Second Reading

The Hon. PENNY SHARPE (Parliamentary Secretary) [5.04 p.m.], on behalf of the Hon. John Hatzistergos: I move:

That this bill be now read a second time.

I seek leave to incorporate my second reading speech in *Hansard*.

Leave granted.

The Government is pleased to introduce the Telecommunications (Interception and Access) (New South Wales) Amendment Bill 2008. The use of telephone interception continues to be an important tool of law enforcement. At the same time, the potential impact on the privacy of law-abiding individuals demands that interception is used only in accordance with strict, legislative guidelines. This role is fulfilled by the Commonwealth Telecommunications (Interception and Access) Act 1979. The Commonwealth Act protects the privacy of individuals who use the Australian telecommunications system by making it an offence to intercept communications other than in accordance with the Act. The Commonwealth Act also specifies the circumstances in which it is lawful for an interception to take place. This includes interceptions in connection with the investigation by law enforcement agencies of serious offences.

The Commonwealth Act permits authorised State law enforcement agencies to apply for warrants to intercept the rural telecommunications to assist in the investigation of prescribed offences. To facilitate this, the Telecommunications (Interception and Access) (New South Wales) Act 1987 lays out the administrative procedures that are to be followed by authorised New South Wales agencies such as the keeping and destruction of records. The Commonwealth Act has been amended a number of times in recent years, and this has given rise to concerns that in some respects, the New South Wales Act is no longer consistent with that Act. The Telecommunications (Interception and Access) (New South Wales) Amendment Bill 2008 will harmonise the provisions of the New South Wales Act with those of the Commonwealth Act.

I now turn to the detail of the bill. First, the bill will amend the definition of "certifying officer" and substitute the definition of "permitted purpose" so that those definitions correspond with the definitions in the Commonwealth Act in their application to New South Wales. Currently, the definition of "certifying officer" in the New South Wales Act includes the members of the New South Wales Crime Commission, which encompasses the commissioner and any assistant commissioners. However, the Crime Commission does not have assistant commissioners, directors and assistant directors making up its senior executive staff. The Commonwealth definition of "certifying officer" already includes such senior executive staff members. Similarly, the Commonwealth definition of "permitted purposes" for which intercepted material can be used has expanded beyond the definition in the New South Wales Act to include purposes pertaining to a number of New South Wales agencies including the New South Wales Police Force, the Independent Commission Against Corruption and the Police Integrity Commission. These amendments will bring the New South Wales Act into line with the Commonwealth provisions.

Secondly, the amendments will provide for the Inspector of the Police Integrity Commission and the Inspector for the Independent Commission Against Corruption to be eligible authorities for the purposes of the New South Wales Act. Again, the Commonwealth Act already identifies these agencies as eligible authorities, and the amendments will ensure the New South Wales Act is up to date. Thirdly, the amendments will provide for the record-keeping requirements for eligible authorities in New South Wales to be consistent with those for Commonwealth agencies. The record-keeping requirements of the Commonwealth Act have extended beyond what is currently captured by section 5 of the New South Wales Act. A possible consequence of this is that New South Wales authorities may no longer fulfil the preconditions to be declared eligible authorities under the Commonwealth Act. These amendments will rectify that situation.

Fourthly, the bill will provide for the Ombudsman to have comparable powers to the Commonwealth Ombudsman to obtain information or ask questions when conducting an inspection of an eligible authority's records. The new section 3A will outline when information or a question will be relevant to the Ombudsman's inspection. The amendments will also make provision for the New South Wales Ombudsman to exchange information with the Commonwealth Ombudsman in relation to certain matters concerning the administration of the New South Wales Act and the Commonwealth Act. Section 92A of the Commonwealth Act provides for the exchange of information between the Commonwealth Ombudsman and a State Ombudsman regarding eligible authorities from that State, but there is no equivalent provision in the New South Wales Act. These amendments will provide for the exchange of information.

Finally, the amendments will remove the requirement for authorities to provide copies of warrants issued to them to the New South Wales Minister. Section 6 of the New South Wales Act currently requires authorities to provide copies of warrants to the State Minister, with the State Minister required by section 7 of the Act to pass them on to the Commonwealth Minister. Earlier this year, section 59A was inserted into the Commonwealth Act requiring State authorities to forward copies of warrants directly to the Commonwealth Minister. Removing the section 6 requirement will reduce the unnecessary handling of documents. In summary, recent changes to the Commonwealth Telecommunications (Interception and Access) Act have led to differences between the new South Wales and the Commonwealth Acts. These amendments will address those differences. I commend the bill to the House.