



10 August 2007

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Dear Ms Morris,

**Northern Territory National Emergency Response Bill 2007 and related Bills**

I refer to: the *Northern Territory National Emergency Response Bill 2007*; the *Families, Community Services and Indigenous Affairs and Other Legislation Amendment (Northern Territory National Emergency Response and Other Measures) Bill 2007*; the *Family Assistance Legislation Amendment (Child Care Management System and Other Measures) Bill 2007*; and the *Social Security and Other Legislation Amendment (Welfare Payment Reform) Bill 2007*, all of which are currently being considered by the Senate Legal and Constitutional Committee.

All of these Bills raise a number of serious privacy issues. I will raise very briefly those matters that are of most concern to me, given their potential impact on the privacy rights of Victorians. There has not been an opportunity for a full submission to be developed, due to the haste in which these legislative changes have been introduced into the Parliament. There has been no consultation and no opportunity for the legislation to be properly considered, by the Parliament or the Australian community. This in itself is a matter of grave concern.

My comments will focus on the *Social Security and Other Legislation Amendment (Welfare Payment Reform) Bill*, as it appears to be the most likely of the suite of Bills to impact on the privacy rights of Victorians. In particular, Paragraphs 123ZB and 123ZEB of this Bill add to the already extensive powers of the Secretary of the Department of Human Services [in sections 192 and 195 of the *Social Security (Administration) Act 1999* (Cth)] to compulsorily obtain information. When read in conjunction with the definition of "Declared primary school area and declared secondary school area" in paragraph 123TG, it is clear that, if enacted, the Bill will potentially enable the Secretary to require each and every school in Victoria, government or non-government, to provide information about the enrolment and attendance of children at school. Such information

can then be used by the Secretary in order, [under paragraphs 123UD and 123UE], to make a person subject to the income management regime. This could in effect make schools information collectors on behalf of the Commonwealth and fundamentally alter the relationship between children, parents and schools. It is presumed that information collected in this manner from schools will be matched against Centrelink databases. Data matching poses significant privacy risks and can be far from reliable. Yet potentially the data matching with school attendance and registration records may result in a parent being subject to an income management regime without any apparent right of appeal against the decision.

Moreover, paragraph 123ZEB expressly overrides any State or Territory legislation which would prevent such disclosure, including the *Information Privacy Act 2000* (Vic). It is not clear what Constitutional power the Commonwealth is relying on to override State privacy legislation in this context.

In a similar fashion, paragraphs 123UC(b) and 123ZE allows a "child protection officer of a State or Territory", including Victoria, to give "...the Secretary a written notice requiring the person be subject to the income management regime". Paragraph 123ZE again expressly overrides any State or Territory legislation which would prevent such disclosure, including the *Information Privacy Act 2000* (Vic) and the secrecy provisions in the *Children, Youth & Families Act 2005* (Vic). This potentially undermines the delicate and sensitive system in which child protection and family welfare workers operate, if they are potentially perceived to be operating as agents for Centrelink or other federal Departments and could in fact work to the detriment of children at risk.

There are some concerns arising from the *Family Assistance Legislation Amendment (Child Care Management System and Other Measures) Bill 2007*, in relation to the collection and disclosure of information by "approved child care centres" to the Commonwealth, but there has not been an opportunity for these to be properly considered in this necessarily very brief submission, given the time restraints.

Yours sincerely,



HELEN VERSEY  
Privacy Commissioner