



Corporations Amendment (No. 1) Bill 2010

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Law and Bills Digest Section

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Corporations Amendment (No. 1) Bill 2010

Date introduced: 29 September 2010

House: House of Representatives

Portfolio: Treasury

Commencement: sections 1–3: on Royal Assent; Schedule 1: on proclamation but, if any provision does not commence within six months from Royal Assent, it commences on the day after the end of that six month period.

Links: The links to the [Bill, its Explanatory Memorandum and second reading speech](#) can be found on the Bills home page, or through <http://www.aph.gov.au/bills/>. When bills have been passed they can be found at the ComLaw website, which is at <http://www.comlaw.gov.au/>.

Re-introduction of the Bill

The Corporations Amendment (No. 1) Bill 2010 (the Bill) was first introduced on 24 June 2010 but lapsed when Parliament was prorogued in July 2010.

The Bill was re-introduced on 29 September 2010 with no substantive changes.

Purpose

The Bill proposes to amend certain legislation in relation to:

- how people access information on company registers
- market offences and the Australian Securities and Investment Commission's (ASIC) powers to investigate those offences, and
- clarification of how long unsolicited offers made to purchase financial products off-market must remain open.¹

Background

This Background section deals only with the provisions concerning access to company registers. Background on other provisions of the Bill is found under the Main Provisions section of the Digest.

1. Explanatory Memorandum, Corporations Amendment (No. 1) Bill 2010, pp. 3 and 9.

Access to company registers

Presently, section 173 of the *Corporations Act 2001* allows anyone to inspect a register of shareholders without indicating why and how they intend to use the information. The unrestricted nature of this provision and the associated lack of privacy it affords shareholders has been the subject of debate in recent years.

The Parliamentary Joint Committee on Corporations and Financial Services (the Joint Committee), in its 2006–08 inquiry into shareholder participation in companies, received submissions, including from Chartered Secretaries Australia (CSA) strongly advocating legislative changes to protect the privacy of shareholders. CSA described the current legislative arrangements as an 'anachronism', mostly utilised nowadays for the nefarious purpose of making under-priced offers in an attempt to exploit uninformed shareholders. In their submission CSA wrote:

Modern technology makes the disclosure of shareholders' particulars vulnerable to predatory behaviour, in a way that is not possible with other forms of wealth holdings such as bank accounts and superannuation.

CSA notes that Australians understand their right to privacy, as embodied in legislation, and increasingly query why they have no right to privacy as investors. With the growth of the numbers of shareholders in Australia, the question of providing privacy and protection to them has become more urgent.²

CSA suggested that companies releasing their share register details to predatory parties served to further disengage shareholders, some of whom assume the offers are supported by the company.³

The Joint Committee agreed that universal access to shareholder registers is inconsistent with the privacy of personal information generally, and recommended the government should amend section 173 of the *Corporations Act* to limit access to the details of shareholders with non-substantial holdings, subject to a proper purpose test to allow access on certain conditions.⁴

The Rudd Government canvassed options for law reform in this area in two Treasury papers. In May 2009, the then Minister for Superannuation and Corporate Law released an Options Paper, *Access to Share Registers and the Regulation of Unsolicited Off Market Offers* which considered a number of ways in which the issues presented by unsolicited share offers could be addressed, including restricting access to company registers.

A further proposals paper, *Access to Company Registers and Related Issues* was released in February 2010. It contained four proposals namely:

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2. Parliamentary Joint Committee on Corporations and Financial Services, *Better shareholders – better company: shareholder engagement and participation in Australia*, June 2008, pp. 32–33, viewed 10 November 2010, http://www.aph.gov.au/Senate/committee/corporations_ctte/sharehold/report/report.pdf
 3. Ibid.
 4. Ibid, p. 34.

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- require a proper purpose for accessing a register to be demonstrated before a company is required to provide access
- set down a three-tiered fee structure for obtaining access to a register, with the fee chargeable to be based on the number of members a company has
- require a company to provide an electronic copy of its register in a format compatible with the requestor's software, and
- require a requestor who seeks access to a company's register which is kept electronically to view that register on computer.⁵

On 20 May 2010 the then Minister for Financial Services, Superannuation and Corporate Law, Chris Bowen released a draft bill and regulations providing a modified version of the proposals paper model. The Minister stated:

These reforms are required because previous investor protection measures, such as mandatory disclosure of a company's current share price, have failed to stop the continuing operation of share offer scams.

