

1984

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

SENATE

TELECOMMUNICATIONS (INTERCEPTION) AMENDMENT BILL 1984

EXPLANATORY MEMORANDUM

(Circulated by the authority of the Attorney-General  
Senator the Honourable Gareth Evans)



## TELECOMMUNICATIONS (INTERCEPTION) AMENDMENT BILL 1984

### General Outline

The Telecommunications (Interception) Act 1979 prohibits the interception of telecommunications except where specially authorized in the interests of security or in connection with inquiries related to narcotics offences. It also prohibits the communication of information obtained by an interception except as provided by the Act. Where such information relates or appears to relate to the commission, or intended commission, of an offence against the law of the Commonwealth or of a State or Territory, being an offence punishable by imprisonment for life or for a period, or maximum period, of 3 years, it may be communicated to a member of the Australian Federal Police for the purposes of investigations into the offence or to an officer of the Police Force of a State or Territory, as the case may be. Such information may also be given in evidence in specified prosecutions and specified proceedings under the Customs Act 1901.

In order that information obtained by an interception might be lawfully communicated to the New South Wales Special Commissions of Inquiry, constituted by Mr Justice Cross, Parliament passed the Telecommunications (Interception) Amendment Act 1983. That Act created a scheme whereby the Attorney-General, upon a request by Mr Justice Cross for specific information, may make available information obtained by the lawful interception of communications to the Special Commissions of inquiry. The Act provided that before the Attorney-General passes on such information, he must be satisfied that it is relevant to the inquiry, that it relates, or appears to relate, to the commission or intended commission of an offence, punishable by imprisonment for life or for a period, or a maximum period, of 3 years and that it is proper for the information to be made available. The Attorney-General is also able to impose appropriate conditions relating to confidentiality on the use of the material.

Following a request by Mr Justice Cross, the Attorney-General communicated to him information, obtained by the Australian Federal Police by lawful interception of telecommunications, relevant to his Special Commission of Inquiry concerning the circumstances surrounding the early release of certain prisoners. Mr Justice Cross subsequently resigned his commission before completing that inquiry.

The Governor of New South Wales has now appointed Mr Justice Slattery to conduct the Special Commission of inquiry into the circumstances surrounding the early release of certain prisoners. The Telecommunications (Interception) Amendment Bill 1984 is intended to allow the Attorney-General to authorize information previously communicated to Mr Justice Cross to be furnished to Mr Justice Slattery.

Notes on Clauses

Clause 1 - Short Title &c.

Formal

Clause 2 - Commencement

Formal

Clause 3 - Information may be forwarded to the Slattery Inquiry

This clause amends section 7A of the Principal Act

- (a) by substituting the "Honourable John Patrick Slattery" for the "Honourable Ronald Francis Cross" in the definition of "inquiry" in sub-section 7A(1); and
- (b) by substituting 27 March 1984 for 8 November 1983 in that same definition.

Clause 4 - Transitional

Sub-clause 4(1) - defines inquiry

Sub-clause 4(2) - provides that the Attorney-General may authorise information communicated in accordance with sub-section 7A(6) of the Principal Act to be given to the person conducting the inquiry.

Sub-clause 4(3) - (a) preserves the operation of sub-section 7A(7) of the Principal Act to the information authorised by sub-clause 4(2); and

(b) provides that the use that may be made of the information is subject to the same conditions as were imposed under sub-section 7A(6) of the Principal Act.

Sub-clause 4(4) - provides that sub-section 7(4) of the Telecommunications (Interception) Act 1979 does not apply to the communication of information in accordance with this section. Sub-section 7(4) makes it an offence to communicate information obtained by an interception except as provided.