

## **Law and Justice Legislation Amendment Bill 1989**

**Date Introduced:** 25 May 1989

**House:** House of Representatives

**Presented by:** Hon. Lionel Bowen, M.P., Attorney - General

### **Digest of Bill**

#### **Purpose**

This is an omnibus Bill that will make a number of non-contentious amendments to Acts administered by the Attorney-General's portfolio. The main amendments will create offences relating to unauthorised telecommunications call-switching and interception devices.

#### **Background**

The Royal Commission of Inquiry into Alleged Telephone Interceptions (the Commission) was established in March 1985. Inquiries by the Commission indicated that a number of retailers sell devices designed to intercept telephone conversations or capable of being adapted for that purpose. The Commission estimated that Australian sales of interception devices exceeded 30 000 in 1984. The most common interception device sold was the telephone induction coil. This consists of a suction cap which is fitted to the earpiece of a telephone and connected to a tape recorder. With this device, a party to a telephone conversation can record the conversation without the knowledge of another party. A similar device is the voice reactor, which instead of being attached by a suction cap, is wired into the circuitry of a telephone connected to a tape recorder. The Commission also reported that electronic equipment suitable for telephone interception is in most cases imported from overseas, is widely advertised within Australia, and that several magazines, readily accessible to the public, describe the technical capacity of telephone interception devices and the names of manufacturers and retailers. The Commission recommended that it should be an offence to sell or advertise for sale electronic devices designed for telephone interceptions and that such devices should be made prohibited imports.

In July 1986, as a result of resolutions passed by the House of Representatives and the Senate, a Joint Select Committee (the Committee) on Telecommunications Interception was appointed to examine and report on the Telecommunications (Interception) Amendment Bill 1986. In relation to the sale or advertisement of interception devices, the Committee recommended that devices designed solely for effecting interceptions should be prohibited imports, subject to control by Government licence for law enforcement purposes and that the manufacture, importation, advertising, sale, possession, installation or use of these devices should be made illegal, and subject to penalties. In April

1987, the Government's response to the recommendations of the Committee was tabled. While recognising the desirability of restricting the supply of interception devices, the Government expressed reservations about the proposed import prohibition on devices designed solely for effecting telecommunications interception, pointing to the problems inherent in detecting such devices amongst the mass of imported electronic products, and the lack of technical expertise in the Australian Customs Service available to identify the specific task for which an electronic device is intended.

## **Main Provisions**

### **Amendments to the *Crimes Act 1914***

New sections 85ZKA and 85ZKB will be inserted into the Act by clause 8 that provide offences for unauthorised telecommunications call – switching and interception devices. It will be an offence for a person to manufacture, advertise, display, or offer for sale, sell, use, operate or possess equipment which they ought reasonably to have known, that if connected to a Telecom network, would allow a person to send or receive communications from another person while they are using different lines. No offence will have been committed where a person has a permit for the connection of such equipment from the Australian Telecommunications Authority, or if the equipment is used, or intended to be used, by Telecom, AUSAT, or OTC. The maximum penalty for breach of this provision will be imprisonment for five years (proposed section 85ZKA).

It will be an offence for a person to manufacture, advertise, display or offer for sale, sell, use, operate or possess a device (assembled or in parts) they ought reasonably to have known is capable of intercepting a communication passing over a telecommunication system. No offence will have been committed where an interception is done by a Telecom, AUSAT, or OTC employee in the course of their duties; to identify or trace a person who has breached the Act; or in certain prescribed circumstances. The maximum penalty for breach of this provision will be imprisonment for five years (proposed section 85ZKB).

### **Amendments to the *Evidence Act 1905***

A new Part IIIC (proposed sections 7ZA – 7ZG) will be inserted into the Act by clause 25 that will allow the Attorney – General to prohibit evidence being produced for use in foreign civil or commercial proceedings, where the Attorney – General is satisfied the evidence would harm Australia's security.

For further information, if required, contact the Law and Government Group.

27 June 1989

**Bills Digest Service  
Legislative Research Service**

This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.

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