  Act to bind the Crown

(1) This Act binds the Crown in right of the Commonwealth, of each
of the States, of the Australian Capital Territory, of the Northern
Territory and of Norfolk Island.

(2) This Act does not make the Crown liable to be prosecuted for an
offence.

5  Extension to external Territories

This Act extends to every external Territory.

6  Objects of Act

The objects of this Act are:

(a) to define the circumstances under which:

(i) genetic information may be collected, stored, analysed
and disclosed; and

(ii) DNA samples may be collected, stored and analysed;
and

(b) to define the rights of individuals and persons with respect to
genetic information; and

(c) to define the responsibilities of persons with respect to
genetic information; and

(d) to protect individuals and families from genetic
discrimination; and
7 Interpretation

In this Act, unless the contrary intention appears:

**collect** means to obtain a DNA sample.

**Convention** means any international agreement to which Australia is a party or has signified agreement.

**disclose**, when used with respect to the genetic information of an individual, means to convey, or provide access to, the genetic information to a person other than the individual.

**DNA** means deoxyribonucleic acid, which is a genetic material that is composed of nucleotides, that encode genetic information.

**DNA sample** includes:

(a) a human tissue sample from which DNA is intended to be extracted; or

(b) DNA extracted from such tissue sample and other molecules (such as ribonucleic acids and polypeptides) from which DNA may be derived;

but does not include a tissue sample that is taken:

(c) as a biopsy or an autopsy specimen, or as a clinical specimen solely for the purpose of conducting an immediate clinical or diagnostic test that is not a DNA test; or

(d) as a blood sample solely for the purpose of storage in and distribution by a blood bank.

**family** means the biological and legal relatives of an individual who may have a material interest in the genetic information of the individual.
Part 1 Preliminary

Section 7

**genetic analysis** means the process of characterising genetic information from a DNA sample.

**genetic information** means:
(a) information from a DNA sample about genotype; or
(b) information from mutation analysis; or
(c) information about nucleotide and polypeptide sequence(s); or
(d) information about gene(s) or gene products.

**genetic record** means information (including information forming part of a database), whether compiled lawfully or unlawfully, and whether recorded in a material form or not, that records genetic information of an individual in a manner connecting it with the person’s identity.

**genetic services** means any service providing genetic analysis.

**individual** means the source of a human tissue sample from which DNA is extracted or genetic information is characterised. The term includes a subject of genetic research and, where appropriate, includes the parent, guardian or legal representative of the individual.

**individual identifier** means any information by which the identity of the individual can be ascertained, but does not include codes that cannot be used singly to identify an individual.

**insurer** means an insurer within the meaning of paragraph 51(xiv) of the Constitution.

**person** includes a family, corporation, partnership, association, joint venture, a body (whether incorporated or not) established for a public purpose by or under a law of the Commonwealth, and any other legal or commercial entity. The term **person**, used with respect to a human tissue sample, does not include the individual who is the source of the tissue sample.
Section 7

research means scientific investigation that includes systematic
development and testing of hypotheses for the purpose of
increasing knowledge.

researcher means a person who conducts research.

retain means to store a DNA sample or genetic information
characterised from such a sample for an extended period of time
after the initial genetic analysis.

subject, when used with respect to genetic research, means the
source of a human tissue sample collected for genetic analysis.
Part 2—Disclosure of genetic information to third persons

8 Disclosure of genetic information

(1) A person may disclose genetic information in a genetic record characterised from the DNA sample of an individual only if:
   (a) the individual has authorised the disclosure; or
   (b) the disclosure is required or authorised by or under law; or
   (c) the person believes on reasonable grounds that the disclosure is necessary to prevent or lessen a serious and imminent threat to the life or health of the individual or of another person.

(2) The person to whom genetic information has been disclosed may redisclose the information only to the extent reasonable in the exercise of judgment for professional medical consultation for the direct benefit of a patient or with the written authorisation of the individual.

