

26 February 2007

Committee Secretary
Senate Legal and Constitutional Affairs Committee
Parliament House
Canberra ACT

By Email: legcon.sen@aph.gov.au

Dear Sir/Madam,

Aus Check Bill

I refer to the above matter and this submission is made on behalf of the New South Wales Council for Civil Liberties in respect of the abovenamed legislation.

We are concerned that under Section 5(d) that the matters contained in a background check can be extended merely by regulation. There appears to be no limit on the type and quality of the information that may be provided by such a check.

We are also concerned that under Section 8(1)(c) regarding the establishment of the Scheme that the purposes of the Scheme can be extended merely by regulation. Given the incredibly sensitive nature of the information that is being handled by this Scheme we feel that this is far too broad and also inappropriate that purposes for this Scheme could be extended simply by mere regulation. This conclusion is further heightened by the extremely broad possible purposes which are enumerated at length in sub-section (2) of Section 8 of the Bill.

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We also note that sub-section (3) of Section 14 allows information to be used for research and planning albeit said to be de-identified information. It is not entirely clear from our reading of the Bill how the information will be “de-identified”. We feel that the information should not be made available for third party research unless there are very strict guidelines as to the removal of identifying information.

Overall, the Aus Check Bill is a continuation of the trend towards centralised databases at a national level. While this may give some greater convenience to users of the database it also carries with it a greater risk of misuse. Therefore it is important that the purposes of the Scheme are clearly identified in the legislation itself and further safeguards in respect of the use of the information are stringent.

These are only our preliminary observations in respect of the Bill given the short time in which there has been an ability to make submissions. Please do not hesitate to contact us further in respect of the above matter.

Yours faithfully,

David Bernie
Vice-President
NSW Council of Civil Liberties