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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

**TELECOMMUNICATIONS (INTERCEPTION) AMENDMENT (STORED  
COMMUNICATIONS AND OTHER MEASURES) BILL 2005**

EXPLANATORY MEMORANDUM

(Circulated by authority of the Attorney-General,  
the Honourable Philip Ruddock MP)

# TELECOMMUNICATIONS (INTERCEPTION) AMENDMENT (STORED COMMUNICATIONS AND OTHER MEASURES) BILL 2005

## OUTLINE

1. The purpose of this Bill is to:
  - extend for six months the operation of the provisions that enable access to stored communications without the need for a warrant under the *Telecommunications (Interception) Act 1979* (Interception Act),
  - enable more effective use of intercepted material by agencies involved in the investigation of corruption, and
  - make a minor amendment consequential on the enactment of the *Legislative Instruments Act 2003*.
2. The *Telecommunications (Interception) Amendment (Stored Communications) Act 2004* introduced into the Interception Act the concept of a ‘stored communication’ (paragraph 7(3A)) and provided that a stored communication could be intercepted without the need for a telecommunications interception warrant (paragraph 7(2)(ad)). Access to such communications could therefore be obtained by other lawful means, such as by a normal search warrant.
3. The amendments also included a provision to the effect that any information obtained from ‘intercepting’ a stored communication was not ‘lawfully obtained information’ for the purposes of the Interception Act. That is, the information was not subject to the restrictions on use imposed by the Interception Act.
4. The amendments were intended as an interim measure pending a thorough consideration of how best to regulate access to communications in the ever-changing world of technologies. As an interim measure, the amendments included a 12-month sunset clause meaning that the provisions will cease to operate on 14 December 2005.
5. Mr A S Blunn AO has now completed a review of the regulation of access to communications and has made a number of recommendations in relation to stored communications. These recommendations need to be fully considered and, where appropriate, implemented in order to ensure that the Interception Act is able to meet the demands of new and emerging technologies. This Bill will therefore extend for six-months the operation of the provisions dealing with access to stored communications.
6. This Bill will also amend the Interception Act to:
  - (a) make the Victorian Office of Policy Integrity and the New South Wales Inspector of the Independent Commission Against Corruption eligible authorities for the purposes of the Interception Act thereby allowing them to receive lawfully obtained intercepted material for the purposes of fulfilling their statutory obligations to investigate misconduct including corruption,
  - (b) enable the New South Wales Independent Commission Against Corruption and the Queensland Corruption and Crime Commission to use lawfully obtained intercepted material for the purposes of their statutory functions of investigating

corrupt conduct and to use the material in proceedings under the *Independent Commission Against Corruption Act 1988* and the *Crime and Misconduct Act 2001*, respectively,

- (c) to enable the New South Wales Inspector of the Police Integrity Commission to use intercepted material for the purpose of fulfilling its statutory function in relation to the conduct of the Police Integrity Commission under the *Police Integrity Commission Act 1996*,
- (d) clarify that the expression ‘officer of a State’ includes all members of the police service of that State, and
- (e) make technical amendments arising from the enactment of the *Legislative Instruments Act 2003*.

### **FINANCIAL IMPACT STATEMENT**

The amendments made by the Telecommunications (Interception) Amendment (Stored Communications and Other Measures) Bill 2005 have no financial impact.

## NOTES ON CLAUSES

### **Clause 1: Short title**

The short title of this Act is the *Telecommunications (Interception) Amendment (Stored Communications and Other Measures) Act 2005*.

### **Clause 2: Commencement**

This clause provides a table that identifies the day of commencement for the specified parts of the Bill.

Sections 1 to 3, which are technical provisions, and anything else not specifically addressed in the table, will commence on Royal Assent.

Schedule 1, Parts 1, 3, 4 and 5 will also commence on Royal Assent.

Schedule 1, Part 2 will commence on a day to be fixed by Proclamation. However, if the provisions have not been proclaimed to commence within 12 months from the date of Royal Assent, then the provisions will not commence at all.

Schedule 1, Part 2 deals with making the Victorian Office of Police Integrity an eligible authority for the purposes of the Interception Act. The 12 month commencement period is necessary to give the Victorian Government sufficient time to enact legislation to change the oversight arrangements for the Office of Police Integrity to address concerns expressed by the Australian Government in relation to those arrangements. The proposed changes to those oversight arrangements will ensure that access to intercepted material by both the Office of Police Integrity and the Victorian Police are subject to independent oversight. The Part will not commence at all if Victoria has not enacted the appropriate legislation within 12 months of Royal Assent.

