



INFORMATION, ANALYSIS
AND ADVICE FOR THE PARLIAMENT

INFORMATION AND RESEARCH SERVICES

Bills Digest
No. 9 2002–03

Communications Legislation Amendment Bill
(No. 1) 2002

ISSN 1328-8091

© Copyright Commonwealth of Australia 2002

Except to the extent of the uses permitted under the *Copyright Act 1968*, no part of this publication may be reproduced or transmitted in any form or by any means including information storage and retrieval systems, without the prior written consent of the Department of the Parliamentary Library, other than by Senators and Members of the Australian Parliament in the course of their official duties.

This paper has been prepared for general distribution to Senators and Members of the Australian Parliament. While great care is taken to ensure that the paper is accurate and balanced, the paper is written using information publicly available at the time of production. The views expressed are those of the author and should not be attributed to the Information and Research Services (IRS). Advice on legislation or legal policy issues contained in this paper is provided for use in parliamentary debate and for related parliamentary purposes. This paper is not professional legal opinion. Readers are reminded that the paper is not an official parliamentary or Australian government document. IRS staff are available to discuss the paper's contents with Senators and Members and their staff but not with members of the public.

Inquiries

Members, Senators and Parliamentary staff can obtain further information from the Information and Research Services on (02) 6277 2646.

Information and Research Services publications are available on the ParlInfo database. On the Internet the Department of the Parliamentary Library can be found at:
<http://www.aph.gov.au/library/>

Published by the Department of the Parliamentary Library, 2002

INFORMATION AND RESEARCH SERVICES

Bills Digest
No. 9 2002–03

Communications Legislation Amendment Bill (No. 1) 2002

Sudip Sen
Law and Bills Digest Group
26 August 2002

Contents

Background and Purpose	1
Main Provisions	1
Schedule 1 - <i>Australian Communications Authority Act 1997</i>	1
Incorporation of instruments or writing from ‘time to time’ in determinations	1
Background to the Acts Interpretation Act provisions	2
Comment.	3
Schedule 2 – <i>Freedom of Information Act 1982</i>	4
The proposed amendment.	4
The case	5
Comment.	6
Schedule 3 – <i>Radiocommunications Act 1992</i>	8
Schedule 4 – <i>Telecommunications Act 1997</i>	8
Schedule 5 – <i>Telecommunications (Consumer Protection and Service Standards)</i> <i>Act 1999</i>	9
Endnotes.	10

Communications Legislation Amendment Bill (No. 1) 2002

Date Introduced: 27 June 2002

House: House of Representatives

Portfolio: Communications, Information Technology and the Arts

Commencement: The various commencement dates for the 5 schedules are noted below.

Background and Purpose

As the Schedules to the Bill are unrelated, each Schedule will be discussed separately under the Main Provisions heading below.

Main Provisions

Schedule 1 - *Australian Communications Authority Act 1997*.

Incorporation of instruments or writing from 'time to time' in determinations

Proposed section 54A would enable the Australian Communications Authority (ACA) to make a determination that provides for matters by reference to instruments or 'writing' that may change in the future (known as incorporation of an instrument as it exists 'from time to time'), or may not yet exist at the time of its making. In particular, the ACA may define an expression by applying, adopting, or incorporating (with or without modifications) material contained in any other instrument or writing whatever.

The Explanatory Memorandum (EM) states that the reason for this is to 'avoid unnecessary administrative work for the ACA'. The EM also explains that the provision is consistent with the equivalent flexible precedents in section 314A of the *Radiocommunications Act 1992* and section 589 of the *Telecommunications Act 1997*, both of which also allow the ambulatory (changeable) incorporation of any instrument in writing, even if they do not exist at the time of making.¹

The EM to the Telecommunications Act described section 589 'as essential for the ACA's delegated legislation making, including the making of standards.'² The EM to section

Warning:

This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.

