

Queensland



**TELECOMMUNICATIONS
(INTERCEPTION)
QUEENSLAND BILL 1998**

Queensland



TELECOMMUNICATIONS (INTERCEPTION) QUEENSLAND BILL 1998

TABLE OF PROVISIONS

Section	Page
PART 1—PRELIMINARY	
1 Short title	4
2 Commencement	4
3 Objective	4
4 Dictionary	4
PART 2—FUNCTIONS OF ELIGIBLE AUTHORITY	
5 Eligible authority to keep documents connected with issue of warrants . . .	5
6 Other records to be kept by an eligible authority in connection with interceptions	5
7 Documents to be given by an eligible authority to the Minister	6
8 Documents to be given by State Minister to Commonwealth Minister . . .	7
9 Keeping and destruction of restricted records	7
PART 3—FUNCTIONS AND POWERS OF PRINCIPAL INSPECTOR	
10 General functions and powers	8
11 Regular inspections of an eligible authority's records	8
12 Reports	9
13 Principal inspector may report on breaches	9
14 Principal inspector's general powers for inspections	10
15 Power to obtain relevant information	10
16 Principal inspector to be given information and access despite other laws	11
17 Dealing with information for inspection and report	12

Telecommunications (Interception) Queensland

18	Inspecting officer not to be sued	13
19	Delegation by principal inspector	13
20	Confidentiality provisions relating to inspecting officer	13
21	Exchange of information between principal inspector and Commonwealth ombudsman	14

PART 4—MISCELLANEOUS

22	Copies of reports for Commonwealth Minister	15
23	General confidentiality provision	15
24	Offences relating to inspections under pt 3	16
25	Proceeding for offence	17
26	Regulation-making power	17
27	Attachment	17

SCHEDULE	18
---------------------------	----

DICTIONARY

ATTACHMENT	21
-----------------------------	----

EXTRACTS FROM THE COMMONWEALTH ACT

1998

A BILL

FOR

**An Act to enable particular eligible authorities under the
Telecommunications (Interception) Act 1979 (Cwlth) to be
declared agencies under that Act and for other purposes**

The Parliament of Queensland enacts—

1

PART 1—PRELIMINARY

2

Short title

3

1. This Act may be cited as the *Telecommunications (Interception) Queensland Act 1998*.

4

5

Commencement

6

2. This Act commences on a day to be fixed by proclamation.

7

Objective

8

3. The main objective of this Act is to establish a recording, reporting and inspection regime to complement the *Telecommunications (Interception) Act 1979* of the Commonwealth, so that the Queensland Police Service, the Queensland Crime Commission and Criminal Justice Commission may use telecommunications interception as a tool for the investigation of particular serious offences prescribed under the Commonwealth Act.

9

10

11

12

13

14

Dictionary

15

4.(1) The dictionary in the schedule defines words used in this Act.

16

(2) Unless the contrary intention appears, expressions used in this Act that are not defined in the dictionary have the same respective meanings as in the Commonwealth Act.

17

18

19

PART 2—FUNCTIONS OF ELIGIBLE AUTHORITY**Eligible authority to keep documents connected with issue of warrants**

5. The chief officer of an eligible authority must cause to be kept in the authority's records—

- (a) each warrant issued to the authority; and
- (b) a copy of each notification under the Commonwealth Act, section 53(1)(b) of the issue of a warrant; and
- (c) each instrument revoking a warrant; and
- (d) a copy of each certificate issued under the Commonwealth Act, section 61(4) by a certifying officer of the authority; and
- (e) each authorisation by the chief officer under the Commonwealth Act, section 66(2).¹

Other records to be kept by an eligible authority in connection with interceptions

6.(1) The chief officer of an eligible authority must cause to be recorded in writing as soon as practicable after the happening of the event to which the particulars relate or the statement relates—

- (a) particulars of each telephone application for a part 6 warrant made by the authority; and
- (b) for each application by the authority for a part 6 warrant—a statement as to whether—
 - (i) the application was withdrawn or refused; or
 - (ii) a warrant was issued on the application; and
- (c) for each restricted record that has at any time been in the possession of the authority—particulars of—

¹ Commonwealth Act, section 53 (Notification to Australian Federal Police of issue of warrants to other agencies)
 Commonwealth Act, section 61 (Evidentiary certificates)
 Commonwealth Act, section 66 (Interceptor may communicate to agency to which warrant was issued)