### **Clause 3: Schedule(s)**

This clause provides that each Act that is specified in a Schedule is amended or repealed as set out in that Schedule.

## **Schedule 1 – Amendment of the Telecommunications (Interception) Act 1979**

### **Part 1 – Stored Communications**

The purpose of this Part is to extend for six months the operation of the provisions in the Interception Act relating to stored communications.

The proposed amendments will continue the exemption of stored communications from the general prohibition against interception in subsection 7(1) of the Interception Act and the exemption of information obtained by intercepting stored communications from the definition of lawfully obtained information in subsection 6E(3). This will maintain the status quo pending consideration of the recommendations contained in the Blunn Review into the regulation of access to stored communications.

#### **Item 1**

Item 1 will amend subsection 6E(3) to extend the application of the subsection for a further 6 month period.

Subsection 6E(3) provides that a reference to lawfully obtained information does not include a reference to information obtained by intercepting a stored communication. This exemption from the definition of lawfully obtained information only applies if the interception occurs in the 12-month period beginning at the commencement of the subsection, that is between 15 December 2004 and 14 December 2005.

As a result of the amendment the provision will not cease to have effect on 15 December 2005 but will end on 15 June 2006.

#### **Item 2**

Item 2 will amend paragraph 7(2)(ad) to extend the application of the provision for a further 6 months.

Paragraph 7(2)(ad) provides that the interception of a stored communication is exempt from the general prohibition against interception in subsection 7(1). This means that a stored communication may be accessed by any lawful means without the need for a warrant under the Interception Act.

This exemption from the prohibition against interception was intended to be an interim measure to ensure time to develop procedures to deal generally with the regulation of access to communications. As such, the provision was intended to cease operating 12-months after commencement of the paragraph, that is on 14 December 2005.

As a result of the amendment the provision will not sunset on 15 December 2005 but will sunset on 15 June 2006.

## **Part 2 – Victorian Office of Police Integrity**

The purpose of this Part is to make the Victorian Office of Police Integrity an eligible authority for the purposes of the Interception Act to enable the Director, Police Integrity to receive and use lawfully obtained intercepted material for the purposes of fulfilling the Office’s statutory role in relation to investigating police misconduct. The majority of the amendments in this Part are consequential on making the Office of Police Integrity an eligible authority.

The amendments will only commence if the oversight arrangements for the Director, Police Integrity are appropriately amended within 12 months following Royal Assent. If the oversight arrangements are not changed to the satisfaction of the Australian Government, then the provisions will not be proclaimed and they will not commence.

### **Items 3, 4 and 9**

These items will amend a number of definitions in subsection 5(1) of the Interception Act consequential on making the Office of Police Integrity an eligible authority for the purposes of the Interception Act.

Item 3 will insert a new paragraph (ea) in the definition of *certifying officer* to include the Director, Police Integrity, an appropriately authorised Deputy Director, Police Integrity, or an appropriately authorised Assistant Director, Police Integrity as certifying officers for the purposes of the Interception Act.

Item 4 will insert a new paragraph (eb) in the definition of *chief officer* so that, in the case of the Office of Police Integrity, the Director, Police Integrity is identified as the chief officer for the purposes of the Interception Act.

Item 9 will insert a new paragraph (eb) in the definition of *officer* to include, in the case of the Office of Police Integrity, a member of staff or an individual engaged under paragraph 102E(1)(b) of the Police Regulation Act.

### **Items 5, 7, 8 and 11**

These items will insert a number of new definitions into subsection 5(1) consequential on making the Office of Police Integrity an eligible authority for the purposes of the Interception Act.

Item 5 will insert a new definition of *Director, Police Integrity*. Item 7 will insert a new definition of *member of the staff of the Office of Police Integrity*. Item 8 will insert a new definition of *Office of Police Integrity*.

These terms are all defined by cross-referring to their definitions in the Police Regulation Act.

Item 11 will add a new definition to subsection 5(1) of the Interception Act for the *Police Regulation Act* to mean the *Police Regulation Act 1958* of Victoria.

## **Item 6**

This item amends the definition of *eligible authority* in subsection 5(1) of the Interception Act by inserting a new paragraph (ba) to include the Office of Police Integrity.

