

Privacy and Personal Information Protection Amendment (Prisoners) 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 prohibit damages from being payable for contraventions of privacy laws in relation to persons serving sentences of imprisonment.

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 *Privacy and Personal Information Protection Act 1998* (the **Principal Act**).

Schedule 1 Amendments

Under Part 5 of the Principal Act, a person who is aggrieved by the conduct of a public sector agency in relation to contraventions relating to personal information may apply, firstly, for an internal review by the agency of its conduct and, secondly, to the Administrative Decisions Tribunal (the **Tribunal**), if dissatisfied with the internal review's findings or any action taken by the agency in relation to the application. On an internal review, the agency (or the Privacy Commissioner acting for the agency) may pay monetary compensation. On a review, the Tribunal may make an order for the payment of damages to the applicant of up to \$40,000 if satisfied that the applicant has suffered financial loss, or psychological or physical harm, because of the agency's conduct.

Schedule 1 [2] and [5] prohibit payment of monetary compensation by an agency, or an order for compensation being made by the Tribunal, if:

- (a) the applicant is a convicted inmate or a former convicted inmate or a spouse, partner, relative, friend or associate of a convicted inmate or a former convicted inmate, and
- (b) the application relates to conduct in relation to the convicted inmate or former convicted inmate, and
- (c) the conduct occurred while the convicted inmate or former convicted inmate was a convicted inmate or in relation to any period during which the convicted inmate or former convicted inmate was a convicted inmate.

Schedule 1 [1] defines **convicted inmate**, which means persons serving a full-time sentence of imprisonment, whether as a result of a court sentence, failure to pay monetary penalties or the revocation of a periodic detention order, home detention order or parole order.

Schedule 1 [3] and [4] make consequential amendments.

Schedule 1 [6] and [7] enable savings and transitional regulations to be made consequent on the proposed amendments.