

Agreement in Principle

Mr BARRY COLLIER (Miranda—Parliamentary Secretary) [11.31 a.m.]: I move:

That this bill be now agreed to in principle.

The Government is pleased to introduce the Surveillance Devices Amendment (Validation) Bill 2009. This very brief bill remedies a technical defect in certain warrants issued under the former Listening Devices Act 1984 by a Supreme Court judge during the period immediately before she was declared an eligible judge by the Attorney General. Before its repeal by the Surveillance Devices Act 2007, the Listening Devices Act 1984 prohibited the use of listening devices to record private conversations—except in circumstances set out in the Act—without the use of a warrant granted by an eligible judge. An eligible judge was a judge of the Supreme Court who had consented to being involved in the grant of warrants and in respect of whom a declaration was in force declaring the judge to be an eligible judge for the purposes of that Act.

The object of this bill is to amend the Surveillance Devices Act 2007 to validate certain warrants purporting to have been granted between 3 March 2008 and 7 March 2008 under the 1984 Act by an eligible judge when the judge concerned had given the requisite consent but in respect of whom a declaration was not yet in force. The validation puts beyond doubt the use of listening devices pursuant to the warrants granted in that period and ensures that evidence obtained under them by the use of the listening devices will not be inadmissible solely on the ground of any technical invalidity. It is not appropriate to go into specifics as to the prosecutions affected by the invalid warrants. In the interests of certainty, the Government proposes to remedy the technical defect in the affected warrants by a legislative amendment.

This bill makes a very specific amendment to the principal Act, which confines its effect to the warrants issued by one judge during a specific period. It does not validate any other warrants on any other grounds, or seek in any way to enlarge generally the scope to issue warrants or the bases on which they may be valid. In addition, it does not validate the warrants in issue in any respect other than that relating to the fact that the judge had consented but not yet been declared eligible. There is no suggestion that the technical invalidity in any way affected the level of scrutiny given to the warrant applications or the ultimate decision to grant them. Nor is there any suggestion that the applications were not made in good faith, or anything other than the mistaken belief that the judge was an eligible judge for the purposes of the Act. I commend the bill to the House.