9 Authorisation for disclosure

(1) To be valid, the authorisation by an individual must comply with each of the following:
   (a) the authorisation must be in writing, signed by the individual, and dated on the day of signature; and
   (b) the authorisation must identify the person authorised to make the disclosure; and
   (c) the authorisation must describe the specific genetic information to be disclosed; and
   (d) the authorisation must identify the person to whom the genetic information is to be disclosed; and
   (e) the authorisation must describe the purpose for which the disclosure is being made; and
Disclosure of genetic information to third persons  Part 2

Section 10

(f) the authorisation must state the date upon which the
authorisation will expire; and

(g) the authorisation must include a statement that the
authorisation for disclosure of genetic information may be
revoked or amended at any time prior to the disclosure.

(2) A copy of the authorisation is to be provided to the individual and
a copy of the authorisation retained with the genetic record.

(3) An individual may revoke or amend the authorisation at any time
before the disclosure. The revocation or amendment must be in
writing and addressed to the person who stores the genetic
information.

(4) Each disclosure made pursuant to the authorisation must be
accompanied by the statements set out in Schedule 1.

(5) A general authorisation for the release of records or medical
information is not to be construed as an authorisation for disclosure
of genetic information. With respect to records that contain genetic
information, the requirements for disclosure of genetic information
that are described in this section are to be fulfilled prior to
disclosure of the information.

10 Inspection and copying of genetic records

(1) A person who retains the genetic information of an individual in
genetic records must, on written request, permit the individual to
inspect the genetic records containing the genetic information and
may provide a copy of any such records to the individual.

(2) A person described in subsection (1) who receives a written request
from an individual to inspect or copy genetic records must, not
later than 30 days after receiving the request, make the information
available to the individual. The person may make the information
available by permitting the individual to inspect the genetic records
during business hours, or by delivering a copy of the genetic
records to the individual.
Part 2 Disclosure of genetic information to third persons

Section 11

(3) A person must provide a non-technical explanation of terms, and any codes or abbreviations, used in the genetic records of the individual requesting the genetic records.

(4) The person may charge an individual (except an individual who participates as a subject in a research project) a reasonable fee, for copies of genetic records that are provided under section 16. The fee must not exceed the actual duplication costs, including administrative costs, to the person providing the copies.

11 Amendment of genetic records

(1) Not later than 30 days after receiving a written request by an individual to amend any genetic records, a person who retains the genetic information in the records must either agree or refuse to add the written amendment to the record. The person must make the amendment if such information is not accurate or complete for the purposes for which such information may be used or disclosed by the person.

(2) If the person retaining the information agrees to make an amendment under subsection (1), the person must, not later than 30 days after such receipt:

(a) make the amendment requested; and

(b) inform the individual that the amendment has been made; and

(c) make reasonable efforts to inform any other person to whom the information was previously disclosed of the amendment.

(3) If the person retaining the information refuses to make an amendment under subsection (1), not later than 30 days after such receipt, the person must inform the individual in writing of:

(a) the reasons for the refusal of the person to make the amendment; and

(b) the procedures for further review of the refusal; and

(c) the right of the individual to provide the person with a concise written statement setting out the requested
amendment and the reasons of the individual for disagreeing
with the refusal of the person to make the amendment.

(4) After an individual has provided a statement of disagreement under paragraph (3)(c), the person storing the records:

(a) must make the statement part of the records of the individual;
and

(b) in any subsequent disclosure of the disputed portion of the genetic information, shall include a copy of the statement and may include a statement of the reasons for not making the requested amendment.
Part 3—Collection, storage and analysis of DNA samples

12 Collection of samples

(1) Except as otherwise provided by law, a person may collect a DNA sample from an individual for genetic analysis, only if the person:

   (a) obtains the written authorisation of the individual in accordance with section 16; and

   (b) provides the information to the individual in accordance with section 15; and

   (c) provides the notice of rights and assurances in accordance with section 14; and

   (d) collects the sample in accordance with the authorisation and notice of rights and assurances.

13 Storage of DNA sample and conduct of genetic analysis

Except as otherwise required by law, a person may store or conduct a genetic analysis of a DNA sample from an individual, only if the person:

   (a) has the written authorisation of the individual and the notice of rights and assurances has been provided; and

   (b) stores or conducts the analysis of the DNA sample in accordance with the authorisation and notice of rights and assurances.