Unscrupulous operators have continued to prey on vulnerable investors, duping them into handing over their shares for well-below market prices. The Government is now acting to put these charlatans out of business.⁶

The Minister's media release continues:

The draft Bill released today will enable companies to refuse to hand over copies of their member registers where that information is not being sought for a proper purpose.

[...]

Associated draft regulations, also released today, specify a nonexhaustive list of improper purposes, including accessing a register for the purpose of making an off-market offer to purchase securities in a listed company. Genuine takeover bids will be exempted from this regime.

This legislation is designed to balance the needs of those seeking legitimate access to registers with the rights of those whose personal information is contained in the register.

The legislation will require persons seeking a copy of a company's register of members to state the purpose for which they will use the register.⁷

5. Treasury, *Access to Company Registers and Related Issues*, 2010, p. vi, viewed 10 November 2010, http://www.treasury.gov.au/documents/1716/PDF/Access_to_registers_proposals.pdf

6. C Bowen (former Minister for Financial Services, Superannuation and Corporate Law), *Government releases draft legislation to help put an end to below-value unsolicited share offer scams*, media release, 20 May 2010, viewed 10 November 2010, http://parlinfo.aph.gov.au/parlInfo/download/media/pressrel/3ZRW6/upload_binary/3zrw60.pdf;fileType=application%2Fpdf#search=%22corporations%20bill%20proper%20purpose%20%20|%20EBS%20AAP%22

The Minister also noted that the draft bill also contained provisions giving effect to the Government's commitment to increase criminal penalties for market offences, such as insider trading, and to provide ASIC with stronger powers to detect such offences.

The Bill was introduced into Parliament on 24 June 2010 but lapsed when Parliament was prorogued in July 2010. The Bill was re re-introduced on 29 September 2010 with no substantive changes.

The exposure draft regulations containing amongst other things the list of prescribed improper purposes are available at:

<http://www.treasury.gov.au/contentitem.asp?NavId=037&ContentID=1811>⁸

Committee consideration

The Bill has been referred to the Senate Economics Legislation Committee for inquiry and report by 16 November 2010 (the Senate inquiry).⁹

In addition, the Bill has been commented on by the Senate Standing Committee for the Scrutiny of Bills (the Scrutiny of Bills Committee).¹⁰ The Committee's several comments will be discussed in the relevant parts of the Key Provisions section of this Digest.

Policy position of major stakeholders

It is noted that several submissions have been lodged in relation to the inquiry by the Senate Economics Legislation Committee and will be addressed wherever relevant in Key Provisions section of this Digest.

Financial implications

The Explanatory Memorandum states that there will be no financial impact on the Government and that there will be, at most, minimal impact on business.¹¹

7. Ibid.

8. The exposure draft regulations state the following purposes are prescribed: (a) the solicitation of a donation from a member of a company; (b) the solicitation of a member of a company by a broker; (c) gathering information about the personal wealth of a member of a company; (d) making an offer mentioned in section 1019D of the Act. Note An offer mentioned in section 1019D of the Act is an unsolicited offer to purchase financial products off-market.

9. Details of the inquiry are at: Senate Economics Committee, Corporations Amendment (No. 1) Bill 2010, viewed 28 October 2010, http://www.aph.gov.au/senate/committee/economics_ctte/corps_amendment_2010/index.htm

10. Senate Standing Committee for the Scrutiny of Bills, *Alert Digest No. 8 of 2010*, 27 October 2010, viewed 28 October 2010, <http://www.aph.gov.au/senate/committee/scrutiny/alerts/2010/d08.pdf>

11. Explanatory Memorandum, op. cit., p. 4.

Key provisions

ASIC and search warrants to seize documents

Items 1–3 of the Bill propose amendments to the *Australian Securities and Investments Commission Act 2001* (the ASIC Act) designed to enable ASIC to apply for a search warrant under the ASIC Act without having to issue a notice to produce beforehand.

In particular, **item 1** of the Bill proposes to repeal and replace **subsection 35(1)** of the ASIC Act. Section 35 of that Act provides for applications for warrants to seize books that have not been produced. Currently, subsection 35(1), read in conjunction with provisions such as sections 30–33 of the ASIC Act, provides that an application for a search warrant can only be made in circumstances where ASIC has issued a notice to produce certain information and where such information has not in fact been produced.