Telecommunications (Interception) Queensland

(i) if the restricted record is a record obtained by an interception under a warrant issued to the authority—that warrant; and	1 2
(ii) each occasion when the restricted record came (whether by its making or otherwise) to be in the possession of the authority; and	3 4 5
(iii) each occasion (if any) when the restricted record stopped (whether by its destruction or otherwise) being in the possession of the authority; and	6 7 8
(iv) each agency or other body (if any) from or to which, or other person (if any) from or to whom, the authority received or supplied the restricted record; and	9 10 11
(d) particulars of each use made by the authority of lawfully obtained information; and	12 13
(e) particulars of each communication of lawfully obtained information by an officer of the authority to a person or body other than an officer of the authority; and	14 15 16
(f) particulars of each occasion when, to the knowledge of an officer of the authority, lawfully obtained information was given in evidence in a relevant proceeding in relation to the authority.	17 18 19
(2) The chief officer of an eligible authority is to cause to be kept in the authority's records each record that the chief officer has caused to be made under this section.	20 21 22
Documents to be given by an eligible authority to the Minister	23
7.(1) The chief officer of an eligible authority is to give to the Minister—	24
(a) a copy of each warrant issued to the authority, and of each instrument under the Commonwealth Act, section 52 or 57 ² revoking a warrant issued to the authority as soon as practicable after the issue or revocation of the warrant; and	25 26 27 28

² Commonwealth Act, section 52 (Judge may revoke warrant where section 51 contravened)
Commonwealth Act, section 57 (Revocation of warrant by chief officer of other agency)

(b) within 3 months after a warrant issued to the authority ceases to be in force, a written report about—	1 2
(i) the use made by the authority of information obtained by interceptions under the warrant; and	3 4
(ii) the communication of that information to persons other than officers of the authority; and	5 6
(c) as soon as practicable, and in any event within 3 months, after each 30 June, a written report that sets out the information that—	7 8
(i) the Commonwealth Act, part 9, division 2 ³ requires to be set out in the Commonwealth Minister's report under that division relating to the year ending on that 30 June; and	9 10 11
(ii) can be derived from the authority's records.	12
(2) A report under subsection (1)(c) is to include a statement of the total expenditure (including expenditure of a capital nature) incurred by the eligible authority in connection with the execution of warrants during the year to which the report relates.	13 14 15 16
Documents to be given by State Minister to Commonwealth Minister	17
8. The Minister is to give to the Commonwealth Minister, as soon as practicable after—	18 19
(a) a copy of a warrant issued to an eligible authority; or	20
(b) a copy of an instrument revoking a warrant issued to an eligible authority; or	21 22
(c) a report of a type mentioned in section 7(1)(b) or (c);	23
is given to the Minister, a copy of the warrant, instrument or report.	24
Keeping and destruction of restricted records	25
9.(1) The chief officer of an eligible authority is to cause a restricted record (whether made before or after the commencement of the	26 27

³ Commonwealth Act, part IX (Reports about interceptions under parts V and VI), division 2 (Reports by the Minister)

Commonwealth Act, section 35⁴) in the possession of the authority to be kept, except when it is being otherwise dealt with under the Commonwealth Act and this Act, in a secure place where it is not accessible to persons other than persons who are entitled so to deal with it. 1
2
3
4

(2) The chief officer of an eligible authority is to cause a restricted record of a type mentioned to in subsection (1) to be destroyed immediately if the chief officer is satisfied that the restricted record is not likely to be required for a permitted purpose in relation to the authority, other than a purpose connected with an inspection of the type mentioned in section 11⁵ or with a report on that type of inspection. 5
6
7
8
9
10

PART 3—FUNCTIONS AND POWERS OF PRINCIPAL INSPECTOR 11 12

General functions and powers 13

10. The principal inspector may— 14

- (a) inspect an eligible authority's records to ascertain the extent of compliance by the authority's officers with part 2;⁶ and 15
16
- (b) report to the Minister about the results of the inspections; and 17
- (c) do anything necessary or convenient for the performance of the functions mentioned in paragraphs (a) and (b). 18
19

Regular inspections of an eligible authority's records 20

11.(1) The principal inspector is to inspect an eligible authority's records at least once before 1 July 1999 to ascertain the extent to which the authority's officers have complied with part 2 since the commencement of this Act. 21
22
23
24

⁴ Commonwealth Act, section 35 (Preconditions for declaration)

⁵ Section 11 (Regular inspections of an eligible authority's records)

⁶ Part 2 (Functions of eligible authority)

(2) The principal inspector is to inspect an eligible authority's records at least twice during each financial year beginning on or after 1 July 1999 to ascertain the extent to which the authority's officers have complied with part 2 since the last inspection under this part of the authority's records.

(3) The principal inspector may at any time inspect the eligible authority's records to ascertain the extent to which the authority's officers have complied with part 2 during any period.

Reports

12.(1) The principal inspector, as soon as practicable, and in any event before 1 October 1999, is to report to the Minister in writing, in relation to an eligible authority, about the results of the inspection under section 11(1) of the authority's records.

(2) The principal inspector, as soon as practicable, and in any event within 3 months, after the end of each financial year, is to report to the Minister in writing, in relation to an eligible authority, about the results of the inspections under section 11(2), during that financial year, of the authority's records.

(3) The principal inspector may, and if the Minister asks, must, report to the Minister in writing at any time about the results of an inspection under this part.