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

314A of the Radiocommunications Act stated that the need to amend determinations that cross-referenced a determination every time it changed had ‘proved to be a heavy administrative burden.’³

The general issue for all provisions that incorporate material that is not itself set out in the legislation is whether they meet the general principle that legislation be clear on its face and that powers to make laws are not delegated inappropriately. Specific grounds for the incorporation of material exist in the *Acts Interpretation Act 1901* (AIA) and its State and Territory equivalents.⁴

Background to the Acts Interpretation Act provisions

In 1964, section 49A of the AIA was introduced with the intention of clarifying the circumstances in which regulations may prescribe matters by reference to other instruments. The provision allows for the incorporation of laws and regulations from time to time, but only for the incorporation of other types of instruments or writing as they exist at the time. The provision was introduced for convenience: to ensure that when there was a variation to the High Court scale of witness’ expenses, that other scales which referred to it did not need to be separately amended every time there was a change. However, as a matter of principle, it was concluded that if there was to be a power to prescribe by reference to instruments that might themselves be altered from time to time, the power should be limited to references to Commonwealth legislative instruments because they are under the control of Parliament.⁵ This was subsequently expanded with the introduction of section 46A in 1987.⁶

Section 46A states that where a provision of a law confers a power to make an instrument (however described) and expressly provides that it is a disallowable instrument, then except so far as that law provides, it is to be treated as if it were a regulation under section 49A. This extended the scope of section 49A beyond regulations to other disallowable instruments. However, the practical effect of section 46A is that the instruments that are incorporated from time to time must be made under the same provision that supported the principle instrument. That is, if any material in a disallowable instrument is made under a different provision of the Act, then it can only be adopted as it appears at that time.⁷ Section 54(2) of the *Australian Communications Authority Act 1987* states that the determinations in the **proposed clause 54A** are disallowable instruments under section 46A of the AIA.

The Attorney-General’s Department conducted a review of the AIA in 1998 in which it noted an argument that section 49A should permit ambulatory (changeable) incorporation in any delegated legislation (whether itself disallowable or not) of any instrument that is disallowable. It also noted that section 49A would be replaced if the Legislative Instruments Bill 1996 had passed.⁸ In particular, that Bill contained rules as to appropriate consultation for the introduction of legislative instruments.⁹ However, those amendments have not yet been reintroduced.

Warning:

This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.

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

Comment

Proposed section 54A would override the AIA (subsection 4) and has the potential to introduce uncertainty in so far as it could permit the incorporation of any material that may change or, in particular, does not exist at the time of making. Examples of non-legislative instruments cited in the proposed amendments are international technical standards or performance indicators (**proposed paragraph 54A(2)(f)**) or written agreements or arrangements or writing made unilaterally (**proposed paragraph 54A(2)(g)**).

Traditionally, the courts had not been receptive to legislation by reference. However, it is now generally accepted that incorporation alone should not invalidate legislation. Professor Dennis Pearce notes that ‘there is much to commend the [more flexible] view expressed in later cases, provided always that the instrument that is incorporated by reference is readily available.’¹⁰ There is also authority for the proposition that legislation can incorporate instruments as in force from time to time.¹¹ Pearce notes that section 32(2) of the *Victorian Acts Interpretation Act 1984* does not permit the time to time reference to other instruments unless they are expressly permitted by the empowering provision. Amendments to the incorporated instruments must be notified, tabled and available for inspection at the department administering the regulation. However, other states such as New South Wales (section 42 of the *Interpretation Act 1987*) and Queensland (section 23 of the *Statutory Instruments Act 1992*) do not have such requirements. Pearce is of the view that the Victorian approach which provides for notification, parliamentary review and availability of amendments ‘seems to be essential if the community is not to be subjected to changes in the law of which it will have no knowledge’.¹²

In this case, balanced against any concerns about the possibility of uncertainty, is the existence of equivalent provisions that are operating within the industry to permit the reliance upon material in other instruments in writing. For example, in responding to Senate Standing Committee on the Scrutiny of Bills’ concerns about section 314A of the Radiocommunications Act, the Minister gave assurances about extensive consultation processes within the industry. That Committee was also ‘prepared to accept that the technical nature of the standards involved in [that] process [suggested] that it may be appropriate’.¹³ Also, as noted above, the determinations themselves are disallowable instruments which provides a degree of accountability.