This will enable the Office of Police Integrity to receive information obtained from the interception of telecommunications for limited purposes under the Interception Act. For example, under section 68 of the Interception Act, an agency such as the Victorian Police, may communicate lawfully obtained information to the Director, Police Integrity where that information relates to an investigation that the Director is conducting into misconduct by a member of the Victorian Police. Such information is often the only evidence of misconduct, which includes corruption, by a member of the police force and is generally conclusive proof of the inappropriate behaviour.

The amendment will not enable the Director, Police Integrity to obtain an interception warrant in his or her own right, but simply to receive intercepted information in situations where it may be legally provided to the Office in accordance with the terms of the Interception Act. An eligible authority such as the Director, Police Integrity needs to be declared to be an agency under section 34 of the Interception Act before it is able to apply for interception warrants on its own behalf. Before such a declaration can be made statutory preconditions specified in section 35 must be met.

## **Items 10, 12 and 13**

These items amend a number of definitions in subsection 5(1) of the Interception Act consequential on making the Office of Police Integrity an eligible authority for the purposes of the Interception Act.

Item 10 will amend the definition of *permitted purpose* by inserting a new paragraph (f). A permitted purpose in the case of the Office of Police Integrity will mean a purpose connected with an investigation by the Director, Police Integrity under the Police Regulation Act into the conduct of a member of the force or into serious misconduct (which includes corrupt conduct), together with any report on such an investigation.

This means that, under section 67 of the Interception Act, the Director, Police Integrity may disclose lawfully intercepted information to another person but only for a purpose connected with an investigation by the Director, Police Integrity under the Police Regulation Act into the conduct of a member of the force or into serious misconduct (which includes corrupt conduct), together with any report on such an investigation.

Item 12 will amend the definition of *prescribed investigation* in subsection 5(1) of the Interception Act by inserting a new paragraph (cb). Pursuant to the new paragraph, a prescribed investigation in the case of the Office of Police Integrity will include an investigation that the Director, Police Integrity is conducting in the performance of the Director's functions under the Police Regulation Act.

Item 13 will amend the definition of *relevant offence* in subsection 5(1) by inserting a new paragraph (eb). Pursuant to the new paragraph, a *relevant offence* in the case of the Office of Police Integrity will include a prescribed offence that is an offence against a law of Victoria and to which a prescribed investigation relates.

#### **Item 14**

Under section 74 of the Interception Act, a person may give lawfully obtained information and designated warrant information in evidence in an *exempt proceeding*. Section 5B of the Interception Act defines what is meant by an exempt proceeding.

Item 14 amends the definition of *exempt proceeding* in section 5B of the Interception Act by inserting a new paragraph (i). Pursuant to the new paragraph, an *exempt proceeding* will include a proceeding of the Director, Police Integrity.

This means that, under section 74 of the Interception Act a person may give lawfully obtained information or designated warrant information in evidence in a proceeding (as defined in subsection 5(1) of the Interception Act) being conducted by the Director, Police Integrity.

#### **Item 15**

Section 6A of the Interception Act sets out what is meant by a reference to an investigation of an offence in relation to an agency or an eligible authority. Item 15 will add a new subparagraph (viii) to section 6A(1)(c) to provide that, in the case of the Office of Police Integrity, a reference to an investigation of an offence is a reference to a prescribed investigation of that offence.

#### **Item 16**

Section 6L of the Interception Act sets out what is meant by *relevant proceedings* for the purposes of that Act. Item 16 will amend subsection 6L(2) by inserting a new paragraph (ba). Pursuant to the new paragraph, a reference to relevant proceedings in relation to the Office of Police Integrity will include a reference to a proceeding by way of a prosecution for a prescribed offence that is an offence against the law of Victoria and to which a prescribed investigation relates or related.

This means, for example, that it is a permitted purpose in relation to the Office of Police Integrity to disclose lawfully obtained information to another person for a purpose connected with a proceeding by way of a prosecution for a prescribed offence that is an offence against the law of Victoria and to which a prescribed investigation relates or related.

#### **Item 17**

Section 39 of the Interception Act nominates the positions of an agency that may apply to an eligible Judge or nominated member of the Administrative Appeals Tribunal for the issue of an interception warrant. This provision is only relevant to an eligible authority where that eligible authority has been declared, under section 34 of the Interception Act, to be an agency for the purposes of Part VI of that Act. Therefore at this stage, section 39 will not have any effect in relation to the Office of



## Police Integrity.

In the event that the Office of Police Integrity is declared to be an intercepting agency (having satisfied the accountability and reporting requirements set out in section 35 of the Interception Act) the amendment proposed by item 18 will mean that no further legislative amendments are necessary to enable the Office to apply for interception warrants.

