

2008-2009

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

SENATE

NATIONAL SECURITY LEGISLATION MONITOR BILL 2009

EXPLANATORY MEMORANDUM

(Circulated by authority of the Cabinet Secretary, Senator the Hon Joe Ludwig)

NATIONAL SECURITY LEGISLATION MONITOR BILL 2009

GENERAL OUTLINE

The National Security Legislation Monitor Bill 2009 (the 'Bill') establishes the position of the National Security Legislation Monitor (the 'Monitor'). The establishment of the Monitor is consistent with recommendations made by the Security Legislation Review Committee in June 2006, the Parliamentary Joint Committee on Intelligence and Security in December 2006 and September 2007, and the Inquiry by the Hon. John Clarke QC into the Case of Dr Mohamed Haneef.

The standing function of the Monitor will be to review the operation, effectiveness and implications of the counter-terrorism and national security legislation and report his or her comments, findings and recommendations to the Prime Minister, and in turn Parliament, on an annual basis. As well, the Monitor must consider whether Australia's counter-terrorism and national security legislation contains appropriate safeguards for protecting individuals' rights and remains necessary. The main purpose of the Bill is to ensure the laws operate in an effective and accountable manner, are consistent with international human rights law and help to maintain public confidence in those laws.

The review of the counter-terrorism and national security legislation will concentrate on the legislation which has been used or considered during the reporting year so that the review can take into account the operational and judicial experience with the legislation.

In reviewing the legislation, the Monitor must have regard to Australia's international obligations and the agreed national counter-terrorism arrangements between the Commonwealth, States and Territories.

The Bill provides for the appointment of the Monitor and prescribes his or her functions and provides the framework for reviewing the relevant legislation. The Monitor may initiate his or her own investigations, or the Prime Minister may refer a matter to the Monitor to review within a specified timeframe.

The Bill provides the Monitor with the power to compel a witness to take an oath or affirmation to ensure that evidence given will be true. Further, the Monitor has the power to hold both public and private hearings and to compel the production of documents and things. These are supported by criminal offences for conduct in the nature of contempt.

FINANCIAL IMPACT STATEMENT

Funding of \$1.36 million over four years was provided in the 2009-10 Budget to fund the establishment of the Office of the National Security Legislation Monitor.

NOTES ON CLAUSES

PART 1 - PRELIMINARY

Clause 1: Short title

This is a formal clause which provides for the citation of the Bill. This clause provides that when enacted the Bill may be cited as the *National Security Legislation Monitor Act 2009*.

Clause 2: Commencement

This clause provides for the commencement of the Act. It provides that all provisions commence on the day after the Act receives Royal Assent.

Clause 3: Object

This clause provides the main objectives of the Bill which are to appoint a Monitor to review Australia's counter-terrorism and national security legislation to ensure it remains effective in deterring, preventing and responding to terrorism and terrorism-related activity which threatens Australia's security. The Monitor's review will also ensure that Australia's counter-terrorism and national security legislation is consistent with all of Australia's international obligations, including human rights obligations, and contains appropriate safeguards for protecting the rights of individuals.

The establishment of an independent reviewer of terrorism laws is consistent with recommendations made by the Security Legislation Review Committee in June 2006, the Parliamentary Joint Committee on Intelligence and Security in December 2006 and September 2007, and the Inquiry by the Hon. John Clarke QC into the Case of Dr Mohamed Haneef.

The overall aims of the Bill are to ensure that Australia's counter-terrorism and national security legislation operates in an accountable manner, is consistent with Australia's international obligations, including human rights, encourages public input and provides a mechanism for the regular review of Australia's counter-terrorism and national security legislation.

Clause 4: Definitions

This clause defines certain terms which are set out in the Bill.

counter-terrorism and national security legislation – This definition outlines the counter-terrorism and national security legislation within the scope of the Monitor's consideration. The legislation defined to be counter-terrorism and national security legislation is:

- (a) Division 3 of Part III of the *Australian Security Intelligence Organisation Act 1979* and any other provision of that Act as far as it relates to that Division;

- (b) Part 4 of the *Charter of the United Nations Act 1945* and any other provision of that Act as far as it relates to that Part;
- (c) the following provisions of the *Crimes Act 1914*:
 - (i) Division 3A of Part IAA and any other provision of that Act as far as it relates to that Division;
 - (ii) sections 15AA and 19AG and any other provision of that Act as far as it relates to those sections;
 - (iii) Part IC, to the extent that the provisions of that Part relate to the investigation of terrorism offences (within the meaning of that Act), and any other provision of that Act as far as it relates to that Part;
- (d) Chapter 5 of the *Criminal Code* and any other provision of that Act as far as it relates to that Chapter;
- (e) Part IIIAAA of the *Defence Act 1903* and any other provision of that Act as far as it relates to that Part;
- (f) the *National Security Information (Criminal and Civil Proceedings) Act 2004*.

