

Telecommunications (Interception and Access) (New South Wales) Act 1987 No 290

[1987-290]



New South Wales

Status Information

Currency of version

Historical version for 23 October 2014 to 30 June 2017 (accessed 19 December 2024 at 1:54)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

Provisions in force

The provisions displayed in this version of the legislation have all commenced.

Notes—

- **Previously named**
Telecommunications (Interception) (New South Wales) Act 1987
- **Does not include amendments by**
[Law Enforcement Conduct Commission Act 2016 No 61](#) (not commenced — to commence on 1.7.2017)
[Independent Commission Against Corruption Amendment Act 2016 No 65](#) (not commenced)

Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

File last modified 16 June 2017

Telecommunications (Interception and Access) (New South Wales) Act 1987 No 290



New South Wales

Contents

Long title	4
Part 1 Preliminary	4
1 Name of Act	4
2 Commencement	4
3 Definitions	4
3A Information or question relevant to inspection by Ombudsman	10
Part 2 Functions of eligible authorities	10
4 Eligible authority to keep documents connected with issue of warrants	10
5 Other records to be kept by an eligible authority in connection with interceptions	10
6 Documents to be given by an eligible authority to the Minister	12
7 Documents to be given by State Minister to Commonwealth Minister	12
8 Keeping and destruction of restricted records	12
Part 3 Functions of the Ombudsman	13
9 Functions—generally	13
10 Regular inspections of an eligible authority’s records	13
11 Reports	13
12 Ombudsman may report on breaches	14
13 Ombudsman’s general powers	14
14 Power to obtain relevant information	15
15 Ombudsman to be given information and access notwithstanding other laws	15

16 Dealing with information for the purposes of inspection and report.....	16
17 Ombudsman not to be sued	16
18 Delegation by Ombudsman	17
19 Application of the Ombudsman Act 1974	17
19A Exchange of information between Ombudsman and Commonwealth Ombudsman.....	17
Part 4 Miscellaneous	18
20 Copies of reports for Commonwealth Minister.....	18
21 Disclosure by persons under the Minister’s administration	18
22 Offences relating to inspections under Part 3.....	19
23 Proceedings for offences	19
24 Regulations.....	19
25 Savings, transitional and other provisions.....	19
Schedule 1 Savings, transitional and other provisions	19

Telecommunications (Interception and Access) (New South Wales) Act 1987 No 290



New South Wales

An Act to enable certain State authorities to be declared to be agencies for the purposes of the *Telecommunications (Interception) Act 1979* of the Commonwealth.

Part 1 Preliminary

1 Name of Act

This Act may be cited as the *Telecommunications (Interception and Access) (New South Wales) Act 1987*.

2 Commencement

This Act shall commence on a day to be appointed by proclamation.

3 Definitions

(1) In this Act:

agency means:

- (a) the Australian Federal Police,
- (b) the Australian Crime Commission,
- (c) the Police Force,
- (d) the New South Wales Crime Commission,
- (e) the Independent Commission Against Corruption,
- (e1) the Police Integrity Commission,
- (e2) the Police Royal Commission, or
- (f) any authority of another State or a Territory in relation to which a declaration under section 34 of the Commonwealth Act is in force.

certifying officer, in relation to an eligible authority, means:

- (a) in the case of the Police Force:
 - (i) the Commissioner of Police, or
 - (ii) a Deputy Commissioner of Police, or
 - (iii) an officer whose rank is equivalent to that of Assistant Commissioner of the Australian Federal Police, or
 - (iv) an officer who is authorised to be a certifying officer of the Police Force under section 5AC (4) of the Commonwealth Act, or
- (b) in the case of the New South Wales Crime Commission:
 - (i) an executive officer of that Commission, or
 - (ii) a member of the staff of that Commission who is authorised to be a certifying officer of the Commission under section 5AC (5) of the Commonwealth Act, or
- (c) in the case of the Independent Commission Against Corruption:
 - (i) the Commissioner of that Commission, or
 - (ii) an Assistant Commissioner of that Commission, or
 - (iii) an officer who is authorised to be a certifying officer of that Commission under section 5AC (9A) of the Commonwealth Act, or
- (d) in the case of the Police Integrity Commission:
 - (i) the Commissioner of that Commission, or
 - (ii) an Assistant Commissioner of that Commission, or
 - (iii) an officer who is authorised to be a certifying officer of that Commission under section 5AC (8) of the Commonwealth Act, or
- (e) in the case of the Police Royal Commission—the Police Royal Commissioner.