Item 17 amends subsection 39(2) by inserting a new paragraph (ea) to provide that a member of the staff of the Office of Police Integrity or a contractor may apply for a warrant on behalf on the Office of Police Integrity if that Office is declared to be an agency for the purposes of Part VI of the Interception Act.

### **Item 18**

Section 68 of the Interception Act provides that the chief officer of an agency may communicate information to other specified agencies whether that information relates or appears to relate to the functions of that second agency.

Item 18 amends subsection 68 to add a new paragraph (ec) to provide that the chief officer of an originating agency may communicate information to the Director, Police Integrity where that information relates to, or appears to relate to, a matter that may give rise to an investigation by the Director, Police Integrity.

### **Part 3 – Other State authorities**

The purpose of this Part is to allow a number of State anti-corruption agencies to make greater use of lawfully obtained intercepted material under the Interception Act.

This Part will allow the New South Wales Independent Commission Against Corruption (ICAC) to use lawfully obtained intercepted material to the full extent envisaged by the Interception Act.

The Independent Commission Against Corruption (ICAC) is an eligible authority for the purposes of the Interception Act that has been declared, under section 34 of that Act to be an intercepting agency. However, ICAC cannot use lawfully obtained intercepted material to the full extent envisaged by the Interception Act. This limitation impedes the Commission in fulfilling its statutory role of investigating corrupt conduct under the New South Wales *Independent Commission Against Corruption Act 1988*. The amendments relating to ICAC will allow it to use material to the full extent permissible by the Interception Act.

The Inspector of the Independent Commission Against Corruption (Inspector of ICAC) is not an eligible authority for the purposes of the Interception Act. This means that the Inspector of ICAC cannot receive and use lawfully obtained intercepted material in accordance with the Interception Act. The amendments relating to the Inspector of ICAC will allow the Inspector to receive and use material to a limited extent under the Interception Act.

The Inspector of the Police Integrity Commission (Inspector of PIC) and Crime and Misconduct Commission (CMC) are eligible authorities for the purposes of the Interception Act. However, these eligible authorities cannot receive and use lawfully obtained intercepted material to the extent that other eligible authorities are permitted under the Interception Act. The amendments will increase the extent to which these eligible authorities are allowed to receive and use intercepted material.

#### **Item 19**

Item 19 will amend the definition of *chief officer* in subsection 5(1). The item inserts a new paragraph (ea) into the definition to provide that, in the case of ICAC, the Inspector of the ICAC is considered a chief officer for the purposes of the Interception Act.

#### **Item 20**

Item 20 amends the definition of *eligible authority* in section 5B of the Interception Act to include the Inspector of the Independent Commission Against Corruption.

This will enable the Inspector of ICAC to receive information obtained from the interception of telecommunications for limited purposes under the Interception Act. For example, under section 68 of the Interception Act, an agency such as the New South Wales Police, may communicate lawfully obtained information to the Inspector of ICAC where that information relates to an investigation that the Inspector is conducting into misconduct by a member of the New South Wales Police. Such information is often the only evidence of misconduct, which includes corruption, by a

member of the police force and is generally conclusive proof of the inappropriate behaviour.

The amendment will not enable the Inspector of ICAC to obtain an interception warrant in his or her own right, but simply to receive intercepted information in situations where it may be legally provided to the office in accordance with the terms of the Interception Act. An eligible authority such as the Inspector of ICAC needs to be declared to be an agency under section 34 of the Interception Act before it is able to apply for interception warrants on its own behalf.

### **Items 21 and 22**

Items 21 and 22 will insert two new definitions into subsection 5(1) of the Interception Act.

Item 21 inserts a new definition of *Inspector of the Independent Commission Against Corruption* and item 22 inserts a new definition of *member of the staff of the Independent Commission against Corruption*.

These terms are defined by cross-referring to their definitions in the Independent Commission Against Corruption Act.

### **Item 23**

Item 23 will insert a new paragraph (ea) in the definition of *officer* to include, in the case of the Inspector of ICAC, the Inspector or a member of staff of the Inspector of ICAC.

### **Items 24, 25 and 26**

Items 24, 25 and 26 will make a number of amendments to the definition of *permitted purpose* in subsection 5(1) of the Interception Act.