14 Notice of rights and assurances

The person who collects the DNA sample for genetic analysis must provide the individual, prior to the collection of the DNA sample, and any other person upon request, with a written notice of rights and assurances that contains the following information and assurances:
Section 15

(a) that the DNA sample will be used only as authorised in the written authorisation; and
(b) that the individual has the right to order the destruction of an identifiable DNA sample at any time; and
(c) that the DNA sample will be destroyed upon the completion of the genetic analysis or the genetic test, unless the individual has consented in writing to further use of the sample; and
(d) that the individual may specify another person as the person authorised to make decisions regarding disposition of the DNA sample after the death of the individual and, if any person is so designated, that the individual should notify the facility in which the DNA sample is stored; and
(e) that the individual has the right to examine records containing genetic information, to obtain copies of such records, and to request amendment of such records; and
(f) that researchers may be granted access to a DNA sample only as specified in the written authorisation of the individual; and
(g) that the collection, storage and analysis of the DNA sample and the genetic information characterised from the sample are protected by this Act, and that an individual whose rights under this Act are violated may seek redress as provided for in this Act; and
(h) about the availability, or the lack of availability, of optional genetic counselling.

15 Information to be provided to the individual

Prior to the collection of a DNA sample from an individual for genetic analysis, the person who collects the sample must inform the individual, in language understandable to the individual:
(a) that consent to the collection of the DNA sample is voluntary; and
(b) about the genetic information that can reasonably be expected to be derived from the genetic analysis; and
Section 16

(c) about the implications of genetic information derived from the genetic analysis, for the individual and the family members of the individual; and
(d) about the ways in which the genetic information derived from the genetic analysis will be used; and
(e) about the information that the individual can expect to receive on completion of the genetic analysis; and
(f) about the extent of the right of the individual to have the DNA sample removed from a research study and, if possible, to have the genetic information characterised from the DNA sample destroyed; and
(g) about the right of the individual to revoke consent to the genetic analysis at any time prior to the commencement of the genetic analysis; and
(h) that revocation of consent for genetic analysis does not absolve the individual of responsibility for all relevant costs of the genetic analysis; and
(i) that the genetic analysis may yield information that should be communicated to a family member of the individual; and
(j) about the existence of, and protections afforded by, this Act; and
(k) about the availability, or the lack of availability, of optional genetic counselling.

16 Authorisation to collect, store and analyse DNA samples

(1) To be valid, the authorisation by an individual must comply with each of the following:
(a) the authorisation must be in writing, signed by the individual, and dated on the day of signature; and
(b) the authorisation must identify the person authorised to collect the DNA sample; and
(c) the authorisation must state the tissue to be collected and the method of collection; and
(d) the authorisation must include a description of all authorised uses of the DNA sample; and
(e) the authorisation must indicate whether the individual permits the sample to be retained after the analysis is completed, and if not, how the sample is to be disposed of after the analysis; and
(f) the authorisation must include provisions that permit the individual to consent to:
   (i) use of the DNA sample for research; and
   (ii) commercial use of the DNA sample, with a waiver of, or a provision for, economic benefit to the individual; and
   (iii) if the individual consents to use under subparagraph (i) or (ii), use without identifiers, or use with individual identifiers or codes retained, of the DNA sample; and
   (iv) notification, if individual identifiers or codes are retained, about information resulting from such use that may have implications for the individual or a family member of the individual; and
   (g) the authorisation must comply with additional provisions requiring informed consent by human subjects in research.

(2) The authorisation must be retained for the period during which the DNA sample is collected, analysed and stored.

(3) A copy of the completed authorisation must be provided to the individual.
Part 4 Discrimination prohibited

Section 17

Part 4—Discrimination prohibited

17 Genetic discrimination to be unlawful.

(1) It is unlawful for a person to do any act involving a distinction, exclusion, restriction or preference based on genetic information which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of any human right or fundamental freedom in the political, economic, social, cultural or any other field of public life.

(2) The reference in subsection (1) to a human right or fundamental freedom in the political, economic, social, cultural or any other field of public life includes a reference to any right of a kind referred to in a Convention.

(3) Subsection (1) does not apply in respect of the employment and insurance of persons, except as provided in this Part.

(4) The succeeding provisions of this Part do not limit the generality of subsection (1).

