

1985

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

---

Presented and read a first time, 9 May 1985

(Attorney-General)

## A BILL

FOR

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

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

#### **Short title, &c.**

5      1. (1) This Act may be cited as the *Telecommunications (Interception) Amendment Act (No. 2) 1985*.

(2) The *Telecommunications (Interception) Act 1979*<sup>1</sup> is in this Act referred to as the Principal Act.

#### **Commencement**

10      2. (1) Subject to sub-section (2), this Act shall come into operation on the day on which it receives the Royal Assent.

(2) The amendment made by section 5 shall be deemed to have come into operation on 29 March 1985.

## Title

3. The title of the Principal Act is amended by inserting “or for the purpose of tracing the location of callers in emergencies” after “offences”.

## Telecommunications not to be intercepted

4. Section 7 of the Principal Act is amended— 5

(a) by omitting from paragraph (2) (a) “or” (last occurring);

(b) by adding at the end of sub-section (2) the following word and paragraph:

“; or (c) the interception of a communication pursuant to a request made, or purporting to be made, under sub-section 30 (1) or (2).”; 10

(c) by omitting from the end of paragraph (5) (b) “and”;

(d) by adding at the end of sub-section (5) the following word and paragraph:

“; and (d) a member of the Australian Federal Police, or an officer of the Police Force of a State or Territory, may, in the course of performing his or her duties as such a member or officer, communicate to another member of the Australian Federal Police or to another officer of a Police Force of a State or Territory, or to any other person whose assistance may be required in dealing with an emergency of the kind referred to in sub-paragraph 30 (1) (b) (i) or (ii), any information communicated to the member or officer in accordance with sub-section 30 (3).”; and 15 20 25

(e) by adding at the end the following sub-section:

“(8) A reference in sub-section (6) 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.”.

## Other documents or information may be given to Stewart Royal Commission 30

5. Section 7BA of the Principal Act is amended by inserting in sub-section (1) “, a law of a State” after “law of the Commonwealth”.

6. After section 25 of the Principal Act the following section is inserted:

## Evidentiary certificates

“25A. (1) The Managing Director of the Commission may issue a certificate in writing signed by the Managing Director setting out such facts as the Managing Director considers relevant with respect to acts or things done by or in relation to officers of the Commission for the purpose of enabling a warrant issued under section 20 to be executed. 35

“(2) A document purporting to be a certificate issued under sub-section (1) and purporting to be signed by the Managing Director of the Commission shall be received in evidence in a proceeding of a kind referred to in sub-section 40

7 (6) without further proof and is, in that proceeding, conclusive evidence of the matters stated in the document.”.

7. The Principal Act is amended by adding at the end the following Part:

5 **“PART V—EMERGENCY REQUESTS AUTHORIZING OFFICERS  
OF THE COMMISSION TO INTERCEPT  
TELECOMMUNICATIONS**

**Interpretation**

“29. In this Part, ‘member of a police force’ means—

- 10 (a) a member of the Australian Federal Police; or  
(b) an officer of the Police Force of a State or Territory.

**Emergency requests**

“30. (1) Where—

(a) a person is a party to a communication passing over a telecommunications system;

15 (b) as a result of information conveyed by another party to the communication (in this section referred to as the ‘caller’) and of any other matters, the first-mentioned person forms the honest belief that either of the following emergencies exist:

20 (i) another person (whether or not the caller) is dying, is being seriously injured or has been seriously injured;

(ii) another person (whether or not the caller) is likely to die or be seriously injured; and

(c) the first-mentioned person does not know the location of the caller, the first-mentioned person may—

25 (d) in a case where the first-mentioned person—

(i) is a member of a police force; and

(ii) is of the opinion that tracing the location of the caller is likely to be of assistance in dealing with the emergency,

30 request, or cause another member of a police force to request, an officer of the Commission to intercept, or to cause other officers of the Commission to intercept, the communication for the purposes of tracing the location of the caller; or

35 (e) in a case where the first-mentioned person is not a member of a police force—inform, or cause another person to inform, a member of a police force of the matters referred to in paragraphs (a), (b) and (c).

40 “(2) Where a member of a police force is so informed, the member may, if the member is of the opinion that tracing the location of the caller is likely to be of assistance in dealing with the emergency, request an officer of the Commission to intercept, or to cause other officers of the Commission to intercept, the communication for the purposes of tracing the location of the caller.

“(3) Where, pursuant to a request made, or purporting to be made, by a member of a police force under sub-section (1) or (2), an officer of the Commission intercepts a communication passing over a telecommunications system for the purpose of tracing the location of the caller, the officer shall—

- (a) communicate, or cause another officer of the Commission to communicate, the location of the caller to the person who made the request or to any other member of a police force; and
- (b) communicate particulars of the interception to the Managing Director of the Commission.

**Annual report to be made to Minister concerning interceptions requested under this Part**

“31. (1) The Managing Director of the Commission shall, as soon as practicable after each 30 June, give to the Minister a report on the interceptions carried out pursuant to requests made, or purporting to be made, under sub-section 30 (1) or (2) during the year ending on that 30 June.

“(2) The Minister shall cause a copy of a report under sub-section (1) to be laid before each House of the Parliament within 15 sitting days of that House after receiving a copy of the report.

“(3) The first report under sub-section (1) shall relate to the period commencing on the day on which this section comes into operation and ending on 30 June 1986.

“(4) A report under sub-section (1) shall not be made in a manner that is likely to enable the identification of a person.

“(5) For the purposes of the application of section 34C of the *Acts Interpretation Act 1901*, a report that is required by sub-section (1) of this section to be given as soon as practicable after 30 June in a year shall be taken to be a periodic report relating to the administration of this Part during the year ending on that 30 June.”.

**Application**

8. Sub-section 7 (8) and section 25A of the Principal Act as amended by this Act apply in relation to proceedings instituted before or after the commencement of this section.

**NOTE**

1. No. 114, 1979, as amended. For previous amendments, see No. 181, 1979; Nos. 114 and 116, 1983; Nos. 6 and 116, 1984; and No. 8, 1985.