Any determinations made under this power should be considered on a case by case basis, taking into account the context in which they are made, and in a way that balances the need for legislative certainty and transparency against the degree of administrative burden this may cause.

Commencement: the day after Royal Assent.

Warning:

This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.

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

Schedule 2 – *Freedom of Information Act 1982*

This set of amendments aims to prevent access under the *Freedom of Information Act 1982* (the FOI Act) to offensive Internet content so that it does not undermine the operation of the current scheme for online regulation.

The proposed amendment

Section 7(2) of the FOI Act provides for exemptions for certain classes of documents described in Part II of Schedule 2 to that Act. The proposed amendments add ‘exempt Internet-content documents’ to this list of agencies with respect to classes of exempt documents.

The definition of the material that falls within the class exemption is important. **Item 1** inserts the following definition of an exempt Internet-content document in the FOI Act:

- a document that contains information (falling within the broad definition in the *Broadcasting Services Act 1992*, the BSA) that has been copied from the Internet *and* was offensive Internet content when it was accessible on the Internet, *or*
- a document that sets out how to access, or that is likely to facilitate access to, offensive Internet content (eg. by setting out the name of an Internet site, an Internet Protocol (IP) address, a Universal Resource Locator (URL), a password, or the name of a newsgroup).

‘Offensive Internet content’ is defined to include prohibited content and potential prohibited content (**item 2**). In effect, this means any material that has been, or is ‘substantially likely’ to be:

- refused classification (RC) or classified X, or
- if hosted in Australia, classified as restricted (R) and is not subject to a restricted access system approved by the Australian Broadcasting Authority (the ABA).

Items 3-5 add the ABA, Classification Board, Classification Review Board, and the Office of Film and Literature Classification (OFLC) to the list of agencies with class exemptions in Division 1 of Part II of Schedule 2 to the FOI Act. The class is described as ‘exempt Internet-content documents concerning the performance of a function, or the exercise of a power, under Schedule 5 to the BSA’.

The Second Reading Speech states that the release of material acquired during the course of an ABA investigation would undermine the policy and objects of a scheme to regulate prohibited online content. That scheme was introduced as Schedule 5 of the BSA by the *Broadcasting Services Amendment (Online Services) Act 1999* and commenced in July 1999.¹⁴

The relevant policy objectives of the online services regulation scheme are to:

Warning:

This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.

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

- restrict access to certain Internet content that is likely to cause offence to a reasonable adult, and
- to protect children from exposure to Internet content that is unsuitable for children.

At present, the ABA and the Office of Film and Literature classification (OFLC) do not have any class-of-document exemptions from the FOI Act. The EM states:

If the ABA were to be obliged to disclose such information under the FOI Act, its statutory function of regulating on-line content would be largely frustrated. This is because once documents are released under the FOI Act, their subsequent use and dissemination cannot be controlled.¹⁵

The case

The issues raised by this amendment are discussed in detail in [Electronic Frontiers Australia Inc and Australian Broadcasting Authority \[2002\]](#).¹⁶ In that case, Electronic Frontiers Australia (EFA) unsuccessfully sought information identifying prohibited content in documents about the operation of Schedule 5 of the BSA. The Administrative Appeals Tribunal (AAT) defined the issue at stake as the access to documents in so far as they reveal URLs and IPs of offensive Internet content.¹⁷

The AAT found in favour of the ABA's refusal to disclose information related to offensive Internet content because it fell within the exception in paragraph 40(1)(d) of the FOI Act. The exception states:

that a document is an exempt document if its disclosure would or could reasonably be expected to... have a substantial adverse effect on the proper and efficient conduct of the operations of the agency...

(2) this section does not apply to a document in respect of a matter in the document the disclosure of which under this Act would, on balance, be in the public interest.