Proposed subsection 35(1) would, in effect, enable ASIC to apply for a search warrant without having issued a notice to produce the material beforehand.

Item 2 of the Bill proposes to repeal and replace **subsection 36(1)** of the ASIC Act so as to enable a magistrate to issue a warrant in these circumstances.

Item 3 proposes to insert **new section 36A** into the ASIC Act in relation to the execution of a search warrant issued under section 36.

In general, before entering any premises under warrant, a member of the Australian Federal Police (AFP) must announce that he or she is authorised to enter the premises and give anyone at the premises an opportunity to allow entry. However, that requirement would not apply where the member of the AFP believes on reasonable grounds that immediate entry to the premises is necessary to ensure that the warrant is not frustrated—in other words, to avoid giving people under investigation opportunity to destroy incriminating material.

If the occupier is at the premises, the member of the AFP must ‘make available’ a copy of the warrant to the occupier. It is unclear whether this means give a copy of the warrant to the person or merely show the person the warrant. In addition, the occupier would be entitled to observe the search being conducted unless or until the occupier impedes the search.

Where books are seized under the warrant, a receipt must be provided for the books.

Comment

It is noted that certain aspects of what is proposed in **item 3** are not entirely consistent with the *Guide to Framing Commonwealth Offences, Civil Penalties and Enforcement Powers*.¹² In particular, it is noted that the proposed amendments do not include:

- a specific requirement for the AFP member to identify him or herself to the occupant of the premises nor to possess and show his or her identity card—**proposed paragraph 36A(1)(a)** simply requires the AFP member to announce that he or she is authorised to enter the premises, and
- a specific requirement to inform the occupier of his or her rights.

The Explanatory Memorandum does not appear to explain this.

The Scrutiny of Bills Committee noted that, in relation to these items:

The explanatory memorandum does not explain the reasons for these provisions. The Committee is concerned to understand why new powers are needed, whether the proposed power is too broad, what safeguards are in place to ensure that their use would be for a proper purpose and proportionate to the circumstances, and whether they are consistent with other similar powers. The Committee therefore **seeks the Treasurer's advice** about these matters.¹³

It is also noted that the Rule of Law Institute of Australia and the New South Wales Council for Civil Liberties expressed concern about proposed amendments enhancing ASIC's search warrant powers in such a way.¹⁴

Access to company registers

Background to the provisions dealing with company register access is set out above at pages 3 to 5 of the Digest.

Items 4–10 of the Bill propose amendments to the *Corporations Act 2001* (the Corporations Act) relating to access to company registers and the use of information obtained through such access.

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12. See, for example, Attorney-General's Department, *A Guide to Framing Commonwealth Offences, Civil Penalties and Enforcement Powers*, December 2007, pp. 81–85, viewed 21 October 2010, [http://www.ag.gov.au/www/agd/rwpattach.nsf/VAP/\(084A3429FD57AC0744737F8EA134BACB\)~A+Guide+to+Framing+Commonwealth+Offences,+Civil+Penalties+and+Enforcement+Powers.PDF/\\$file/A+Guide+to+Framing+Commonwealth+Offences,+Civil+Penalties+and+Enforcement+Powers.PDF](http://www.ag.gov.au/www/agd/rwpattach.nsf/VAP/(084A3429FD57AC0744737F8EA134BACB)~A+Guide+to+Framing+Commonwealth+Offences,+Civil+Penalties+and+Enforcement+Powers.PDF/$file/A+Guide+to+Framing+Commonwealth+Offences,+Civil+Penalties+and+Enforcement+Powers.PDF)
 13. Senate Standing Committee for the Scrutiny of Bills, op. cit., p. 18.
 14. See, in particular, Rule of Law Institute of Australia, *Submissions on the Corporations Law Amendment Bill No 1 of 2010*, pp. 6–7, 18 October 2010 and New South Wales Council for Civil Liberties, *Submission to the Senate Standing Committee for Economics concerning the Corporations Law Amendment Bill No. 1 of 2010*, 24 October 2010, pp. 2–3, both viewed 28 October 2010, at: http://www.aph.gov.au/senate/committee/economics_ctte/corps_amendment_2010/submissions.htm

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Under Chapter 2C of the Corporations Act, companies and registered schemes must set up and maintain a register of members and, where relevant, registers of option holders and debenture holders. Currently, under subsections 173(1) and (3) in particular, anyone can access these registers without indicating why and how they intend to use the information. According to the Explanatory Memorandum:

Increasingly, members' contact details are being used for purposes that are not considered proper or appropriate. There is currently no mechanism in the legislation to limit access to appropriate purposes.¹⁵

These inappropriate uses include:

organisations, such as charities, soliciting donations; brokers soliciting for clients; and making off-market low-value offers to purchase shares (unsolicited share offers, or USOs).