(4) If the principal inspector has given a report to the Minister under subsection (1), (2) or (3), the principal inspector—

- (a) must give the Commonwealth Minister a notice that the report has been given; and
- (b) must give the chief officer of the eligible authority a copy of the report.

Principal inspector may report on breaches

13. If, as a result of an inspection under this part of an eligible authority's records, the principal inspector is of the opinion that an officer of the authority has contravened—

- (a) the Commonwealth Act; or

- (b) a requirement mentioned in section 7(1)(a) or (b);⁷ 1
- the principal inspector may include in the report on the inspection a report 2
on the contravention. 3

Principal inspector's general powers for inspections 4

14.(1) For an inspection under this part of an eligible authority's records, 5
the principal inspector— 6

- (a) may, after notifying the chief officer of the authority, enter at any 7
reasonable time premises occupied by the authority; and 8
- (b) is entitled to have full and free access at all reasonable times to all 9
records of the authority; and 10
- (c) despite any other law, is entitled to make copies of, and to take 11
extracts from, records of the authority; and 12
- (d) may require an officer of the authority to give the principal 13
inspector any information— 14
 - (i) that the principal inspector considers necessary, being 15
information that is in the officer's possession, or to which 16
the officer has access; and 17
 - (ii) that is relevant to the inspection. 18

(2) The chief officer of the eligible authority must ensure that the 19
authority's officers give to the principal inspector any help in connection 20
with the performance of the principal inspector's functions under this part 21
that the principal inspector reasonably requires. 22

Power to obtain relevant information 23

15.(1) If the principal inspector has reason to believe that an officer of an 24
eligible authority is able to give information relevant to an inspection under 25
this part of the authority's records, subsections (2) and (3) have effect. 26

(2) The principal inspector may, by notice given to the officer, require the 27
officer to give the information to the principal inspector— 28

⁷ Section 7 (Documents to be given by an eligible authority to the Minister)

(a) by writing signed by the officer; and 1

(b) at a stated place and within a stated period. 2

(3) The principal inspector may, by notice given to the officer, require the officer to attend— 3
4

(a) before a stated inspecting officer; and 5

(b) at a stated place; and 6

(c) within a stated period or at a stated time on a stated day; 7

to answer questions relevant to the inspection. 8

(4) If the principal inspector— 9

(a) has reason to believe that an officer of the eligible authority is able to give information relevant to an inspection under this part of the authority's records; and 10
11
12

(b) does not know the officer's identity; 13

the principal inspector may, by notice given to the chief officer of the authority, require the chief officer, or a person nominated by the chief officer, to attend— 14
15
16

(c) before a stated inspecting officer; and 17

(d) at a stated place; and 18

(e) within a stated period or at a stated time on a stated day; 19

to answer questions relevant to the inspection. 20

(5) The place, and the period or the time and day, stated in a requirement under this section are to be reasonable, having regard to the circumstances in which the requirement is made. 21
22
23

Principal inspector to be given information and access despite other laws 24 25

16.(1) Despite any other law, a person is not excused from giving information, answering a question, or giving access to a document, required under this part, on the ground that giving the information, answering the question, or giving access to the document— 26
27
28
29

(a) would contravene a law; or 30

(b) would be contrary to the public interest; or	1
(c) might tend to incriminate the person or make the person liable to a penalty.	2 3
(2) However—	4
(a) the information, the answer, or the fact that the person has given access to the document; and	5 6
(b) any information or thing (including a document) obtained as a direct or indirect consequence of giving the information, answering the question or giving access to the document;	7 8 9
is not admissible in evidence against the person other than in a prosecution for an offence against section 24. ⁸	10 11
(3) Nothing in any other law prevents an officer of an eligible authority from—	12 13
(a) giving information to an inspecting officer (whether orally or in writing and whether or not in answer to a question); or	14 15
(b) giving to an inspecting officer access to a record of the authority;	16
for an inspection under this part of the authority's records.	17
(4) Nothing in any other law prevents an officer of an eligible authority from making a record of information, or causing a record of information to be made, for the purposes of giving the information to a person as permitted by subsection (3).	18 19 20 21
Dealing with information for inspection and report	22
17.(1) This section applies if—	23
(a) information is given to an inspecting officer, as permitted by section 16(3) or this section, for an inspection, or for a report on an inspection, under this part of an eligible authority's records; or	24 25 26
(b) an inspecting officer obtains information as a result of being given access to a record of the eligible authority, as permitted by section 16(3), for an inspection under this part of an authority's	27 28 29

⁸ Section 24 (Offences relating to inspections under pt 3)

records.

(2) The inspecting officer may, despite any other law, give to another inspecting officer, make use of, or make a record of, the information for an inspection, or for a report on an inspection, under this part of the authority's records.

Inspecting officer not to be sued

18. Subject to section 20,⁹ an inspecting officer, or a person acting under an inspecting officer's direction or authority, is not liable to an action, suit or proceeding for or in relation to an act done, or omitted to be done, in good faith in the performance, or the purported performance, of a function conferred by this part.