The Senate Standing Committee on Legal and Constitutional Affairs' enquiry in October 2008 into legislation to establish an independent reviewer of terrorism laws recommended that it would be useful to detail a list of legislation to come under the scope of the independent reviewer in order to bring clarity to the independent reviewer's role and function. This definition implements this recommendation by focussing on the laws which Australia has enacted or enhanced to specifically address the threat of terrorism and related security concerns since 11 September 2001.

head – this definition outlines who the principal office holders are for the relevant departments or agencies.

law enforcement or security agency – this definition outlines all the relevant law enforcement or security agencies, and includes State and Territory police forces.

National Security Legislation Monitor – means the National Security Legislation Monitor as appointed under clause 11 of this Bill.

operationally sensitive information – this definition includes information which, if released, might prejudice an investigation, a prosecution or an information source. It also includes information provided by a foreign government where it has not consented to the public disclosure of that information.

responsible Minister – means the Minister (including a State or Territory Minister) responsible for the agency concerned in relation to the matter being reviewed by the Monitor.

secrecy provision – means a provision of Commonwealth, State or Territory law that prohibits or purports to prohibit the communication, disclosure or publication of information, the contents of a document or the production of a

thing. A person will not be able to rely on a secrecy provision in resisting disclosure or production of a document or thing to the Monitor.

PART 2 – NATIONAL SECURITY LEGISLATION MONITOR

Division 1 – Establishment, functions and powers of National Security Legislation Monitor

Clause 5: National Security Legislation Monitor

This clause creates the Office of the National Security Legislation Monitor. Provisions relating to the appointment of the Monitor are contained in Part 2, Division 2 of the Bill.

Clause 6: Functions of the National Security Legislation Monitor

This clause outlines the functions of the Monitor. One of the Monitor's functions includes reviewing the operation, effectiveness and implications of Australia's counter-terrorism and national security legislation, as defined in clause 4, and primarily includes the legislation which has been specifically enacted to counter terrorism and related security threats. However, the Monitor is also given the ability to review other legislation, such as general Commonwealth criminal legislation, which is used from time to time as part of Australia's counter-terrorism efforts. The Monitor's functions also require the Monitor to consider whether Australia's counter-terrorism and national security legislation contains appropriate safeguards for protecting the rights of individuals and whether the legislation remains necessary.

Clause 6 also provides that the Monitor will be able to initiate his or her own reviews. It also provides scope for the Prime Minister to refer matters relating to counter-terrorism or national security to the Monitor to report on to the Prime Minister.

These functions are consistent with the Senate Standing Committee on Legal and Constitutional Affairs' enquiry into legislation to establish an independent reviewer of terrorism laws as the Committee recommended that the role and function of the independent reviewer needs to be comprehensively described.

The terms 'operation' and 'effectiveness' are consistent with the Security Legislation Review Committee's terms of reference and they currently appear in the Parliamentary Joint Committee on Intelligence and Security's terms of reference in section 29 of the *Intelligence Services Act 2001*.

Subclause 6(2) outlines what is not a function of the Monitor similar to section 29 of the *Intelligence Services Act 2001* which outlines what are and what are not the functions of the Parliamentary Joint Committee on Intelligence and Security. This subclause is included to provide greater clarity to the role and functions of the Monitor and to ensure no overlap with other oversight and accountability agencies such as the Inspector-General of Intelligence and Security (IGIS) and the Commonwealth Ombudsman. However, as outlined in clause 10, it is envisaged that the Monitor may liaise with such agencies when performing his or her functions and

must have regard to their functions.

Clause 7: References to the National Security Legislation Monitor

This clause allows the Prime Minister to refer a matter to the Monitor to review in a specified timeframe. When referring a matter to the Monitor, the Prime Minister will provide the Monitor the terms of reference and priorities for the review. The Prime Minister may alter the terms of reference during the review period and grant an extension to the Monitor.