The AAT agreed with the ABA's contention that the effectiveness of the complaint based regulatory scheme in Schedule 5 of the BSA would be undermined if the URLs and IPs were to be released to the public. In particular it noted that if this information was disclosed, it would frustrate the objects of the scheme because:

- there was a reasonable likelihood that access could be gained because it is reasonably likely that the prohibited Internet content could be moved to an overseas site, and
- 'INHOPE' (an international association against child pornography) members would not refer complaints about content that they have received (as the security of those URLs and IPs could not be categorically guaranteed)

Counter arguments which had been raised by EFA included that:

Warning:

This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.

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

- some of the information sought related to decisions that were unrelated to child pornography and in some cases were rated MA 15+
- this kind of censorship should not occur in secret without transparency and public accountability, and¹⁸
- there is no equivalent concern about the public availability of classification information in the off-line world (ie. the OFLC makes *all* of its classification decisions available on a public database).

During the hearing, the EFA also submitted that it did not expect to receive the actual URLs or IPs for child pornography as possession of this information would be an offence under various State and Territory legislation in any case.¹⁹

EFA also raised general concerns about the transparency of classification decisions, and in particular, those that are not related to child pornography. EFA stated:

We consider that even if the ABA is able to support its assertion that disclosure of identifying information about prohibited and potential prohibited content would prejudice its activities, disclosure of information about non-prohibited content and content classified R would not prejudice its activities in any meaningful way.²⁰

The AAT accepted submissions from the ABA which countered these concerns about the transparency of its decision making. In particular, it notes that the ABA and OFLC were developing protocols about appropriate mechanisms to notify the public of classification decisions in this area:

OFLC and ABA have agreed on a format that does not contain information likely to lead a person to the prohibited content. Each item will contain a very short description of the type of content and possibly a date on which it was classified.²¹

EFA notes that these protocols had still not been developed as at June 2002 and questions the existence of such protocols.²²

EFA considered that the scope of the material that it was refused was too broad. It claims that the information that it was refused included certain material that was subsequently not prohibited, ie. classified MA 15+. Moreover, EFA stated its belief that 117 of the 129 documents in issue were not related to child pornography.²³ It also considered that a class exemption would be inappropriate, as it did not differentiate between the classes of information that falls within the definition of offensive Internet content, much of which is available to adults offline. To claim the exemption, the ABA needs to be satisfied that there is a 'substantial likelihood' that material is likely to be classified prohibited content.

Comment

Although the AAT held that the exemption under section 40(1)(d) of the FOI Act was sufficient in this case, the position is still uncertain. In particular, the AAT noted that '*on*

Warning:

This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.

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

this occasion, considerations favouring disclosure are outweighed by the substantial adverse effect that we consider would result from disclosure.’²⁴ The proposed amendments would remove any doubt that the ABA and OFLC could refuse an FOI request for information that would allow access to an exempt Internet-content document as defined.

The proposed amendments achieve their purpose of protecting the scheme in Schedule 5 of the BSA from being undermined by the release of material that would identify offensive Internet content, irrespective of the merits of the scheme itself.²⁵ The proposed amendments and the decision of the AAT also acknowledge the special nature of online content as compared to content in the offline world and that extra care should be taken in the way in which information about offensive material is disclosed.

It is worth emphasising that the AAT found that the documents sought were exempt *in so far as they reveal* URLs and IPs. However, under the proposed amendment, a document that is considered by the ABA ‘to be likely to facilitate access to offensive Internet content’ is an exempt Internet-content document. In practice, it is in the nature of a class exemption that entire documents, rather than parts of them, are exempt. However, it should be remembered that the FOI Act does not place obligations on an agency to refuse any information. Indeed, subject to ‘protecting essential public interests’, the object of the FOI Act is to:

extend as far as possible the right of the Australian community to access information in the possession of the Government... [and] that any discretions conferred... shall be exercised as far as possible so as to facilitate and promote, promptly and at the lowest reasonable cost, the disclosure of information.²⁶

EFA’s main concern appears to be the potential for the ABA to use the FOI class exemption to prevent access to a much broader range of material.

In general, it can be said that the proposed amendments reflect the imperfect nature of the attempts to regulate on-line services and the greater potential to access material on-line. Whether a class exemption for all of the material in an offensive Internet-content document is too broad remains a matter for debate.