Delegation by principal inspector

19.(1) The principal inspector may delegate to another inspecting officer who is appropriately qualified any of the principal inspector's powers under this Act, other than a power to report to the Minister.

(2) A delegate must, if asked by a person affected by the exercise of a power delegated to the delegate, produce the instrument of delegation, or a copy of the instrument, for the person's inspection.

(3) In this section—

“appropriately qualified” includes having the qualifications, experience or standing necessary to exercise the power.

Example of ‘standing’—

The level at which an inspecting officer is employed.

Confidentiality provisions relating to inspecting officer

20.(1) Anything that a person has done or omitted to do in the capacity of inspecting officer under this part is not to be included in a report made under an Act by the person in his or her capacity as the public interest monitor or as the holder of an office under another Act.

⁹ Section 20 (Confidentiality provisions relating to inspecting officer)

(2) Subject to section 16,¹⁰ a person must not record or disclose information that was obtained by anyone under a warrant and that came to the person's knowledge because the person is or was an inspecting officer.

Maximum penalty—100 penalty units or 2 years imprisonment.

(3) Subsection (2) does not—

- (a) prevent the principal inspector from disclosing in a report under section 12 or 13¹¹ matters that the principal inspector considers ought to be disclosed for the purpose of stating the grounds for the conclusions and recommendations in the report; or
- (b) otherwise prevent a person from recording or disclosing information for the discharge of his or her functions under this Act.

(4) A person is not compellable in any proceeding to disclose information that was obtained by anyone under a warrant and that came to the person's knowledge because the person is or was an inspecting officer.

(5) If—

- (a) subsection (2) or (4) applies to information within a person's knowledge; and
- (b) the information also came to the person's knowledge because the person is or was engaged in the administration of another Act;

the subsection applies despite provisions of the other Act that may allow the person to record, disclose or in a proceeding be compelled to disclose, the information.

Exchange of information between principal inspector and Commonwealth ombudsman

21.(1) The principal inspector may give information that—

- (a) relates to a Commonwealth agency; and
- (b) was obtained by the principal inspector under this Act;

¹⁰ Section 16 (Principal inspector to be given information and access despite other laws)

¹¹ Section 12 (Reports) or 13 (Principal inspector may report on breaches)

to the Commonwealth ombudsman.

(2) The principal inspector may only give information to the Commonwealth ombudsman under subsection (1) if the principal inspector is satisfied that the giving of the information is necessary to enable the ombudsman to perform the ombudsman's functions in relation to the Commonwealth agency.

(3) The principal inspector may receive from the Commonwealth ombudsman information relevant to the performance of the principal inspector's functions under this Act.

PART 4—MISCELLANEOUS

Copies of reports for Commonwealth Minister

22. As soon as practicable after a report on an inspection of the type mentioned in section 12¹² is given to the Minister, the Minister is to give the Commonwealth Minister a copy of the report.

General confidentiality provision

23.(1) A person who is or was engaged in the administration of this Act must not disclose any information or record obtained by the person because he or she is or was engaged in the administration of this Act, unless the disclosure is made—

- (a) under the Commonwealth Act; or
- (b) for a proceeding under the—
 - (i) *Commissions of Inquiry Act 1950*; or
 - (ii) *Criminal Justice Act 1989*; or
 - (iii) *Crime Commission Act 1997*; or
- (c) for the discharge of the person's functions under this Act.

¹² Section 12 (Reports)

Maximum penalty—100 penalty units or 2 years imprisonment. 1

(2) Subsection (1) does not apply to a disclosure of information or a record by a person who is or was an inspecting officer.¹³ 2 3

(3) Also, subsection (1) applies despite the provisions of another Act that may allow a person to disclose the information or a record obtained by the person because he or she is or was engaged in the administration of the other Act. 4 5 6 7

Offences relating to inspections under pt 3 8

24.(1) A person must not, without reasonable excuse, refuse or fail— 9

(a) to attend before a person; or 10

(b) to give information; or 11

(c) to answer a question; 12

when required under section 15¹⁴ to do so. 13

(2) A person must not— 14

(a) without reasonable excuse, wilfully obstruct a person in connection with the exercise of the principal inspector's functions under part 3; or 15 16 17

(b) give to an inspecting officer, in connection with an inspection under part 3, information or a statement that the first-mentioned person knows to be false or misleading in a material particular.¹⁵ 18 19 20

Maximum penalty—20 penalty units or 6 months imprisonment. 21

(3) A complaint for an offence against subsection (2)(b) may state that information or a statement was 'false or misleading', without stating which. 22 23

¹³ Disclosure by a person who is or was an inspecting officer is dealt with under section 20.