This clause is similar to the way in which the Attorney-General may refer a matter to the Australian Law Reform Commission under section 20 of the *Australian Law Reform Commission Act 1996*.

Clause 8: Regard to be had to international obligations and national arrangements

This clause provides that when performing the Monitor's functions, the Monitor must have regard to Australia's international obligations. The Monitor must have regard to Australia's human rights obligations such as the International Convention on Civil and Political Rights and the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment. In addition, the Monitor must also have regard to international instruments that Australia has become a party to which require Australia to enact a strong counter-terrorism framework such as the 16 United Nations counter-terrorism conventions and protocols and the United Nations Security Council Resolutions 1267 and 1373 concerning the freezing of assets of terrorists.

This clause also requires the Monitor to have regard to national arrangements agreed to from time to time between the Commonwealth, States and Territories. This clause recognises that counter-terrorism is a national issue and that the terrorism offences and related legislation in Part 5.3 of the *Criminal Code* was originally enacted under a referral of powers from the States. Other national arrangements are also reflected in the National Counter-Terrorism Plan. In addition to arrangements between each police force in Australia, national arrangements are facilitated through the National Counter-Terrorism Committee and its subcommittees which have representatives from all the States and Territories.

Clause 9: Emphasis to be given to counter-terrorism and national security legislation that has been applied or considered recently

This clause provides that when performing the Monitor's functions in a particular financial year, the Monitor must give particular emphasis to that legislation which has been used or considered in the previous financial year and report his or her comments, findings or recommendations to the Prime Minister on an annual basis.

This clause is intended to ensure the Monitor reviews the laws when they have been used in a practical scenario. Reviewing laws when they have not been used would be considered an ineffective use of the Monitor's time and resources.

Clause 10: Consultation with agencies etc.

This clause provides that when performing the Monitor's functions, the Monitor must have regard to the functions and roles of other oversight and accountability agencies such as the IGIS, the Commonwealth Ombudsman, the Privacy Commissioner, the Australian Commission for Law Enforcement Integrity and the Human Rights Commissioner.

However, subclause 10(2) enables the Monitor to liaise with such oversight and accountability agencies as the Monitor considers necessary to effectively perform his or her functions.

Division 2 – Appointment of National Security Legislation Monitor

Clause 11: Appointment

This clause provides that the Monitor is to be appointed (or reappointed) by written instrument from the Governor-General. The Monitor will undertake his or her role on a part-time basis. The Governor-General must not appoint a person as the Monitor unless, in the Governor-General's opinion, the person is suitable for appointment because of the person's qualifications, training or experience. In addition, before the Governor-General appoints a person as the Monitor, the Prime Minister must consult with the Leader of the Opposition in the House of Representatives.

Clause 12: Term of Appointment

This clause provides for the appointment of the Monitor for a fixed term specified in the instrument of appointment and not exceeding three years. The Monitor is eligible to be reappointed by the Governor-General for one further term.

Clause 13: Remuneration and allowances

This clause provides that the remuneration for the Monitor is to be determined by the Remuneration Tribunal in accordance with the *Remuneration Tribunal Act 1973*, with provision for remuneration to be prescribed by regulation in the absence of such determination. Allowances may also be prescribed by regulation if the Remuneration Tribunal does not determine them.

Clause 14: Leave of absence

This clause provides that the Prime Minister may grant the Monitor leave of absence on the terms and conditions specified by the Governor-General in writing.

Clause 15: Outside employment

This clause ensures that the Monitor does not engage in any paid employment outside the Office of the National Security Legislation Monitor that conflicts or may conflict with his or her duties, without written consent from the Prime Minister. The intention of the clause is to prevent the occurrence of a conflict of interests arising which would prevent the Monitor from properly performing his or her duties.

Clause 16: Disclosure of interests to the Prime Minister

This clause requires the Monitor to provide written notice to the Prime Minister where he or she has, or acquires, an interest that may conflict with the performance of his or her functions as the Monitor. Failure to provide such notification, without reasonable excuse, is a ground for dismissal of the Monitor by the Governor-General pursuant to Clause 19.

Clause 17: Other terms and conditions

This clause provides that the Monitor may only hold office as the Monitor on the terms and conditions which are determined by the Governor-General in relation to matters not covered by the Bill.

