



New South Wales

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.

First print



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Privacy and Personal Information Protection Amendment (Prisoners) Bill 2002

No. _____, 2002

A Bill for

An Act to amend the *Privacy and Personal Information Protection Act 1998* to prohibit damages from being payable for contraventions of privacy laws in relation to persons serving sentences of imprisonment; and for other purposes.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Privacy and Personal Information Protection Amendment (Prisoners) Act 2002</i> .	3 4
2 Commencement	5
This Act commences on the date of assent.	6
3 Amendment of Privacy and Personal Information Protection Act 1998 No 133	7 8
The <i>Privacy and Personal Information Protection Act 1998</i> is amended as set out in Schedule 1.	9 10

Schedule 1 Amendments

(Section 3)

[1] Section 3 Definitions

Insert in alphabetical order:

convicted inmate has the same meaning as it has in the
Crimes (Administration of Sentences) Act 1999.

[2] Section 53 Internal review by public sector agencies

Insert after section 53 (7):

(7A) A public sector agency may not pay monetary compensation
under subsection (7) if:

(a) the applicant is a convicted inmate or former convicted
inmate or a spouse, partner, relative, friend or an
associate of a convicted inmate or former convicted
inmate, and

(b) the application relates to conduct of a public sector
agency 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
relates to any period during which the convicted inmate
or former convicted inmate was a convicted inmate.

[3] Section 54 Role of Privacy Commissioner in internal review process

Insert “, (7A)” after “Section 53 (7)” in section 54 (5).

[4] Section 55 Review of conduct by Tribunal

Omit “subsection (3)” from section 55 (2) (a).

Insert instead “subsections (4) and (4A)”.

[5] Section 55 (4A)	1
Insert after section 55 (4):	2
(4A) The Tribunal may not make an order under subsection (2) (a) if:	3
(a) the applicant is a convicted inmate or former convicted inmate or a spouse, partner, relative, friend or an associate of a convicted inmate or former convicted inmate, and	4
(b) the application relates to conduct of a public sector agency in relation to the convicted inmate or former convicted inmate, and	5
(c) the conduct occurred while the convicted inmate or former convicted inmate was a convicted inmate, or relates to any period during which the convicted inmate or former convicted inmate was a convicted inmate.	6
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[6] Schedule 4 Savings, transitional and other provisions	16
Omit “this Act.” from clause 1 (1). Insert instead:	17
the following Acts:	18
this Act	19
<i>Privacy and Personal Information Protection Amendment (Prisoners) Act 2002</i>	20
	21
[7] Schedule 4, clause 1 (2)	22
Omit “this Act”. Insert instead “the Act concerned”.	23