¹⁴ Section 15 (Power to obtain relevant information)

¹⁵ Part 3 (Functions and powers of principal inspector)

Proceeding for offence

25.(1) A proceeding for an offence against this Act must be taken in a summary way under the *Justices Act 1886*.

(2) A proceeding may be started within—

(a) 1 year after the offence is committed; or

(b) 1 year after the offence comes to the complainant's knowledge, but within 2 years after the offence is committed.

Regulation-making power

26. The Governor in Council may make regulations under this Act.

Attachment

27.(1) Attached to this Act is an attachment containing provisions of the Commonwealth Act referred to in definitions in this Act.

(2) The attachment is not part of this Act.

(3) The attachment must be revised so that it is an accurate copy of the provisions as amended from time to time.

(4) The revision under subsection (3) must happen in the first reprint of this Act after an amendment of a provision contained in the attachment.

(5) The accompanying notes in the attachment may also be revised.

SCHEDULE

1

DICTIONARY

2

section 4

3

“agency” means—

4

(a) the Australian Federal Police; or

5

(b) the Criminal Justice Commission; or

6

(c) the National Crime Authority; or

7

(d) the Queensland Crime Commission; or

8

(e) the Queensland Police Service; or

9

(f) any of the following for which a declaration under the Commonwealth Act, section 34¹⁶ is in force—

10

11

(i) the police force of another State;

12

(ii) an authority of the State or another State.

13

“certifying officer” for an eligible authority means—

14

(a) for the Queensland Police Service—the commissioner of the Queensland Police Service or a deputy commissioner of the Queensland Police Service; or

15

16

17

(b) for the Criminal Justice Commission—a member of the Criminal Justice Commission; or

18

19

(c) for the Queensland Crime Commission—a member of the Queensland Crime Commission.

20

21

“chief officer”, of an eligible authority, means—

22

(a) for the Queensland Police Service—the commissioner of the Queensland Police Service; or

23

24

¹⁶ Commonwealth Act, section 34 (Declaration of an eligible authority of a State as an agency)

SCHEDULE (continued)

(b) for the Criminal Justice Commission—the chairperson of the Criminal Justice Commission; or	1 2
(c) for the Queensland Crime Commission—the Crime Commissioner.	3 4
“Commonwealth Act” means the <i>Telecommunications (Interception) Act 1979</i> .	5 6
“Commonwealth Minister” means the Minister administering the Commonwealth Act.	7 8
“deputy public interest monitor” means a deputy public interest monitor under the <i>Police Powers and Responsibilities Act 1997</i> .	9 10
“eligible authority” means—	11
(a) the Queensland Police Service; or	12
(b) the Criminal Justice Commission; or	13
(c) the Queensland Crime Commission.	14
“inspecting officer” means the public interest monitor or a deputy public interest monitor.	15 16
“lawfully obtained information” see the Commonwealth Act, section 6E. ¹⁷	17 18
“notice” means written notice.	19
“obstruct” includes the following—	20
(a) hinder or resist;	21
(b) attempt to obstruct.	22
“officer” , of an eligible authority, means—	23
(a) for the Queensland Police Service—a police officer; or	24
(b) for the Criminal Justice Commission—a member, officer or employee of the commission; or	25 26
(c) for the Queensland Crime Commission—a member, officer or	27

¹⁷ See the attachment, item 1.

SCHEDULE (continued)

employee of the commission.	1
“part 6 warrant” means a warrant issued or to be issued under the Commonwealth Act, part 6. ¹⁸	2 3
“permitted purpose” , for an eligible authority, see the Commonwealth Act, section 5. ¹⁹	4 5
“possession” includes the following—	6
(a) custody;	7
(b) control.	8
“premises” includes the following—	9
(a) land;	10
(b) a structure, building, aircraft, vehicle, vessel or place, whether built or not;	11 12
(c) part of a structure, building, aircraft, vehicle, vessel or place, whether built or not.	13 14
“principal inspector” means the public interest monitor.	15
“public interest monitor” means the public interest monitor under the <i>Police Powers and Responsibilities Act 1997</i> .	16 17
“restricted record” see the Commonwealth Act, section 5. ²⁰	18
“warrant” means a warrant issued under the Commonwealth Act.	19 20

¹⁸ Commonwealth Act, Part VI (Warrants authorising the Australian Federal Police to intercept telecommunications)

¹⁹ See the attachment, items 2 to 7.

²⁰ See the attachment, item 8.