Clause 18: Resignation

This clause provides that the Monitor may resign from his or her appointment as the Monitor by providing the Governor-General with a signed notice of resignation.

Clause 19: Termination of appointment

This clause provides that the Governor-General can only terminate the appointment of the Monitor on the grounds specified in this clause. The Governor-General has discretion to dismiss the Monitor for misbehaviour or physical or mental incapacity.

The Governor-General must dismiss the Monitor in situations such as: bankruptcy, failing to disclose conflicts of interest in contravention of clause 16, engaging in unauthorised outside employment in contravention of clause 15, and/or unauthorised absence from office.

Clause 20: Acting National Security Legislation Monitor

This clause provides that in circumstances where there is a vacancy in the Office of the Monitor or during any periods where the Monitor is absent from duty or Australia, or unable to perform his or her duties, the Prime Minister may appoint a person as Acting National Security Legislation Monitor.

Consistent with section 33A of the *Acts Interpretation Act 1901*, the Acting Monitor may only be appointed for a maximum of 12 months.

PART 3 – INFORMATION GATHERING POWERS

Clause 21: National Security Legislation Monitor may hold hearings

This clause confers powers on the Monitor to hold a hearing for the purpose of performing his or her functions under this Bill.

Subclause 21(2) requires that a hearing must be held in public unless the Monitor exercises his or her discretion and directs that a hearing, or part of a hearing, be held

in private or, for any time during which a person is giving evidence that discloses operationally sensitive information. This provision ensures that as far as possible, the Monitor may hold hearings in public. The provision also ensures that an appropriate and necessary level of protection is afforded to operationally sensitive information by requiring that a hearing be held in private where operationally sensitive information could be discussed.

The ability to hold public hearings allows the Monitor to ensure that public and interested stakeholders can participate in the review process. However, it is important that the Monitor may hold hearings in private where law enforcement and intelligence agencies can discuss issues which may be operationally sensitive.

The Monitor has a general power to regulate the conduct of proceedings at a hearing as he or she thinks fit. This is similar to subsection 25A(1) of the *Australian Crime Commission Act 2002* and subsection 82(2) of the *Law Enforcement Integrity Commissioner Act 2006*.

Subclause 21(4) requires the Monitor to make a record of each hearing he or she conducts.

Subclause 21(5) is included to assist readers, as the instrument is not a legislative instrument within the meaning of section 5 of the *Legislative Instruments Act 2003*. A direction given by the Monitor under this section is not a legislative instrument.

Clause 22: National Security Legislation Monitor may summon person

This clause confers power on the Monitor to summon a person. Under subclause 22(1) the Monitor can serve a summons on a person to attend a hearing at a time and place specified in the summons for the purpose of giving evidence or producing documents or things specified in the summons. The summons must be in writing, signed by the Monitor and served on the person required to attend the hearing (subclause 22(2)). The Monitor must give a person 14 days notice if the Monitor summons the person as a witness (subclause 22(3)).

Subclause 22(4) provides that a person that is summoned under this clause to appear as a witness at a hearing is entitled to be paid allowances for travel and other expenses. The regulations will prescribe the allowances. It is necessary for the allowances to be prescribed in the regulations so that the allowances can be adjusted in a timely manner to respond to changes in market conditions. This clause is similar to powers held by other oversight bodies.

Failure to comply with a summons issued under this clause is an offence under clause 25 of the Bill.

Clause 23: Evidence on oath or by affirmation

This clause confers power on the Monitor to administer an oath or affirmation to a witness. The Monitor may require a witness at a hearing to take an oath or affirmation.

The consequence of the power of the Monitor under subclause 23(1) to compel a witness to take an oath or affirmation is that hearings held by the Monitor under the Bill are characterised as ‘judicial proceedings’ under Part III of the *Crimes Act 1914*. This means that the offences attaching to judicial proceedings as set out in Part III of the *Crimes Act 1914* are applicable to hearings conducted under the Bill. For example, offences for giving false testimony, fabricating evidence, intimidation of witnesses, corruption of witnesses, deceiving witnesses and destroying evidence are available.

An oath or affirmation administered by the Monitor under this clause is an oath or affirmation that the evidence the witness will give will be true.

Under subclause 23(3) the Monitor has a discretion to allow a person who is attending a hearing who has been sworn or has made an affirmation to give evidence at the hearing by tendering a written statement and verifying it by oath or affirmation.