chief officer, in relation to an eligible authority, means:

- (a) in the case of the Police Force—the Commissioner of Police, or
- (b) in the case of the New South Wales Crime Commission—the Commissioner of that Commission, or
- (c) in the case of the Independent Commission Against Corruption—the Commissioner of that Commission, or
- (d) in the case of the Police Integrity Commission—the Commissioner of that Commission,

(e) in the case of the Police Royal Commission—the Police Royal Commissioner.

eligible authority means:

- (a) the Police Force, or
- (b) the New South Wales Crime Commission, or
- (c) the Independent Commission Against Corruption, or
- (d) the Police Integrity Commission, or
- (e) the Police Royal Commission, or
- (f) the Inspector of the Independent Commission Against Corruption, or
- (g) the Inspector of the Police Integrity Commission.

inspecting officer means:

- (a) the Ombudsman,
- (b) the Deputy Ombudsman holding office under the [Ombudsman Act 1974](#),
- (c) an Assistant Ombudsman holding office under the [Ombudsman Act 1974](#), or
- (d) a special officer or officer of the Ombudsman, other than a member of the Police Force.

in the possession of, in relation to a document, record or copy, includes in the custody of or under the control of.

officer, in relation to an eligible authority, means:

- (a) in the case of the Police Force—an officer of the Police Force, or
- (b) in the case of the New South Wales Crime Commission—an executive officer, or a member of the staff, of that Commission, or
- (c) in the case of the Independent Commission Against Corruption—an officer (as defined by the [Independent Commission Against Corruption Act 1988](#)) of that Commission, or
- (d) in the case of the Police Integrity Commission—an officer of the Commission (as defined in the [Police Integrity Commission Act 1996](#)), or
- (e) in the case of the Police Royal Commission—an officer of the Police Royal Commission as defined in the [Police Integrity Commission Act 1996](#).

Ombudsman means the Ombudsman holding office under the [Ombudsman Act 1974](#).

Part 2-5 warrant means a warrant issued or to be issued under Part 2-5 of the Commonwealth Act.

permitted purpose, in relation to an eligible authority, means:

(a) in any case:

- (i) an investigation by the authority of a prescribed offence within the meaning of the Commonwealth Act, or
- (ii) the making by an authority, body or person of a decision whether or not to begin a relevant proceeding in relation to the authority, or
- (iii) a relevant proceeding in relation to the authority, or
- (iv) the exercise by the chief officer of the authority of the powers conferred by section 68 of the Commonwealth Act, or
- (v) an inspection of the authority's records that is made under section 10, or
- (vi) a report on such an inspection, or
- (vii) the keeping of records by the authority under sections 4 and 5, or

(b) in the case of the Police Force:

- (i) an investigation of, or an inquiry into, alleged misbehaviour, or alleged improper conduct, of an officer of the State of New South Wales, being an investigation or inquiry under a law of this State or by a person in the person's capacity as an officer of this State, or
- (ii) a report on such an investigation or inquiry, or
- (iii) the making by a person of a decision in relation to the appointment, re-appointment, term of appointment, retirement or termination of appointment of an officer or member of staff of the Police Force, or
- (iv) a review (whether by way of appeal or otherwise) of such a decision, or
- (v) the tendering to the Governor of advice to terminate, because of misbehaviour or improper conduct, the appointment of an officer of this State, or
- (vi) deliberations of the Executive Council in connection with advice to the Governor to terminate, because of misbehaviour or improper conduct, the appointment of an officer of this State, or

(c) in the case of the Independent Commission Against Corruption:

- (i) an investigation under the [Independent Commission Against Corruption Act 1988](#) into whether corrupt conduct (within the meaning of that Act) may have

