

EXPLANATORY MEMORANDUM

Telecommunications (Interception) Western Australia Amendment Bill 2010

Outline

The Bill will amend the *Telecommunications (Interception) Western Australia Act 1996* ('the State Act') to transfer relevant provisions from the *Telecommunications (Interception and Access) Act 1979* ('the Commonwealth Act') (as amended). The State Act enables WA police officers to use the Commonwealth Act to investigate serious crime.

Part 1 – Preliminary

Clause 1 Short Title

This clause cites the short title of the Act as the *Telecommunications (Interception) Western Australia Amendment Act 2010*.

Clause 2 Commencement

Clause 2 sets out the commencement provisions. Part 1 comes into operation upon the Royal Assent. The remaining clauses come into operation on a day fixed by proclamation. This will enable WA Police to make necessary changes before the Act becomes operative.

Part 2 – *Telecommunications (Interception) Western Australia Act 1996* amended

Clause 3 The Act amended

This clause is a formal provision specifying the Act being amended by this part.

Clause 4 Long title amended

This clause amends the long title of the State Act to reflect the addition of the words "and Access" to the name of the Commonwealth Act.

Clause 5 Section 1 amended

This clause amends the short title of the State Act to reflect the addition of the words "and Access" to the name of the Commonwealth Act.

Clause 6 Section 3 amended

This clause:

- (1) deletes the definition of “Part VI warrant” and inserts a definition of “Part 2-5 warrant” as this provision has been renumbered in the Commonwealth Act;
- (2) expands the definition of “certifying officer” to enable the Corruption and Crime Commission to authorise an officer of the Commission (of an equivalent level to that of a senior executive officer within the meaning of the *Public Sector Management Act 1994* of Western Australia) to be a certifying officer for the purposes of fulfilling the Commission’s responsibilities under subsection 5AC(9) of the Commonwealth Act;
- (3) amends the definition of “Commonwealth Act” to reflect the addition of the words “and Access” to the name of the Commonwealth Act.

Clause 7 Section 4 amended

Clause 7 replaces paragraph 4(b) with a new paragraph requiring the keeping of any written description made under section 59A(2) of the Commonwealth Act as section 53 to which the former paragraph refers has been repealed.

This clause further amends section 4 by inserting the word “and” after paragraphs (a) and (c) to leave no doubt as to the inclusiveness of the record keeping requirements.

Clause 8 Section 5 amended

Clause 8 replaces references to “Part VI” in subsections (1) and (1a) with references to “Part 2-5” to reflect the renumbering of provisions in the Commonwealth Act.

Clause 9 Section 6 amended

This clause replaces the reference to “Part IX” in section 6(1)(c)(i) with a reference to “Part 2-8” to reflect the renumbering of provisions in the Commonwealth Act.

Clause 10 Section 7 replaced

Clause 10 deletes section 7 and inserts an amended provision requiring a copy report to be given by the responsible State Minister to the Commonwealth Minister. References to warrants, previously made at paragraphs (a) and (b), are no longer required due to new notification requirements under section 59A of the Commonwealth Act (refer clause 7 above).

Part 3 – *Corruption and Crime Commission Act 2003* amended

Clause 11 Act amended

This clause is a formal provision specifying the Act being amended by this part.

Clause 12 Section 91 amended

This clause amends the reference to the Commonwealth Act to reflect the addition of the words “and Access” to the name of the Commonwealth Act.

Clause 13 Section 155 amended

This clause amends the reference to the Commonwealth Act to reflect the addition of the words “and Access” to the name of the Commonwealth Act.