18 Discrimination by employers or potential employers

An employer may request or require or use the genetic information of an employee for the purpose of:

(a) permitting a genetically susceptible employee to avoid occupational exposure to substances with a mutagenic or teratogenic effect; or

(b) determining a genotype that is otherwise directly related to the work and is consistent with business necessity; but an employer must not request, require, or use the genetic information of an employee or a prospective employee for any purpose restricting any right or benefit otherwise due or available to the employee or the prospective employee.
19 Discrimination by insurers

An insurer may request or require or use the genetic information of an individual if the genetic information from a genetic analysis has already been undertaken and a genetic record exists, but an insurer must not:

(a) terminate, restrict, limit, refuse to renew, or otherwise apply conditions to the coverage of an individual or family member under the policy or plan involved, or restrict the sale of the policy or plan to an individual or family member on the basis of any genetic information about a healthy individual or a healthy family member, or on the basis of a request for or receipt of genetic services by an individual or family member; or

(b) discriminate against an individual’s family in the provision of insurance coverage; or

(c) require an applicant for insurance coverage, or an individual or family member who is enrolled under an insurance coverage policy or plan, to be subjected to genetic analysis or to be questioned about genetic information.
Part 5—Research

20 Research involving genetic analysis

(1) A DNA sample may be analysed as part of a research project only if the researcher has determined that:

(a) use of DNA samples is essential to the research project; and

(b) the potential benefit of the research project to society outweighs the potential risks to the research subjects, including psychosocial risks and intrusion into the privacy of the subjects that would result from genetic analysis of DNA samples; and

(c) the research protocol:

(i) contains adequate safeguards to protect against disclosure of genetic information that is generated by the research; and

(ii) satisfies the requirements of section 12; and

(iii) describes the intended uses of the DNA samples; and

(iv) prohibits inclusion of specific molecular genetic genotype information in records unless the subjects authorise such inclusion in writing; and

(v) with respect to protocols involving the use of DNA samples from subjects deceased prior to the commencement of this Act:

(A) provides a reasonable method for disclosing to the family members of a subject, the risks that are associated with genetic information of the subject that is generated by the research, and in reasonable medical judgment, can be effectively ameliorated, prevented or treated; and

(B) takes into account the right of family members to refuse to be informed about the genetic information; and
(vi) describes the availability, or lack of availability, of
genetic counselling related to the research project.

(2) For purposes of subparagraph (1)(c)(i), adequate safeguards against
disclosure of genetic information, at a minimum, include:
(a) satisfying any guidelines issued by the National Health and
Medical Research Council and approved by the Privacy
Commissioner under section 95 of the Privacy Act 1988; and
(b) ensuring that research subjects will not be identifiable in any
report or publication that results from the research without
their authorisation; and
(c) having procedures to remove or destroy any individual
identifiers at the earliest opportunity, consistent with the
purposes of the project and the terms of the authorisation of
the subjects involved.

(3) If the DNA sample of a subject is collected, stored or analysed in
connection with a research project, the researcher must ensure the
destruction of the DNA sample on the date of completion of the
project or withdrawal of the subject from the project, whichever
occurs first, unless the researcher obtains a specific authorisation of
the subject according to the provisions of this Act, to store the
sample after such date.

(4) If a research project includes genetic analysis of the family
members of a subject for pedigree analysis or linkage analysis:
(a) the genotype records must be stored in strict confidentiality;
and
(b) the process for obtaining the authorisation of the subject must
include information about:
   (i) the possibility that family members of the subject may
       learn genetic information about the subject as a result of
       a project; and
   (ii) the possibility that the project may determine that some
       family members are not genetic relatives; and
   (iii) the disposition of records and data generated during the
       project; and
Part 5 Research

Section 21

21 Disclosure of genetic information for research purposes

(1) Any person who stores genetic information of a subject may allow access to such information only with the written authorisation of the subject according to the provisions of this Act, and such information must be provided with individual identifiers, or codes, or no identifiers, according to the written authorisation of the subject.

(2) Notwithstanding subsection (1), a person who stores genetic information may grant access to such information solely for the purpose of inspection or review of the records containing the information if:

(a) the inspection or review is for the purpose of compiling data for statistical or epidemiological studies and genetic information that contains personal identifiers is not copied, removed from the records, or redisclosed in any way; and

(b) the person conducting the inspection or review certifies in writing:

(i) that the limitations in paragraph (a) will be complied with; and

(ii) that the person has complied with this Act; and

(iii) that the person has knowledge of liability for breaches of this Act.