Item 24 will make a minor drafting change.

Item 25 will insert new paragraphs (da), (db) and (dc) in the definition of *permitted purpose* in relation to ICAC, the Inspector of ICAC and Inspector of PIC respectively. The new paragraph (da) means that ICAC will be able to communicate to another person, make use of or make a record of, lawfully obtained information and designated warrant information where such communication, use or record is for a purpose connected with an investigation under the ICAC Act or a report on such an investigation.

The new paragraph (db) means that the Inspector of ICAC will be able to communicate to another person, make use of or make a record of, lawfully obtained information and designated warrant information where such communication, use or record is for a purpose connected with dealing with complaints of various forms of misconduct by ICAC or ICAC officers or with conduct amounting to maladministration by ICAC or ICAC officers under the ICAC Act.

The new paragraph (dc) means that the Inspector of PIC will be able to communicate to another person, make use of or make a record of, lawfully obtained information and designated warrant information where such communication, use or record is for a purpose connected with complaints of various forms of misconduct by the PIC or PIC officers under the PIC Act.

Item 26 will insert a new paragraph (ga) in the definition of permitted purpose in relation to Queensland Crime and Misconduct Commission. Pursuant to the new paragraph, a *permitted purpose* in the case of the Crime and Misconduct Commission means a purpose connected with an investigation by the Commission under the Crime and Misconduct Act into misconduct, together with any report on such an investigation. This means that, under section 67 of the Interception Act, the Crime and Misconduct Commission may disclose lawfully intercepted information to another person but only for a purpose connected with an investigation by the Commission under its Act into whether misconduct may have occurred, be occurring or about to occur, together with any report on such an investigation.

### **Item 27**

Item 27 will amend the definition of *prescribed investigation* in subsection 5(1) of the Interception Act by inserting a new paragraph (ca) in relation to the Inspector of ICAC. Pursuant to the new paragraph, a *prescribed investigation* in the case of the Inspector of ICAC will include an investigation that the Inspector is conducting in the performance of the Inspector's functions under the ICAC Act.

### **Item 28**

Item 28 will amend the definition of *relevant offence* in subsection 5(1) by inserting a new paragraph (ea) in relation to the Inspector of ICAC. Pursuant to the new paragraph, a *relevant offence* in the case of the Inspector of ICAC will include a prescribed offence that is an offence against a law of New South Wales and to which a prescribed investigation relates.

### **Items 29 and 30**

Under section 74 of the Interception Act, a person may give lawfully obtained information and designated warrant information in evidence in an *exempt proceeding*. Section 5B of the Interception Act defines what is meant by an exempt proceeding.

Items 29 and 30 amend the definition of *exempt proceeding* in section 5B of the Interception Act in relation to ICAC, the Inspector of ICAC and the Crime and Misconduct Commission.

Item 29 inserts new paragraphs (hb) and (hc) in relation to ICAC and the Inspector of ICAC. Pursuant to the new paragraphs, an *exempt proceeding* will include a proceeding of ICAC or the Inspector of ICAC.

Item 30 inserts new paragraph (kb) in relation to the Crime and Misconduct Commission. Pursuant to the new paragraph, an *exempt proceeding* will include a proceeding of the Crime and Misconduct Commission.

This means that, under section 74 of the Interception Act, a person may give lawfully obtained information or designated warrant information in evidence in an ICAC, Inspector of ICAC or Crime and Misconduct Commission proceeding (as defined in subsection 5(1) of the Interception Act).

### **Item 31**

Section 6A of the Interception Act sets out what is meant by a reference to an investigation of an offence in relation to an agency or an eligible authority.

Item 31 will add a new subparagraph (va) to section 6A(1)(c) to provide that in the case of the Inspector of ICAC, a reference to an investigation of an offence is a reference to a prescribed investigation of that offence.

### **Item 32**

Section 6L of the Interception Act sets out what is meant by *relevant proceedings* for the purposes of that Act. Item 32 will amend subsection 6L(2)(b) to provide that a reference to relevant proceedings in relation to the Inspector of ICAC includes a reference to a proceeding by way of a prosecution for a prescribed offence that is an offence against the law of New South Wales and to which a prescribed investigation relates or related.

This means, for example, that it is a permitted purpose in relation to the Inspector of ICAC to disclose lawfully obtained information to another person for a purpose connected with a proceeding by way of a prosecution for a prescribed offence that is an offence against the law of New South Wales and to which a prescribed investigation relates or related.