ATTACHMENT	1
EXTRACTS FROM THE COMMONWEALTH ACT	2
section 27	3
1. Commonwealth Act, section 6E—	4
‘ Lawfully obtained information	5
‘ 6E.(1) Subject to subsection (2), a reference in this Act to lawfully obtained information is a reference to information obtained (whether before or after the commencement of this section) by intercepting, otherwise than in contravention of subsection 7(1), a communication passing over a telecommunications system.	6 7 8 9 10
‘ (2) A reference in this Act to lawfully obtained information that was originally obtained by an agency, or by an eligible authority of a State, is a reference to:	11 12 13
(a) information obtained, whether before or after the commencement of this section, by intercepting a communication under a warrant issued to the agency or authority; or	14 15 16
(b) information communicated to the agency or authority in accordance with section 65A.’.	17 18
Notes	19
1. The reference to subsection 7(1) is a reference to the provision in the Commonwealth Act that generally prohibits interception of telecommunications.	20 21
2. Section 65A of the Commonwealth Act authorises the Director-General of Security to communicate particular information under the <i>Australian Security Organisation Act 1979</i> , section 18(3)(a) or (c).	22 23 24
2. Commonwealth Act, section 5 (Interpretation), definition “permitted purpose”—	25 26
‘ “permitted purpose” , in relation to an agency, or an eligible authority of	27

ATTACHMENT (continued)

- | | |
|---|----------------------------|
| a State, means a purpose connected with: | 1 |
| (a) in any case: | 2 |
| (i) an investigation by the agency or eligible authority of a prescribed offence; | 3
4 |
| (ii) the making by an authority, body or person of a decision whether or not to begin a relevant proceeding in relation to the agency or eligible authority; | 5
6
7 |
| (iii) a relevant proceeding in relation to the agency or eligible authority; | 8
9 |
| (iv) the exercise by the chief officer of the agency or eligible authority of the powers conferred by section 68; or | 10
11 |
| (v) the keeping of records by the agency under Part VIII, or by the eligible authority under provisions of a law of the State that impose on the chief officer of the authority requirements corresponding to those imposed on the Chairman of the Authority by subsections 80(2), 81(2) and 81(3); | 12
13
14
15
16 |
| (b) in the case of the Australian Federal Police: | 17 |
| (i) an investigation of, or an inquiry into, alleged misbehaviour, or alleged improper conduct, of an officer of the Commonwealth, being an investigation or inquiry under a law of the Commonwealth or by a person in the person's capacity as an officer of the Commonwealth; | 18
19
20
21
22 |
| (ii) a report on such an investigation or inquiry; | 23 |
| (iia) the making by a person of a decision under the <i>Australian Federal Police Act 1979</i> in relation to the appointment, re-appointment, term of appointment or retirement of a member of the Australian Federal Police or a staff member of the Australian Federal Police; | 24
25
26
27
28 |
| (iib) a review (whether by way of appeal or otherwise) of such a decision; | 29
30 |
| (iii) the tendering to the Governor-General of advice to terminate, because of misbehaviour or improper conduct, the | 31
32 |

ATTACHMENT (continued)

- | | |
|--|----|
| appointment of an officer of the Commonwealth; or | 1 |
| (iv) deliberations of the Executive Council in connection with | 2 |
| advice to the Governor-General to terminate, because of | 3 |
| misbehaviour or improper conduct, the appointment of an | 4 |
| officer of the Commonwealth; | 5 |
| (c) in the case of the Police Force of a State: | 6 |
| (i) an investigation of, or an inquiry into, alleged misbehaviour, | 7 |
| or alleged improper conduct, of an officer of that State, being | 8 |
| an investigation or inquiry under a law of that State or by a | 9 |
| person in the person's capacity as an officer of that State; | 10 |
| (ii) a report on such an investigation or inquiry; | 11 |
| (iia) the making by a person of a decision in relation to the | 12 |
| appointment, re-appointment, term of appointment or | 13 |
| retirement of an officer or member of staff of that Police | 14 |
| Force; | 15 |
| (iib) a review (whether by way of appeal or otherwise) of such a | 16 |
| decision; | 17 |
| (iii) the tendering to the Governor of that State of advice to | 18 |
| terminate, because of misbehaviour or improper conduct, the | 19 |
| appointment of an officer of that State; or | 20 |
| (iv) deliberations of the Executive Council of that State in | 21 |
| connection with advice to the Governor of that State to | 22 |
| terminate, because of misbehaviour or improper conduct, the | 23 |
| appointment of an officer of that State; or | 24 |
| (d) in the case of an eligible authority of a State: | 25 |
| (i) an inspection of the authority's records that is made under a | 26 |
| requirement of the law of that State, being a requirement of | 27 |
| the kind referred to in paragraph 35(1)(h); or | 28 |
| (ii) a report on such an inspection; or | 29 |
| (e) in the case of the Police Integrity Commission: | 30 |
| (i) an investigation under the Police Integrity Commission Act | 31 |
| of police misconduct of an officer of the New South Wales | 32 |

ATTACHMENT (continued)

