



New South Wales

Privacy and Personal Information Protection Amendment (Exemptions Consolidation) Bill 2015

Explanatory note

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

Overview of Bill

The objects of this Bill are:

- (a) to amend the *Privacy and Personal Information Protection Act 1998*:
 - (i) to allow public sector agencies to disclose personal information to interstate persons or bodies or Commonwealth agencies for certain purposes, and to collect, use and disclose personal information for certain research purposes, based on existing exemptions applicable to health information under the *Health Records and Information Privacy Act 2002*, and
 - (ii) to make it clear that the exemptions in the Act relating to law enforcement and related matters extend to law enforcement and related matters for the purposes of another State or a Territory or the Commonwealth, and
 - (iii) to extend the meaning of *investigative agency* to include certain additional public sector agencies with investigative functions or that conduct an investigation on behalf of another public sector agency, and
- (b) to amend the *Privacy and Personal Information Protection Act 1998*, certain other Acts and the *Privacy Code of Practice (General) 2003* to consolidate and rationalise exemptions to the information protection principles under the *Privacy and Personal Information Protection Act 1998* based on certain long term exemptions under public interest directions made by the Privacy Commissioner.

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 a day or days to be appointed by proclamation.

Schedule 1 Amendment of Privacy and Personal Information Protection Act 1998 No 133

Schedule 1 amends the *Privacy and Personal Information Protection Act 1998* (the **Principal Act**) to:

- (a) allow public sector agencies to disclose personal information to interstate persons or bodies or Commonwealth agencies for certain purposes, and to collect, use and disclose personal information for certain research purposes, based on existing exemptions applicable to health information under the *Health Records and Information Privacy Act 2002* (see also the *Direction on Disclosures of Information by Public Sector Agencies for Research Purposes* as renewed by the Privacy Commissioner on 19 June 2015 for the period 1 July 2015 to 31 December 2015), and
- (b) make it clear that the exemptions in the Principal Act relating to law enforcement and related matters extend to law enforcement and related matters for the purposes of another State or a Territory or the Commonwealth, and
- (c) extend the meaning of **investigative agency** to include certain additional public sector agencies with investigative functions or that conduct investigations on behalf of other public sector agencies with investigative functions, and
- (d) incorporate (with some changes) the following exemptions to the application of the information protection principles under the Principal Act based on current public interest directions of the Privacy Commissioner:
 - (i) an exemption to allow certain public sector agencies to share information with certain credit agencies about whether a person is or was a debtor under a default judgment (see the *Direction relating to the Disclosure of Information to Credit Reporting Agencies* as renewed by the Privacy Commissioner on 19 June 2015 for the period 1 July 2015 to 31 December 2015),
 - (ii) an exemption to allow public sector agencies to exchange information to allow them to deal with correspondence from Ministers and members of Parliament or other inquiries or for auditing or law enforcement purposes (see the *Direction on Information Transfers between Public Sector Agencies* as renewed by the Privacy Commissioner on 19 June 2015 for the period 1 July 2015 to 31 December 2015),
 - (iii) an exemption to allow an investigative agency to use personal information for the purpose of exercising its complaint handling functions or other investigative functions or to disclose such information to a complainant for certain purposes (see the *Direction on Processing of Personal Information by Public Sector Agencies in relation to their Investigative Functions* as renewed by the Privacy Commissioner on 19 June 2015 for the period 1 July 2015 to 31 December 2015).

Schedule 2 Amendment of other Acts and an instrument

2.1 Coroners Act 2009 No 41

Schedule 2.1 amends the *Coroners Act 2009* to enable the Attorney General, on behalf of the State, to enter into information sharing arrangements with certain kinds of persons or bodies responsible for the creation or maintenance of databases under which specified NSW coronial information can be provided and included in the databases. The proposed amendment also allows NSW coronial information to be provided in accordance with such an arrangement despite any prohibition in, or the need to comply with any requirement of, any Act or law (in particular, the *Privacy and Personal Information Protection Act 1998* and the *Health Records and Information Privacy Act 2002*). See the *Direction on Disclosures of Information by the New South Wales*

Public Sector to the National Coronial Information System (NCIS) as renewed by the Privacy Commissioner on 19 June 2015 for the period 1 July 2015 to 31 December 2015.

2.2 Privacy Code of Practice (General) 2003

Schedule 2.2 amends the *Privacy Code of Practice (General) 2003* to:

- (a) allow human services agencies to collect personal information about individuals other than their clients if the information is reasonably relevant and reasonably necessary to enable the agency to provide services to a relevant client (see the *Direction on the Collection of Personal Information about Third Parties by NSW Public Sector (Human Services) Agencies from their Clients* as renewed by the Privacy Commissioner on 19 June 2015 for the period 1 July 2015 to 31 December 2015), and
- (b) update existing exemptions from the information protection principles to incorporate the public sector agencies covered by, and some of the provisions of, the *Direction for the Department of Families and Community Services and Associated Agencies* as renewed by the Privacy Commissioner on 19 June 2015 for the period 1 July 2015 to 31 December 2015.

2.3 Victims Rights and Support Act 2013 No 37

Schedule 2.3 amends the *Victims Rights and Support Act 2013* to allow certain government sector agencies, despite certain information protection principles under the *Privacy and Personal Information Protection Act 1998*:

- (a) to disclose information to which a victim of crime or family victim is entitled under the Charter of Victims Rights (or to collect, use or disclose information that is incidental to that purpose), or
- (b) to disclose information that is reasonably necessary to inform a victim of crime or a family victim about the general location or movements of a serious offender of whom they were the victim.

See the *Direction on the Disclosure of Information to Victims of Crime* as renewed by the Privacy Commissioner on 19 June 2015 for the period 1 July 2015 to 31 December 2015.