### **Item 33**

Section 68 of the Interception Act provides that the chief officer of an agency may communicate information to other specified agencies where that information relates or appears to relate to the powers of that second agency.

Item 33 amends section 68 to insert a new paragraph (eb) to provide that the chief officer of an originating agency may communicate information to the Inspector of ICAC where that information relates to, or appears to relate to, a matter that may give rise to an investigation by the Inspector of ICAC.

## **Part 4 – Commonwealth, State and Territory officers**

The purpose of this Part is to make it clear that where there is a reference in the Interception Act to *an officer of a State* the reference includes police officers of a State police force. This amendment will enable lawfully obtained information to be provided to State authorities that have been established to investigate misconduct by State police. All other persons who hold an office or appointment or who are employed under a law of a State, such as unsworn officers of State police forces who are employed as public servants, are already covered by the expression “officer of a State”.

This Part will add a new definition of *officer of a Territory*. There are also amendments to subsection 5(1) of the Interception Act to insert cross-references to the definitions in section 6G.

### **Items 34, 35 and 36**

Items 34, 35 and 36 will insert into subsection 5(1) cross-references to the definition of *officer of a State* in subsection 6G(2), *officer of a Territory* in subsection 6G(3) and *officer of the Commonwealth* in subsection 6G(1). As most definitions are found in subsection 5(1), these cross-references will aid interpretation of the Interception Act.

### **Item 37**

Item 37 repeals subsection 5D(7). The repeal of this subsection will help to remove the possible interpretation that the definition of *officer of a State* does not include police officers of a State police force.

### **Item 38**

Item 38 will amend subsection 6G(1) to simplify the provision by removing the concept of ‘in relation to’. This means that a reference in the Interception Act to an officer of the Commonwealth is as defined in subsection 6G(1). The amendment has no substantive impact and is simply clarifying the language used in the chapeau of the provision.

### **Item 39**

Item 39 will amend subsection 6G(2) to simplify the provision by removing the concept of ‘in relation to’. This means that a reference in the Interception Act to an officer of a State is as defined in subsection 6G(2).

As currently drafted it is unclear whether subsection 6G(3) has the effect of removing police officers from the definition of officers of a State or whether it is simply a provision that excludes the operation of subsection 6G(2) in relation to officers of the police force. The former position has meant that it is not possible for the Police Force of a State to pass lawfully obtained information to an authority that is established to investigate improper conduct by an “officer of the State” where that conduct relates to a police officer (see subparagraph (c)(i) of the definition of permitted purpose).

The inability to pass intercepted material to State authorities that have been established to investigate misconduct by State police is problematic. The same problem does not exist in relation to the Australian Federal Police who are clearly officers of the Commonwealth.

The proposed amendments will remove subsection 6G(3) and therefore overcome any doubt that police officers of a State Police force are covered by the expression “officer of a State”. The effect of this is, for example, that it will be a permitted purpose under paragraph (c)(i) of the definition of permitted purpose in subsection 5(1) of the Interception Act for the State police to pass lawfully obtained intercepted material to a body established to investigate alleged misbehaviour, or alleged improper conduct, by a member of the police force.

#### **Item 40**

Item 40 will remove the reference to a Territory in the definition of *officer to a State* in subsections 6G(2)(a) and (b). As it is proposed to include a new definition of *officer of a Territory*, this reference is no longer necessary.

#### **Item 41**

Item 41 will remove the existing subsection 6G(3). The omission of the existing subsection will help to remove the possible interpretation that an Officer of a State does not include police officers of a State police force.

Item 41 will also insert a new definition of *officer of a Territory* in subsection 6G(3). The new definition mirrors the definition of *officer of a State* in subsection 6G(2).

## **Part 5 – Technical amendments arising from the enactment of the Legislative Instruments Act 2003**

The purpose of this Part is to remove references to repealed provisions of the *Acts Interpretation Act 1901* consequential on the enactment of the *Legislative Instruments Act 2003*.

### **Item 42**

This item makes a minor drafting change to subsection 34(1).

### **Item 43**

This item inserts a reference to the fact that when the Minister makes a declaration under section 34 of the Interception Act, that the Minister is creating a legislative instrument. This will then attract the definition of legislative instruments that has been inserted into the *Acts Interpretation Act 1901*.

### **Item 44**

This item repeals section 36. This section is no longer necessary as the *Legislative Instruments Act 2003* now regulates the disallowance of legislative instruments.