Police Service; or	1
(ii) a report on such an investigation; or	2
(iii) the tendering to the Governor of New South Wales of advice to terminate, because of misbehaviour or improper conduct, the appointment of the Commissioner of the New South Wales Police Service; or	3 4 5 6
(iv) deliberations of the Executive Council of New South Wales in connection with advice to the Governor of that State to terminate, because of misbehaviour or improper conduct, the appointment of the Commissioner of the New South Wales Police Service.’	7 8 9 10 11
Notes	12
1. A prescribed offence is an offence defined under provisions of the Commonwealth Act set out in items 3 to 6.	13 14
2. A relevant proceeding is a proceeding defined under provisions of the Commonwealth Act set out in item 7.	15 16
3. Section 68 of the Commonwealth Act authorises the chief executive of an agency to provide information to other agencies.	17 18
4. The reference to subsections 80(2), 81(2) and 81(3) is a reference to provisions of the Commonwealth Act that correspond to sections 5 and 6 of the Queensland Act.	19 20
5. The reference to paragraph 35(1)(h) is a reference to a provision of the Commonwealth Act that requires, for a declaration that an agency of the State is an eligible authority for the purposes of the Commonwealth Act, regular inspections under laws of the State of the type prescribed by part 3 of the Queensland Act.	21 22 23 24
3. Commonwealth Act, section 5 (Interpretation), definition “prescribed offence”—	25 26
‘ “prescribed offence” means:	27
(a) a serious offence;	28
(b) an offence against subsection 7(1) or section 63;	29
(c) an offence against a provision of Part VIIB of the <i>Crimes Act</i>	30

ATTACHMENT (continued)

1914;	1
(d) any other offence punishable by imprisonment for life or for a period, or maximum period, of at least 3 years; or	2 3
(e) an ancillary offence relating to an offence of a kind referred to in paragraph (a), (b), (c) or (d) of this definition.’.	4 5
Notes	6
1. The reference to subsection 7(1) is a reference to the provision of the Commonwealth Act that generally prohibits interception of telecommunications.	7 8
2. Section 63 of the Commonwealth Act prohibits disclosure of information obtained under the Act.	9 10
4. Commonwealth Act, section 5 (Interpretation), definition “serious offence”—	11 12
‘ “serious offence”, means an offence that is or has been a class 1 offence or a class 2 offence.’.	13 14
5. Commonwealth Act, section 5 (Interpretation), definition “class 1 offence”—	15 16
‘ “class 1 offence” means:	17
(a) a murder, or an offence of a kind equivalent to murder;	18
(b) a kidnapping, or an offence of a kind equivalent to kidnapping;	19
(c) a narcotics offence; or	20
(d) an offence constituted by:	21
(i) aiding, abetting, counselling or procuring the commission of;	22 23
(ii) being, by act or omission, in any way, directly or indirectly, knowingly concerned in, or party to, the commission of; or	24 25
(iii) conspiring to commit;	26
an offence of a kind referred to in paragraph (a), (b) or (c);	27

ATTACHMENT (continued)

and, except for the purposes of an application for a warrant by an agency other than the Authority, includes an offence in relation to which the Authority is conducting a special investigation within the meaning of the Authority Act.’

6. Commonwealth Act, section 5D—

‘Class 2 offences

‘Class 2 offences

‘5D.(1) This section sets out the offences that are “**class 2 offences**” for the purposes of this Act.

‘Serious offences etc.

‘(2) An offence is a **class 2 offence** if:

- (a) it is an offence punishable by imprisonment for life or for a period, or maximum period, of at least 7 years; and
- (b) the particular conduct constituting the offence involved, involves or would involve, as the case requires:
 - (i) loss of a person’s life or serious risk of loss of a person’s life; or
 - (ii) serious personal injury or serious risk of serious personal injury; or
 - (iii) serious damage to property in circumstances endangering the safety of a person; or
 - (iv) trafficking in prescribed substances; or
 - (v) serious fraud; or
 - (vi) serious loss to the revenue of the Commonwealth, a State or the Australian Capital Territory; or
 - (vii) bribery or corruption of, or by:
 - (A) an officer of the Commonwealth; or
 - (B) an officer of a State; or

ATTACHMENT (continued)

(C) an officer of a Territory.	1
<i>‘Offences involving planning and organisation</i>	2
‘(3) An offence is also a class 2 offence if it is an offence punishable by imprisonment for life or for a period, or maximum period, of at least 7 years, where the offence:	3
	4
	5
(a) involves 2 or more offenders and substantial planning and organisation; and	6
	7
(b) involves, or is of a kind that ordinarily involves, the use of sophisticated methods and techniques; and	8
	9
(c) is committed, or is of a kind that is ordinarily committed, in conjunction with other offences of a like kind; and	10
	11
(d) consists of, or involves, any of the following:	12
(i) theft;	13
(ii) handling of stolen goods;	14
(iii) tax evasion;	15
(iv) currency violations;	16
(v) extortion;	17
(vi) bribery or corruption of, or by:	18
(A) an officer of the Commonwealth; or	19
(B) an officer of a State; or	20
(C) an officer of a Territory;	21
(vii) bankruptcy violations;	22
(viii) company violations;	23
(ix) harbouring criminals;	24
(x) armament dealings;	25
(xi) a sexual offence against a person who is under 16 (including an offence against Part IIIA of the <i>Crimes Act 1914</i>).	26
	27