Commencement: The commencement of the amendments has been backdated to **27 June 2002**, ie. the day of introduction. As a general rule, provisions that may affect substantive rights are not supposed to have retrospective application unless there are strong policy grounds for doing so. The EM notes the ‘desirability of having these amendments commence at the earliest possible date.’ This would enable the ABA and OFLC to claim this class exemption with regard to exempt Internet-content documents from an earlier time which may reduce the scope of any future FOI request.

Warning:

This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.

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

Schedule 3 – *Radiocommunications Act 1992*

The object of the *Radiocommunications Act 1992* is to manage the use of the radiofrequency spectrum.

At present, the objects clause in section 3 of the Act does not reflect the existing and proposed use of the spectrum by defence, law enforcement, national security, or emergency services agencies. **Item 1** inserts a **new paragraph 3(b)** to ensure that the objects of the Act reflect this particular use of the spectrum.

Section 27 of the Radiocommunications Act sets up a scheme that permits regulations to be made that would exempt certain acts from provisions, or specified parts of those provisions that regulate the use of the spectrum (Parts 3.1, 4.1 and 4.2).

Currently, exemptions exist for persons performing functions in relation to defence, policing and emergency services. The proposed amendments in **item 2** extend the operation of the exemptions for use by the following non-police law enforcement bodies:

- the NSW Independent Commission Against Corruption and the WA Anti-Corruption Commission
- the NSW Crime Commission and the Qld Crime and Misconduct Commission
- the National Crime Authority²⁷
- the NSW Police Integrity Commission, and
- bodies that investigate, prevent or prosecute serious crime that are covered by a written determination made by the Australian Communications Authority (the ACA). ‘Serious crime’ is defined as conduct that is punishable by imprisonment of 12 months or more.

Proposed new subsection 27(2) states that the written determinations by the ACA may determine that any or all acts or omissions by those bodies are exempt and notes that they are disallowable instruments.

The remaining proposed amendments provide for the allocation of spectrum or the issuing of various apparatus licenses to these bodies for the purposes of their investigations or operations.

Commencement: the day after Royal Assent.

Schedule 4 – *Telecommunications Act 1997*

Clause 40 of Schedule 3 to the *Telecommunications Act 1997* sets up a body known as the specially constituted ACA (the SC-ACA). The removal of this clause has the effect of abolishing this body.

Warning:

This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.

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

The EM states that the main role of the SC-ACA is to consider carriers' applications for facilities installation permits. It also notes that in the past 4 years, the carriers have not lodged any applications under clause 21 of the Schedule, preferring to utilise other avenues such as negotiations and court proceedings to progress potentially contentious applications. Any residual responsibilities will be undertaken by the ACA itself.

Commencement: **1 April 2003**, ie. the expiry of the 5 year terms of SC-ACA members.

Schedule 5 – *Telecommunications (Consumer Protection and Service Standards) Act 1999*

This schedule introduces 3 sets of amendments to the *Telecommunications (Consumer Protection and Service Standards) Act 1999*.

The first is to allow the Minister to vary the way in which contributions to the National Relay Service (NRS) are made. The NRS provides hearing and speech impaired people with access to a standard telephone service on comparable terms to others. It is currently funded by a quarterly levy imposed on telecommunications carriers. The EM states that there is a need to improve the mechanisms for these contributions.

For example, the EM cites the need to prevent a company such as One.Tel continuing to accumulate a levy debt that would then need to be absorbed by the Commonwealth rather than permitting its re-allocation among remaining carriers. This is achieved by linking the levy liability to the carrier's operation in the industry for the levy period.

Under the provisions, the Minister would have also have a broader power to not only vary liability to accommodate collapses, but vary the terms on which payments are calculated by approving a changed calculation formula (**proposed new subsection 100(2)**) and grant general exemptions for certain kinds of people (**proposed new subsection 94A(2)(b)**). Although the grounds for these variations and exemptions are not clear on the face of the legislation, all such determinations are instruments in writing and subject to disallowance.

Proposed subsection 128(4A) ensures that members regulated by the Telecommunications Industry Ombudsman (TIO) do not pass on their liability for TIO fees to their customers.