Failure to take an oath or make an affirmation if requested by the Monitor is an offence under subclause 25(2) of the Bill. The offence is punishable by imprisonment for 6 months or 30 penalty units, or both.

Conferring power on the Monitor to compel a witness to take an oath or affirmation ensures the accuracy of evidence given in a hearing. This is similar to powers provided by other oversight bodies.

Clause 24: National Security Legislation Monitor may request production of a document or thing

This clause confers power on the Monitor to request a person to produce to the Monitor a document or thing for the purpose of conducting a review in accordance with the Monitor’s functions under the Act. Under subclause 24(1) the Monitor can, by written notice, request a person to give the Monitor the information specified in the notice or to produce to the Monitor the documents or things referred to in the notice. The period within which the person must comply with the request must be specified (Subclause 24(2)).

Subclause 24(3) provides that the Monitor must allow at least 14 days for a person to comply with the written notice to produce a document or thing.

Failure to give the information, or produce the document or things, is an offence under clause 25 of the Bill.

Clauses 27 and 28 also make provision for the Monitor to retain the documents and to ensure protection of national security classified or operationally sensitive information documents.

Clause 25: Offences

This clause outlines various offences for failing to comply with a summons or a notice served by the Monitor.

Failure to attend hearing

Subclause 25(1) makes it an offence for a person to fail to attend at a hearing if required to do so under a notice served on the person.

The offence is punishable by imprisonment for 6 months or 30 penalty units, or both.

Failure to swear an oath, make an affirmation or answer a question

Subclause 25(2) makes it an offence for a person who is served with a notice to attend a hearing to fail to be sworn or make an affirmation at the hearing, or to fail to answer a question at the hearing that the Monitor requires the person to answer.

The offence is punishable by imprisonment for 6 months or 30 penalty units, or both.

Failure to produce a document or thing

Subclause 25(3) makes it an offence for a person to fail to produce a document or thing the person was required to produce under a notice received by the person from the Monitor.

This offence is punishable by imprisonment for 6 months or 30 penalty units, or both.

Failure to provide information

Subclause 25(4) makes it an offence for a person to fail to provide information that the person was required to provide under a notice served received by the person from the Monitor.

This offence is punishable by imprisonment for 6 months or 30 penalty units, or both.

Exception - reasonable excuse

Subclause 25(5) provides that a person required to attend a hearing, swear an oath or make an affirmation, answer a question, produce a document or thing or provide information under subclauses 25(1)-(4) can refuse to do so if the person has a reasonable excuse. The defendant bears an evidential burden in relation to this matter.

Subclause 25(6) provides that a reasonable excuse includes the principle against self-incrimination. This subclause is not exhaustive of what comprises a reasonable excuse. For example, a person may be unable legitimately to produce a document for the Monitor due to another person having possession of the document or due to the loss of the document. However, a reasonable excuse would not include a person acting intentionally to defeat the purpose of the notice. For example, the reasonable excuse defence would not apply if a person shreds a document upon receiving a request from the Monitor to produce the document and states they are no longer in possession of it.

Given the coercive powers that the Monitor is given by Part 3 and the consequences of non-compliance, the defence of “reasonable excuse” has been included to seek to

ensure as far as possible that people are not penalised for failing to assist the Monitor in circumstances beyond their control or where there is some other good and acceptable reason for non-compliance.

Clause 26: No criminal or civil liability under secrecy provisions

A person is not excused from answering a question or providing information or documents or things when requested under clause 22 or 24, on the grounds that answering the question, or producing the information or documents or things would breach a secrecy provision. This clause provides immunity for those people who act in compliance with a request from the Monitor from proceedings for contravening any secrecy provision. This provision must be viewed in light of the Monitor's functions and the protection of operationally sensitive information in other provisions of the Act.

This is designed to encourage people to assist the Monitor in the conduct of inquiries as fully as possible.

Clause 27: National Security Legislation Monitor may retain documents or things

This clause provides that the Monitor may retain documents or things produced to him or her pursuant to a request made under clause 22 or 24. Under this clause, the Monitor will be able to take possession of a document or thing, make copies of a document or thing, take extracts from a document, and retain possession of a document or thing for as long as necessary for the purposes of the investigation for which the document or thing was requested.

Documents or things obtained pursuant to a request made under clause 22 or 24 will not be able to be retained indefinitely. Rather, the period of time that the Monitor can retain documents or things under this clause is limited to the period for which those documents or things are necessary for the purposes of the investigation for which they were requested.

