

1998

The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

**Privacy Amendment (Office of the
Privacy Commissioner) Bill 1998**

No. , 1998

(Attorney-General)

**A Bill for an Act to create the Office of the Privacy
Commissioner, and for related purposes**

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1 **A Bill for an Act to create the Office of the Privacy**
2 **Commissioner, and for related purposes**

3 The Parliament of Australia enacts:

4 **1 Short title**

5 This Act may be cited as the *Privacy Amendment (Office of the*
6 *Privacy Commissioner) Act 1998*.

7 **2 Commencement**

8 (1) Subject to subsection (2), this Act commences on a day to be fixed
9 by Proclamation.

10 (2) If this Act does not commence under subsection (1) within the
11 period of 6 months beginning on the day on which this Act

1 receives the Royal Assent, it commences on the first day after the
2 end of that period.

3 **3 Schedule(s)**

4 Each Act that is specified in a Schedule to this Act is amended or
5 repealed as set out in the applicable items in the Schedule
6 concerned, and any other item in a Schedule to this Act has effect
7 according to its terms.

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2 **Schedule 1—Office of the Privacy**
3 **Commissioner**

4 **Part 1—Privacy Act 1988**

5 **1 Part IV (heading)**

6 Repeal the heading, substitute:

7 **Part IV—Office of the Privacy Commissioner**

8 **2 Division 1 of Part IV (heading)**

9 Repeal the heading, substitute:

10 **Division 1—Office of the Privacy Commissioner**

11 **19 Establishment of the Office of the Privacy Commissioner**

12 (1) The Office of the Privacy Commissioner is established by this
13 section.

14 (2) The Office of the Privacy Commissioner consists of the Privacy
15 Commissioner and the staff as mentioned in section 26A.

16 **3 Section 19 (last occurring)**

17 Re-number as section 19A.

18 **4 After section 26**

19 Insert:

20 **26A Staff and consultants**

21 (1) The staff necessary to assist the Commissioner must be persons
22 appointed or employed under the *Public Service Act 1922*.

23 (2) The Commissioner has all the powers of, or exercisable by, a
24 Secretary under that Act, so far as those powers relate to the
25 branch of the Australian Public Service comprising the staff

1 mentioned in subsection (1), as if that branch were a separate
2 Department of the Australian Public Service.

3 (3) The Commissioner may engage as consultants persons with
4 suitable qualifications and experience. The terms and conditions on
5 which a consultant is engaged are as determined by the
6 Commissioner.

7 **5 Paragraph 36(4)(a)**

8 Omit “Human Rights and Equal Opportunity Commission”, substitute
9 “Commissioner”.

10 **6 Paragraph 83(a)**

11 Omit “Commission”, substitute “Commissioner”.

12 **7 Section 96**

13 Omit “the staff referred to in section 43 of the *Human Rights and Equal*
14 *Opportunity Commission Act 1986*” (wherever occurring), substitute
15 “his or her staff”.

16 **8 Section 96**

17 Before “on behalf of” (wherever occurring), insert “for or”.

18 **9 At the end of subsection 96(1) (after the penalty)**

19 Add:

20 Note: This subsection and subsection (2) also apply to persons who were
21 members of the staff of the Commission at any time before the
22 separate Office of the Privacy Commissioner was established: see Part
23 3 of Schedule 1 to the *Privacy Amendment (Office of the Privacy*
24 *Commissioner) Act 1998*.

25 **10 Section 99**

26 Omit “the staff of the Human Rights and Equal Opportunity
27 Commission”, substitute “his or her staff”.

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2 **Part 2—Human Rights and Equal Opportunity**
3 **Commission Act 1986**

4 **11 At the end of paragraph 8(1)(d)**

5 Add “and”.

6 **12 Paragraph 8(1)(e)**

7 Repeal the paragraph.

8 **13 Subsection 8(7)**

9 Omit “, Privacy Commissioner”.

10 **14 Section 43A**

11 Omit “staff and”.

12 Note: The heading to section 43A is altered by omitting “**staff and**”.

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2 **Part 3—Transitional**

3 **15 Section 96 still applies to pre-commencement staff**

4 Despite the amendment of section 96 of the *Privacy Act 1988* by item 7
5 of this Schedule, that section continues to apply, in relation to persons
6 who, at any time before this item commenced, were staff referred to in
7 section 43 of the *Human Rights and Equal Opportunity Commission*
8 *Act 1986*, as if the amendment had not been made.

9 Note: Section 96 of the *Privacy Act 1988* is about non-disclosure of private information.

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Schedule 2—Consequential amendment

Crimes Act 1914

1 Subsection 85ZZA(3)

Omit “staff of the Human Rights and Equal Opportunity Commission”,
substitute “Privacy Commissioner’s staff”.