The Explanatory Memorandum comments that:

Offers to purchase shares generally occur on-market, or through legitimate commercial off-market offers including takeover bids, buybacks, share sale facilities, offers to wholesale investors, and foreign regulated takeover bids. However, a number of entities are in the business of offering to purchase shares off-market and unsolicited from shareholders for amounts that are usually substantially less than the going market rate.¹⁶

Items 6 and 8 of the Bill propose to amend **paragraph 173(3)(a)** and insert a **new subsection 173(3A)** so that anyone wishing to access a company register would have to apply to the company or registered scheme by lodging an application, in prescribed format stating each purpose for accessing the register. The application would be considered to be in accordance with subsection 173(3A) only if none of the purposes is prescribed in the regulations as being an improper purpose.¹⁷

This means that the company or scheme would be able to refuse access if any of the stated purposes is an improper purpose.

The Explanatory Memorandum states:

The Regulations will specify a number of improper purposes.

Where an applicant applies for a copy of the register for an improper purpose, the company can refuse to provide a copy.

...

15. Explanatory Memorandum, op. cit., p. 5.

16. Ibid., p. 21.

17. There is also a note added to the end of **new subsection 173(3A)** pointing to offences for providing false or misleading information or documents in sections 137.1 and 137.2 of the Criminal Code.

There are relatively few improper purposes targeted by the proper purpose test, however, where an improper purpose becomes evident it is important that the law be able to swiftly respond. The specification of improper purposes in the Corporations Regulations enables the law to keep pace with changes to the use of a register or members and to be amended more swiftly than if improper purposes were specified in the Corporations Act. Any changes to the Corporations Regulations would be subject to the approval of the Ministerial Council for Corporations, prior to being made by the Governor-General.¹⁸

The Government, in its Regulatory Impact Statement, also states:

... The four purposes that have been identified so far as improper uses of register information are: specific groups in the community (such as charities) soliciting donations from shareholders; brokers soliciting clients; obtaining information about the personal wealth of shareholders; and making off-market offers to purchase securities (other than for a takeover or an unlisted company). It is therefore proposed to undertake public consultation by way of a proposals paper which would include this revised version of the proper purpose test.¹⁹

In addition, **item 9** of the Bill proposes to insert **new subsection 177(1AA)** into the Corporations Act. Section 177 provides for the use of information on registers. Currently, under subsections 177(1) and 177(1A), a person must not use information obtained from the register about a person to contact or send material to that person; or disclose such information knowing that it is likely to be used for that purpose—unless the use or disclosure of the information is either relevant to the holding of interests recorded on the register or approved by the company or scheme.

The effect of the amendment proposed in **item 9** is that, in addition to the above, a person must not use information, which is kept on the register, for an improper purpose as prescribed in the regulations. Nor can a person disclose such information knowing that it is likely to be used for an improper purpose.

As a result of amendments proposed in **item 10** of the Bill to **subsections 177(1B), (2) and (3)** of the Corporations Act, existing provisions relating to strict liability, liability to pay compensation and profiting from using or disclosing information in the register for a prohibited purpose would also apply to **proposed section 177(1AA)**.

Comment

The provisions in the Bill regarding company register access generated some comment in the submissions to the Senate inquiry.

18. Ibid., p. 7.

19. Ibid., p. 25.

Chartered Secretaries Australia unequivocally supports the provisions, and commends the four improper purposes identified so far, noting also that the move to specify a non-exhaustive list of improper purposes in the Corporations Regulations allows flexibility in the future.²⁰

The **Law Council of Australia**, in evidence to the Senate inquiry noted that initially they had a problem with a proper purpose test on the basis that it may give too much power to companies to unilaterally determine what a proper purpose is. However Dr Greg Golding, from the Council noted that the initial proposal in the February 2009 paper has been changed and consequently they are happier with the Bill because it has been drafted to include a negative test of specifying improper purposes and allowing improper purposes to be more flexibly specified through a regulation power.

