

## **EXPLANATORY STATEMENT**

*Telecommunications (Interception and Access) Act 1979*

### **TELECOMMUNICATIONS (INTERCEPTION AND ACCESS) (COMMUNICATIONS ACCESS CO-ORDINATOR) AMENDMENT INSTRUMENT 2021 (NO. 1)**

*(Subsection 6R(2))*

1. The *Telecommunications (Interception and Access) (Communications Access Co-ordinator) Amendment Instrument 2021 (No. 1)* (LIN 21/022) (“the Amendment Instrument”) is made under subsection 6R(2) of the *Telecommunications (Interception and Access) Act 1979* (“the TIA Act”) and subsection 33(3) of the *Acts Interpretation Act 1901*.
2. The Amendment Instrument amends the *Telecommunications (Interception and Access) (Communications Access Co-ordinator) Instrument 2019* (“the 2019 Instrument”).
3. The TIA Act establishes the position of *Communications Access Co-ordinator* as the primary point of liaison for law enforcement agencies, interception agencies, telecommunications carriers and carriage service providers in relation to telecommunications interception and data retention issues.
4. Under section 6R of the TIA Act, *Communications Access Co-ordinator* is taken to mean the Secretary of the Department of Home Affairs or a person or body specified by the Minister in a legislative instrument under that section.
5. The 2019 Instrument specifies, as *Communications Access Co-ordinator*, persons who hold, occupy or perform the duties of certain positions in certain work areas, including the National Security Policy Branch of the Strategy and Law Enforcement Group.
6. As a result of a Departmental restructure, responsibility for the National Security Policy Branch has been transferred from Law Enforcement Policy Division (while still remaining in Strategy and Law Enforcement Group). The 2019 Instrument has been amended to reflect this change. It has also been simplified to combine references to persons holding positions at the SES Band 2 and SES Band 3 classifications with

responsibility for the National Security Policy Branch.

7. As a result of a concurrent structural change, the Telecommunications and Technology Branch in the Critical Infrastructure Security Division of the National Resilience and Cyber Security Group has been renamed the Risk and Strategic Analysis Branch. The 2019 Instrument has been amended to reflect this change.
8. There are no other changes to the number of people, positions, classification levels or work areas resulting from the making of the Amendment Instrument.
9. In accordance with paragraph 15J(2)(e) of the *Legislation Act 2003*, consultation was not necessary. This instrument corrects organisational references following a Departmental restructure.
10. A Statement of Compatibility with Human Rights has been prepared in accordance with the *Human Rights (Parliamentary Scrutiny) Act 2011*, and is at Attachment A.
11. The Amendment Instrument commences the day after it is registered on the Federal Register of Legislation.

## Statement of Compatibility with Human Rights

*Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011.*

### **Telecommunications (Interception and Access) (Communications Access Co-ordinator) Amendment Instrument 2021 (No. 1)**

This Disallowable Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

#### **Overview of the Disallowable Legislative Instrument**

The *Telecommunications (Interception and Access) (Communications Access Co-ordinator) Amendment Instrument 2021 (No. 1)* ("the Amendment Instrument") is made under subsection 6R(2) of the *Telecommunications (Interception and Access) Act 1979* ("the TIA Act"). Under section 6R of the TIA Act, *Communications Access Co-ordinator* is taken to mean the Secretary of the Department of Home Affairs or a person or body specified by the Minister in a legislative instrument under that section.

The *Telecommunications (Interception and Access) (Communications Access Co-ordinator) Instrument 2019* ("the 2019 Instrument") specifies, as *Communications Access Co-ordinator*, persons who hold, occupy or perform the duties of certain positions in certain work areas, including the National Security Policy Branch of the Strategy and Law Enforcement Group.

As a result of a Departmental restructure, responsibility for the National Security Policy Branch has been transferred from Law Enforcement Policy Division, while still remaining within Strategy and Law Enforcement Group. The 2019 Instrument has been amended to reflect this change. It has also been simplified to combine references to persons holding positions at the SES Band 2 and SES Band 3 classifications with responsibility for the National Security Policy Branch.

As a result of a concurrent structural change, the Telecommunications and Technology Branch in the Critical Infrastructure Security Division of the National Resilience and Cyber Security Group has been renamed the Risk and Strategic Analysis Branch. The 2019 Instrument has been amended to reflect this change.

There are no other changes to the number of people, positions, classification levels or work areas resulting from the making of the Amendment Instrument.

The Amendment Instrument is technical in nature, and does not affect the functions or powers of a *Communications Access Co-ordinator*, which are governed by the *Telecommunications (Interception and Access) Act 1979* and the *Telecommunications Act 1997*.

## **Human rights implications**

The Amendment Instrument corrects organisational references following Departmental restructures, and is consistent with the original intent of the 2019 Instrument. As such, this Disallowable Legislative Instrument is a technical amendment only and does not engage any of the applicable rights or freedoms.

## **Conclusion**

This Amendment Instrument is compatible with human rights as it does not raise any human rights issues.