At all times while the Monitor retains a document or thing obtained pursuant to a request made under clause 22 or 24, the Monitor must allow persons who would otherwise be entitled to inspect or view the document or thing to inspect or view the document or thing at the times that the person would ordinarily be able to do so (subclause 27(2)). Providing a power of inspection means that the person is not completely deprived of the document or thing.

This clause is necessary to enable the Monitor to access documents and information relevant to reviewing the operation and effectiveness of Australia's counter-terrorism and national security legislation. This clause is similar to section 18 of the *Inspector-General of Intelligence and Security Act 1986*, sections 28 and 29 of the *Australian Crime Commission Act 2002*, sections 9 and 13 of the *Ombudsman Act 1976*, sections 19 and 20 of the *Inspector-General of Taxation Act 2003* and sections 77 and 102 of the *Law Enforcement Integrity Commissioner Act 2006*.

Clause 28: Protection of information and documents

This clause provides that if documents provided to the Monitor carry a national security classification or contain operationally sensitive information, the Monitor must make arrangements acceptable to the head of the agency he or she is requesting the information from, for the security of this information.

In addition, the Monitor must ensure that any documents that have a national security classification or contain operationally sensitive information which are provided to the Monitor are returned as soon as possible after the Monitor has examined them.

PART 4 – REPORTING REQUIREMENTS

Clause 29: Annual Report

This clause provides that the Monitor must provide a report to the Prime Minister on the operation, effectiveness and implications of Australia's counter-terrorism and national security legislation and whether it contains appropriate safeguards for protecting individuals' rights and remains necessary. The Monitor must report as soon as practicable after 30 June each financial year, and in any event, within 6 months after the end of that particular period.

Subclause 29(3) restricts the nature of what the Monitor may publish in the annual report subject to the advice of the Minister or Ministers responsible for any agencies concerned (including State and Territory police forces) as to whether any part of the annual report contains information which is prohibited from disclosure under this subclause. This would exclude from the annual report any operationally sensitive information or information that would or might prejudice Australia's national security or the conduct of Australia's foreign relations or the performance by an agency of its functions or may endanger a person's safety. This subclause is substantially equivalent to section 7 of Schedule 1 of the *Intelligence Services Act 2001* and section 92 of the *Australian Security Intelligence Organisation Act 1979* and is intended to ensure that the authorised activities related to the functions of the agency or agencies concerned are not compromised through disclosure.

Subclause 29(3) ensures the annual report does not include any information from Commonwealth and State and Territory Cabinet documents. This includes documents prepared for a meeting of the Cabinet or a Committee of the Cabinet as well as any information that would disclose the deliberations of the Cabinet.

Subclause 29(4) provides that the Monitor is required to seek the advice of the responsible Ministers (including State and Territory Ministers) concerned to determine if the annual report contains any information referred to in subclause 29(3). Upon receiving the unclassified report from the Monitor, subclause 29(6) provides that the Prime Minister must be satisfied that the annual report does not contain any of the abovementioned information before presenting the annual report to each House of Parliament within 15 sitting days after the day on which he or she receives the report under subclause 29(5).

If the Monitor is required to exclude any of the abovementioned information from the annual report, the Monitor must prepare and give to the Prime Minister a supplementary classified report that sets out that information.

Clause 30: Report on a reference

This clause provides that if a matter has been referred to the Monitor by the Prime Minister under clause 7 whereby the Prime Minister may refer a matter relating to counter-terrorism or national security to the Monitor, then the Monitor is required to report to the Prime Minister on that reference. The Monitor may, under his or her own discretion or by direction from the Prime Minister, give an interim report to the Prime Minister on the Monitor's work on the reference.

PART 5 – MISCELLANEOUS

Clause 31: Immunity from legal action

This clause protects the Monitor from any legal action being brought against him or her in relation to anything the Monitor has done or omitted to do in the performance of his or her functions or the exercise of his or her powers. This clause is important so that the Monitor can effectively perform his or her functions without fear of legal action.

This does not prevent legal action from being brought against the Monitor if the Monitor is acting outside his or her functions or powers.

Clause 32: Regulations

This clause provides for the Governor-General to make regulations covering matters required to be prescribed in the Bill, or matters that would be necessary or convenient to prescribe for the purposes of the Bill.