We think where Treasury has ended up is a good compromise if this system of regulation proceeds.²¹

The Aevum case

Item 12 of the Bill proposes to replace **subsection 1019G(1)** of the Corporations Act in keeping with the court's findings in [Aevum Ltd v National Exchange Pty Ltd](#).

Currently, subsection 1019G(1) provides that unsolicited offers to purchase financial products off-market cannot *remain open* for more than 12 months after the date of offer. In addition, subsection 1019G(2) provides that the offeror may *withdraw* the offer at any time but not within one month of the date of offer.

In *Aevum's* case, Justice Emmett stated that:

There is good reason why [s 1019G\(2\)](#) should be construed in accordance with that policy of the [Corporations Act](#), and the same policy in the ASIC Act, so as to provide that an offer to which Division 5A applies must remain open for at least one month. That is to say, s 1019G(2) is to be construed as requiring that an offer may not close within one month of the date of offer.²²

...

... [s 1019G\(2\)](#) should be construed as requiring that an offer to which Division 5A applies must remain open for at least one month, subject to being withdrawn in accordance with the provisions of Division 5A, such as [s 1019J](#) when there is an increase or decrease in the market value of shares.²³

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20. Chartered Secretaries Australia, *Submission on the Corporations Law Amendment No. 1 Bill 2010*, pp. 1–2, viewed 13 October 2010, at: http://www.aph.gov.au/senate/committee/economics_ctte/corps_amendment_2010/submissions.htm
21. G Golding (Law Council of Australia), Senate Economics Legislation Committee, Reference: Corporations Amendment (No. 1) Bill 2010, *Committee Hansard*, proof, 3 November 2010, p. E 16.
22. *Aevum Ltd v National Exchange Pty Ltd* [2004] FCA 1781 at [62].
23. *Ibid.*, at [111].

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Proposed subsection 1019G(1) would provide that unsolicited offers to purchase financial products off-market must remain open for at least one month after the date of offer and cannot remain open for more than 12 months after the date of offer.

Comment

Interestingly, there is no proposal to repeal subsection 1019G(2) which provides that an offerer may *withdraw* the offer at any time but not within one month of the date of offer. Yet, in light of **proposed subsection 1019G(1)**, it may be argued that current subsection 1019G(2) would be unnecessary.

Items 13 and **14** of the Bill propose consequential amendments to **paragraph 1019K(1)(b)** and **1021P(3)(c)** of the Corporations Act. These proposed amendments would mean that sections 1019K (rights where there is non-compliance with requirements of Division 5A) and 1021P (offences relating to offers made under Division 5A) would also apply to **proposed 1019G(1)**.

Penalties for offences under Corporations Act

Items 16 and **17** propose to amend **section 1312** of the Corporations Act.

Section 1312 currently provides that where a body corporate is convicted of an offence under this Act, the court may impose a penalty, which is a fine up to five times the maximum amount that the court, but for this section, could impose as a pecuniary penalty for that offence.

Item 16 rennumbers **section 1312** so that the provision becomes **subsection 1312(1)** and **item 17** inserts **new subsection 1312(2)**, providing that **proposed subsection 1312(1)** would not apply to particular existing offence provisions under the Act. These provisions include:

- section 1041A (market manipulation)
- subsection 1041B(1) (creating a false or misleading appearance of active trading)
- subsection 1041C(1) (entering into or engaging in a fictitious or artificial transaction or device—false trading and market rigging re-trading price)
- section 1041D (dissemination of information about illegal transactions), and
- subsections 1043A(1) and (2) (prohibited conduct by person in possession of inside information).

These offence provisions would be subject to new and increased penalties as set out in **item 20** below.

Items 19 and **20** propose to amend **Schedule 3 (table items 29 and 309B–312A)** in the Act, the effect being to change the penalties relating to certain offences regarding access to and use of information contained in registers of companies.

Item 19 deals with penalties relating to breaches of subsection 177(1) and new subsection 177(1AA). These offences relate to use of information on company registers and are referred to above.

