

## Communications Interception Legislation Amendment (Ombudsman Oversight) Bill 2002

### Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

#### Overview of Bill

The object of this Bill is to:

- (a) provide for the Ombudsman to monitor the use of listening devices under the *Listening Devices Act 1984*, and to enable the Ombudsman to report to Parliament and to the Attorney General on the Ombudsman's findings and recommendations, and
- (b) enable the Ombudsman to furnish to Parliament reports made by the Ombudsman to the Minister administering the *Telecommunications (Interception) (New South Wales) Act 1987* under that Act.

#### Outline of provisions

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on the date of assent.

**Clause 3** is a formal provision giving effect to the amendments to the *Listening Devices Act 1984* set out in Schedule 1.

**Clause 4** is a formal provision giving effect to the amendments to the *Telecommunications (Interception) (New South Wales) Act 1987* set out in Schedule 2.

#### **Schedule 1 Amendment of Listening Devices Act 1984**

Section 5 of the *Listening Devices Act 1984* requires a person who uses a listening device without a warrant or authority to obtain evidence in connection with an imminent threat of serious violence or substantial damage to property, or a serious narcotics offence, to report to the Attorney General on the circumstances in which the device was used, and other matters.

**Schedule 1 [2]** amends section 5 to require such a report to be provided to the Ombudsman as well as to the Attorney General.

Section 19 of the *Listening Devices Act 1984* requires a person to whom a warrant has been granted to authorise use of a listening device to report to a Judge and to the Attorney General on specified matters about the use of the device, and also about the retrieval of the device in certain circumstances. **Schedule 1 [3]** amends section 19 to require such a report to be provided to the Ombudsman as well as to the Attorney General and a Judge.

**Schedule 1 [4]** inserts a new Part that enables the Ombudsman to monitor the use and retrieval of listening devices, and the use made of any evidence or information obtained by the use of listening devices, on the basis of reports provided to the Ombudsman. The Ombudsman may report on his or her findings or recommendations to the Attorney General, or to the Presiding Officer of each House of Parliament, or to both the Attorney General and the Presiding Officer of each House of Parliament.

**Schedule 1 [1]** makes a consequential amendment. **Schedule 1 [5]** provides for transitional matters

#### **Schedule 2 Amendment of Telecommunications (Interception) (New South Wales) Act 1987**

Section 11 of the *Telecommunications (Interception) (New South Wales) Act 1987* requires the Ombudsman to report to the Minister administering that Act about the Ombudsman's inspections of the records kept by authorities about warrants to intercept telecommunications issued under the *Telecommunications (Interception) Act 1987* of the Commonwealth. **Schedule 2 [1]** enables the Ombudsman to provide such a report to the Presiding Officer of each House of Parliament. **Schedule 2 [2]** makes a related amendment.