

**TELECOMMUNICATIONS (INTERCEPTION) WESTERN AUSTRALIA AMENDMENT BILL 2010**

*Introduction and First Reading*

Bill introduced, on motion by **Mr R.F. Johnson (Minister for Police)**, and read a first time.

Explanatory memorandum presented by the minister.

*Second Reading*

**MR R.F. JOHNSON (Hillarys — Minister for Police)** [12.14 pm]: I move —

That the bill be now read a second time.

This bill amends the Telecommunications (Interception) Western Australia Act 1996. The Western Australian legislation was enacted to approve a state authority as an eligible authority for the purposes of the commonwealth act, the Telecommunications (Interception) Act 1979.

This state legislation enables WA Police and the Corruption and Crime Commission to use the commonwealth act to investigate serious crime in Western Australia. Since the state legislation was enacted in 1996, there have been a number of amendments to the commonwealth act. Consequently, the state legislation now needs to be amended to accurately reflect amendments made to the commonwealth legislation.

Access to stored communications: In 2006, the inclusion of new provisions concerning access to stored communications resulted in the title of the commonwealth act being changed to the Telecommunications (Interception and Access) Act 1979. These new provisions prohibit access to stored communications such as email, SMS and voicemail messages stored on a carrier's equipment, except when authorised in specified circumstances. The addition of these provisions addresses the operational difficulties faced by law enforcement agencies as a result of modern telecommunications services. The bill before us, therefore, predominantly contains amendments relating to the renaming of the legislation and the renumbering of the relevant provisions.

Revised notification requirements: The bill also implements the revised notification provisions introduced in 2008. Previously, our state authorities—WA Police and the Corruption and Crime Commission—were required to send copies of all warrants and revocation notices to the relevant state minister who was then obliged to forward copies to the relevant commonwealth minister. It is now required that these documents be sent directly to the secretary of the relevant commonwealth department. This means that under the commonwealth act there is no need for the relevant state minister to be given copies of warrants or any revocation of warrants. Despite the change in notification requirements under the commonwealth act, it remains open for the state to require the continuation of its reporting obligation on the part of WA Police and the Corruption and Crime Commission. In this way, the relevant state minister remains aware of the matters that WA Police and the Corruption and Crime Commission are engaged in under the commonwealth act. It is to be noted that an obligation to report annually to the relevant state minister and for the state minister to report to the commonwealth minister remains in respect of the use made by the authority of information obtained under a warrant.

Authorisation of certifying officers: The bill also contains a minor amendment enabling the commissioner of the Corruption and Crime Commission to authorise a commissioned officer as a certifying officer under the commonwealth act. This power, while existing in the commonwealth act at subsection 5AC(9), was not previously reflected in the state act. This omission resulted in the Corruption and Crime Commission finding that the requirements of the legislation were not able to be fully met. Under the commonwealth act, the commissioner has the power to authorise an officer of the agency of an equivalent level to that of a senior executive officer within the meaning of the Western Australian Public Sector Management Act 1994 to be a certifying officer for the purposes of the commonwealth act. Certifying officers are authorised to issue written certificates, which may be received into evidence in an exempt proceeding without further proof. As it stands, this power is restricted to the commissioner and his or her deputy. This bill contains matters that are necessary to ensure that our legislation is consistent with the commonwealth legislation and that of other Australian jurisdictions.

I commend the bill to the house.

Debate adjourned, on motion by **Mr M. McGowan**.