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Penalties would be set at 50 penalty units and there would be no sanction of imprisonment.²⁴ The rationale given for these amendments is to ensure consistency of penalties for two similar offences and to remove a penalty of imprisonment for a strict liability offence.²⁵

Item 20 proposes to amend table items **309–312A** increasing the penalty for certain offences from 200 or 2000 penalty units (as the case may be) and five years imprisonment to:

- for individuals—4500 penalty units and/or three times the total value of benefits obtained, and which are, or can reasonably be attributed to, the commission of the offence as determined by the court, and
- for body corporates—45 000 penalty units; or three times the total value of benefits obtained, and which are, or can reasonably be attributed to, the commission of the offence as determined by the court; or if the court cannot make such determination, 10 per cent of the body corporate’s annual turnover during a specified period of time.

In addition, the maximum term of imprisonment for these offences when committed by an individual will be increased from five years to 10 years.

It is noted that the Explanatory Memorandum states:

Insider trading and market manipulation offences cause serious harm to the fair and efficient functioning of Australia’s financial markets. These markets function best when information is widely dispersed and investors have confidence in the fairness of markets. It is essential that the penalties associated with these offences reflect the serious impact that a breach can have on Australia’s financial markets.

...

The penalties for insider trading and market manipulation offences contained in the Bill also reflect that the benefit that can be gained from engaging in this conduct often far outweighs the maximum penalty that can currently be imposed for a breach.²⁶

It is also noted that the Scrutiny of Bills Committee commented that:

The explanatory memorandum at page 13 notes the seriousness of these offences for the operation of Australian financial markets and also notes that it is important to ensure penalties for these offences is considered in the context of the benefit that can be gained from engaging in the prohibited conduct. In the circumstances the Committee **leaves to the Senate as a whole** the question of whether the proposed increase in maximum penalties is appropriate.²⁷

24. Currently the penalty for a breach of subsection 177(1) is 10 penalty units and/or three months imprisonment.

25. Explanatory Memorandum, op. cit., p. 8.

26. Explanatory Memorandum, op. cit., p. 13.

27. Senate Standing Committee for the Scrutiny of Bills, op. cit., pp. 18–19.

Amendments to Telecommunications (Interception and Access) Act 1979

Item 21 proposes to insert **new subsection 5D(5C)** into the *Telecommunications (Interception and Access) Act 1979* (Interception and Access Act) by including insider trading and market misconduct provisions of the Corporations Act into the list of serious offences in the Interception and Access Act.

These offences include:

- section 1041A (market manipulation)
- subsection 1041B(1) (creating a false or misleading appearance of active trading)
- subsection 1041C(1) (entering into or engaging in a fictitious or artificial transaction or device—false trading and market rigging re-trading price)
- section 1041D (dissemination of information about illegal transactions), and
- subsections 1043A(1) and (2) (prohibited conduct by person in possession of inside information).²⁸

This means that an interception agency, like the AFP, would be able to apply for a telecommunications interception warrant during investigation of those offences, which includes ASIC investigations.²⁹

According to the Explanatory Memorandum:

The offences related to market misconduct have been identified as offences which should be included in the definition of ‘serious offence’ in section 5D of the TIA Act. However, the current level of criminal penalty imposable has been identified as insufficient.

...

Insider trading and other market offences are difficult to investigate as these offences by their very nature involve complex networks of people, technological sophistication and avoidance of paper and traceable communications. In addition, the transactions often occur in real time, meaning that telephone conversations are often the only evidence of the offence.³⁰

Comment

Again, while the Explanatory Memorandum offers the Government’s explanation of this move, it does involve an increase in the powers of regulators and agencies like the AFP.

28. See also **items 16 and 17** of the Bill above.

29. See *Telecommunications (Interception and Access) Act 1979* section 46.

30. Explanatory Memorandum, op. cit., p. 17.

Again, it is noted that both the Rule of Law Institute of Australia and the New South Wales Council for Civil Liberties expressed concern about proposed amendments effectively increasing the powers of interception agencies.³¹

It is noted that the Scrutiny of Bills Committee stated that:

Clearly, this has the potential to trespass on personal rights and liberties. However, the explanatory memorandum at page 17 emphasises the seriousness of these offences and that they are often difficult to investigate by means other than monitoring telephone communications. In the circumstances the Committee **leaves to the Senate as a whole** the question of whether telecommunications interception is an appropriate way to gather evidence in relation to these offences.³²

31. See, in particular, Rule of Law Institute of Australia, op. cit., p. 1 and New South Wales Council for Civil Liberties, op. cit., pp. 1–2.

32. Senate Standing Committee for the Scrutiny of Bills, op. cit., p. 19.

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