ATTACHMENT (continued)

<i>‘Money laundering offences etc.</i>	1
‘(4) An offence is also a class 2 offence if it is an offence against any of the following provisions:	2
(a) section 81 or 83 of the <i>Proceeds of Crime Act 1987</i> ;	3
(b) section 73 of the <i>Confiscation of Proceeds of Crime Act 1989</i> of New South Wales;	4
(c) section 41Q of the <i>Crimes (Confiscation of Profits) Act 1986</i> of Victoria;	5
(d) section 64 of the <i>Crimes (Confiscation of Profits) Act 1989</i> of Queensland;	6
(e) section 563A of <i>The Criminal Code</i> of Western Australia;	7
(f) section 10b of the <i>Crimes (Confiscation of Profits) Act, 1986</i> of South Australia;	8
(g) section 67 of the <i>Crime (Confiscation of Profits) Act 1993</i> of Tasmania;	9
(h) section 74 of the <i>Proceeds of Crime Act 1991</i> of the Australian Capital Territory.	10
<i>‘Offence against Part VIA of the Crimes Act 1914</i>	11
‘(5) An offence is also a class 2 offence if it is an offence against Part VIA of the <i>Crimes Act 1914</i> .	12
<i>‘Offences connected with other class 2 offences</i>	13
‘(6) An offence is also a “ class 2 offence ” if it is an offence constituted by:	14
(a) aiding, abetting, counselling or procuring the commission of; or	15
(b) being, by act or omission, in any way, directly or indirectly, knowingly concerned in, or party to, the commission of; or	16
(c) conspiring to commit;	17
an offence that is a class 2 offence under any of the preceding subsections.	18

ATTACHMENT (continued)

‘Officer of a State

‘(7) Despite subsection 6G(3), a reference in this section to an officer of a State includes a reference to an officer of the Police Force of a State.’.

7. Commonwealth Act, section 6L—

‘Relevant proceeding

‘6L.(1) A reference in this Act, in relation to an agency, or an eligible authority of a State, to a relevant proceeding is, in the case of the Australian Federal Police or a Police Force of a State, a reference to:

- (a) a proceeding by way of a prosecution for a prescribed offence that is an offence against a law of the Commonwealth, or of that State, as the case may be;
- (b) a proceeding under a law of the Commonwealth, or of that State, as the case may be, for the confiscation or forfeiture of property, or for the imposition of a pecuniary penalty, in connection with the commission of a prescribed offence;
- (c) a proceeding for the taking of evidence as mentioned in paragraph 5B(c), in so far as the proceeding relates to:
 - (i) a prescribed offence; or
 - (ii) a prescribed offence that is an offence against a law of that State; as the case may be;
- (d) a proceeding for the extradition of a person as mentioned in paragraph 5B(d), in so far as the proceeding relates to a prescribed offence that is an offence against a law of the Commonwealth, or of that State, as the case may be;
- (e) a police disciplinary proceeding that is a proceeding against a member of the Australian Federal Police, or of that Police Force, as the case may be; or
- (f) any other proceeding (not being a proceeding by way of a prosecution for an offence) in so far as it relates to alleged misbehaviour, or alleged improper conduct, of an officer of the Commonwealth, or of that State, as the case may be.

ATTACHMENT (continued)

‘(2) A reference in this Act, in relation to an agency, or an eligible authority of a State, to a relevant proceeding is:	1 2
(a) in the case of the Authority—a reference to a proceeding by way of a prosecution for a prescribed offence to which a prescribed investigation relates or related; or	3 4 5
(b) in the case of the Crime Commission, the Royal Commission into the New South Wales Police Service or the Independent Commission Against Corruption—a reference to a proceeding by way of a prosecution for a prescribed offence:	6 7 8 9
(i) that is an offence against the law of New South Wales; and	10
(ii) to which a prescribed investigation relates or related; or	11
(c) in the case of the Criminal Justice Commission—a reference to:	12
(i) a proceeding by way of a prosecution for a prescribed offence that is an offence against the law of Queensland and to which a prescribed investigation relates or related; or	13 14 15
(ii) a proceeding under a law of Queensland for the confiscation or forfeiture of property, or for the imposition of a pecuniary penalty, in connection with the commission of a prescribed offence.	16 17 18 19
 Note	 20
The references to proceedings mentioned in paragraphs 5B(c) and (d) are references to extradition proceedings.	21 22
 8. Commonwealth Act, section 5 (Interpretation), definition “restricted record”—	 23 24
‘ “restricted record” means a record obtained by means of an interception, whether or not in contravention of subsection 7(1), of a communication passing over a telecommunications system.’.	25 26 27

ATTACHMENT (continued)

Note

The reference to subsection 7(1) is a reference to the provision of the Commonwealth Act that generally prohibits interception of telecommunications.

1
2
3