Proposed paragraph 128(6)(a) clarifies that the TIO may still investigate tariff levels that relate to charges or fees that are not directly related to the provision of services, such as early contract termination fees for mobile phone services.

Commencement: the day after Royal Assent.

Warning:

This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.

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

Endnotes

- 1 [Explanatory Memorandum](#) to the Communications Legislation Amendment Bill (No.1) 2002, p. 6.
- 2 Clause 573 of the Explanatory Memorandum to the Telecommunications Bill 1997 Vol 1., p. 123.
- 3 Explanatory Memorandum to the Communications and the Arts Legislation Amendment Bill 1994, item 119, p.19.
- 4 These rules vary in each State and Territory. See discussion below for further information about the different positions in relation to the incorporation of material from time to time. I limit this discussion to the background of the Commonwealth AIA, which is overridden by the proposed amendments (**proposed subsection 54A(4)**).
- 5 The Hon. Mr. Snedden, Attorney-General, 1st reading speech of the Acts Interpretation Bill 1964, 13 May 1964, *Hansard*, p. 1857.
- 6 Schedule 1 of the [Statute Law \(Miscellaneous Provisions\) Act 1987](#).
- 7 op. cit. 3.
- 8 See: [Review of the Commonwealth Acts Interpretation Act 1901](#), at: <http://www.ag.gov.au/aghome/legalpol/cld/aia/> and discussion of Legislative Instruments Bill 1996.
- 9 The extent of these requirements and the exemptions for them was a contentious matter in the history of this Bill. For further information about the Legislative Instruments Bill 1996 [No. 2], see [Bills Digest no. 148](#), Department of the Parliamentary Library, 1997-98. With regard to incorporation by reference, it is worth noting that clause 60 of that version of the Bill provided that any document incorporated in subordinate legislation by reference must (on request) be made available to the Parliament for inspection when an instrument of incorporation is tabled.
- 10 Dennis Pearce and Stephen Argument, *Delegated Legislation in Australia*, 2nd Edition, Butterworths, 1999, p. 277.
- 11 *Wright v TIL Services Pty* [1956] SR (NSW) 413.
- 12 *ibid.*, p. 279. For further information about legislation by reference also see Donald Gifford, *Statutory Interpretation*, Law Book Company, 1990 at: p. 90.
- 13 Senate Standing Committee for the Scrutiny of Bills, Fourth Report of 1995, pp. 55–56.
- 14 For further information about the online services regulation scheme, please see [Bills Digest no.179](#), 1998–99.
- 15 [Explanatory Memorandum](#) to the Communications Legislation Amendment Bill (No.1) 2002 Schedule 2, p. 8.
- 16 [Electronic Frontiers Australia Inc and Australian Broadcasting Authority \[2002\]](#), AATA 449 (12 June 2002). (EFA v ABA)

Warning:

This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.

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

- 17 *ibid.* para. 3. Further detailed information about EFA's submissions and perspective on the case is available from www.efa.org.au.
- 18 Refer also to the earlier [Senate Debate](#) on the original online services regulation Bill in which the issue of 'censorship on censorship' was raised. *Hansard*, 25 May 1999, p. 5271 ff.
- 19 See EFA [press release](#) of 13 June 2002 after the decision.
- 20 See the initial EFA [statement of facts and contentions](#).
- 21 EFA v ABA, *op cit.*16, para 61.
- 22 See [further information](#) at their website.
- 23 See: EFA's list of [frequently asked questions](#) about the case.
- 24 *Op cit* 16. para. 97.
- 25 The scheme itself is discussed in [Bills Digest no.179](#), 1998-99. *op. cit.*, 14. Note clause 95(1) of Schedule 5 which states that before 1 January 2003, the Minister must cause to be conducted a review of the operation of the scheme. The AAT encouraged the Minister to consider these issues in the review at para 97.
- 26 [s. 3 of FOI Act](#).
- 27 The [NCA](#) is due to commence operation as the Australian Crime Commission by 31 December 2002.

Warning:

This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.

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