22 DNA samples collected prior to the commencement date

(1) A DNA sample collected before the commencement of this Act may be analysed as part of a research project, unless the individual involved, within 3 years of the commencement of this Act, submits a written request that such sample be withdrawn or destroyed.

(2) Except as provided by this Act, genetic information collected as part of a research project described in this section may be disclosed
1 only with the authorisation of the individual involved or the
2 individual’s legal representative.
Part 6—Miscellaneous

23 Transferred possession of DNA samples

(1) Any person in possession of DNA samples and genetic information, who intends to transfer control of, or discontinue, activities or services related to the analysis of DNA samples, must inform the individual that the individual has the right to:
   (a) consent to the transfer of the samples or records containing the genetic information; or
   (b) order that the samples or records be returned to the individual; or
   (c) order that the samples or records be destroyed.

(2) If, within a period of 3 months after notification pursuant to subsection (1), the person receives no response from the individual, the person:
   (a) may destroy the samples or the records if the activities or services are discontinued; or
   (b) may place the samples and research records, without individual identifiers, in a tissue sample archive, according to prior instructions of the individual; or
   (c) may proceed with the intended transfer of the samples and records.

24 Genetic information, etc. derived from the unborn

(1) Where genetic information is available from genetic analysis before the birth of a person and about that person’s genome, the genetic information is the genetic information of the person’s biological mother but becomes the genetic information of that person when he or she is born alive.

(2) This section applies only to genetic information derived from the genome of the person, and does not include genetic information about other genomes.
(3) For the purposes of this Act, a person to whom subsection (1) applies is an individual.
Part 7—Privacy and discrimination complaints

Section 25

25 Investigation and determinations by the Privacy Commissioner

(1) An individual may complain about an act or practice that may be an interference with the privacy of the individual according to this Act by making a complaint to the Privacy Commissioner.

(2) Where a complaint has been made to the Privacy Commissioner under this section, Part V of the Privacy Act 1988 (except for paragraph 41(3)(a) and subsections 41(4), 52(3A) and 63(1)) applies as if the complaint were a complaint under section 36 of that Act.

26 Investigation and determinations by HREOC

(1) An individual may complain about an act or practice that may be genetic discrimination according to this Act by making a complaint to the Human Rights and Equal Opportunity Commission.

(2) Where a complaint has been made to the Human Rights and Equal Opportunity Commissioner under this section, Division 3 of Part II of the Human Rights and Equal Opportunity Commission Act 1986 (except for section 29) applies as if the complaint were a complaint under section 20 of that Act.
Part 8—Other breaches and penalties

27 Action for damages etc.

(1) This Part applies only if Part 7 does not apply.

(2) Any individual whose rights under this Act have been breached may maintain an action for damages or equitable relief, as provided for in this Part.

(3) In any action brought under this section, a court may order:
   (a) a person to comply with the provisions of this Act; and
   (b) any other appropriate equitable relief.

(4) Any person who negligently collects, stores or analyses a DNA sample of an individual in breach of this Act, or negligently induces another person to conduct such collection, storage or analysis, is liable to the individual for each such breach in an amount equal to:
   (a) any actual damages sustained as a result of the collection, storage or analysis, or $50 000, or an amount determined by the court, whichever is greatest; and
   (b) in any case in which such breach has resulted in profit or monetary gain, treble damages; and
   (c) in the case of a successful action under this section, the costs of the action and reasonable costs as determined by the court.

(5) Any person who wilfully collects, stores or analyses a DNA sample of an individual in breach of this Act, or wilfully induces another person to conduct such collection, storage or analysis, shall be liable to the individual for each such breach in an amount equal to:
   (a) any actual damages sustained as a result of the collection, storage or analysis, or $100,000, or an amount determined by the court, whichever is greatest; and
Part 8  Other breaches and penalties

Section 27

(b) such punitive damages as the court may allow; and

c) in the case of a successful action under this section, the costs of the
action as determined by the court.
Schedule 1—Notice to accompany disclosures

The following written statement must accompany each disclosure:

This information is obtained from the DNA sample of an individual and has been disclosed to you from confidential records protected under the Genetic Privacy and Non-discrimination Act 1998. Any further disclosure of the information without specific written authorisation of the individual is prohibited and is subject to the penalties under the Genetic Privacy and Non-discrimination Act 1998.