- occurred, may be occurring or may be about to occur, or
- (ii) a report on such an investigation, or
- (d) in the case of the Inspector of the Independent Commission Against Corruption:
- (i) dealing with (by reports and recommendations) complaints of abuse of power, impropriety or other forms of misconduct (within the meaning of the *Independent Commission Against Corruption Act 1988*) on the part of the Independent Commission Against Corruption or officers of that Commission, or
 - (ii) dealing with (by reports and recommendations) conduct amounting to maladministration (within the meaning of the *Independent Commission Against Corruption Act 1988*) by the Independent Commission Against Corruption or officers of that Commission, or
- (e) in the case of the Inspector of the Police Integrity Commission—dealing with (by reports and recommendations) complaints of abuse of power, impropriety or other forms of misconduct (within the meaning of the *Police Integrity Commission Act 1996*) on the part of the Police Integrity Commission or officers of that Commission, or
- (f) in the case of the Police Integrity Commission:
- (i) an investigation under the *Police Integrity Commission Act 1996* of police misconduct of an officer of the Police Force, or
 - (ia) an investigation under the *Police Integrity Commission Act 1996* of corrupt conduct (within the meaning of section 5A of that Act) of an administrative officer (within the meaning of that Act), or
 - (ib) an investigation under the *Police Integrity Commission Act 1996* of misconduct (within the meaning of section 5B of that Act) of a Crime Commission officer (within the meaning of that Act), or
 - (ii) a report on an investigation covered by subparagraph (i), (ia) or (ib), or
 - (iii) the tendering to the Governor of advice to terminate, because of misbehaviour or improper conduct, the appointment of the Commissioner of Police, or
 - (iv) deliberations of the Executive Council in connection with advice to the Governor to terminate, because of misbehaviour or improper conduct, the appointment of the Commissioner of Police.

Police Royal Commission and **Police Royal Commissioner** have the same meanings as in the *Police Integrity Commission Act 1996*.

premises includes:

- (a) any land,
- (b) any structure, building, aircraft, vehicle, vessel or place (whether built on or not),
and
- (c) any part of such a structure, building, aircraft, vehicle, vessel or place.

record means:

- (a) in relation to information—a record or copy, whether in writing or otherwise, of the whole or a part of the information,
- (b) in relation to an interception, whether or not in contravention of section 7 (1) of the Commonwealth Act, of a communication:
 - (i) a record or copy, whether in writing or otherwise, of the whole or a part of the communication, being a record or copy made by means of the interception, or
 - (ii) a record or copy, whether in writing or otherwise, of the whole or a part of a record or copy that is, by virtue of any other application or applications of this definition, a record obtained by the interception, or
- (c) in relation to a warrant under section 11A of the Commonwealth Act:
 - (i) the whole or a part of a copy of a telegram made under the warrant, or
 - (ii) a record or copy, whether in writing or otherwise, of the whole or a part of a record or copy that is, by virtue of any other application or applications of this definition, a record obtained by virtue of the warrant.

restricted record means a record, other than a copy, that was obtained by means of an interception, whether or not in contravention of section 7 (1) of the Commonwealth Act, of a communication passing over a telecommunications system.

the Commonwealth Act means the [Telecommunications \(Interception and Access\) Act 1979](#) of the Commonwealth.

the Police Force means the New South Wales Police Force.

warrant means a warrant issued under the Commonwealth Act.

- (2) Expressions used in this Act which are not elsewhere defined in this section, have the same meanings as in the Commonwealth Act.
- (3) In this Act:
 - (a) a reference to a function includes a reference to a power, authority and duty, and

(b) a reference to the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

(4) Notes included in this Act do not form part of this Act.

3A Information or question relevant to inspection by Ombudsman

(1) For the purposes of this Act, information or a question is relevant to an inspection of an eligible authority's records under Part 3 if the information or question is about:

(a) the location of any of those records, or

(b) the making, compilation or keeping of any of those records, or

(c) the accuracy or completeness of any of those records, or

(d) any matter to which any of those records relates, or

(e) in the case where the Ombudsman suspects on reasonable grounds that an officer of the authority has contravened this Act or the Commonwealth Act—any matter relating to the suspected contravention.

(2) Nothing in subsection (1) limits the generality of a reference in this Act to information, or to a question, that is relevant to an inspection of an eligible authority's records.

Part 2 Functions of eligible authorities

4 Eligible authority to keep documents connected with issue of warrants

The chief officer of an eligible authority shall cause to be kept in the authority's records:

(a) each warrant issued to the authority (or a copy of any such warrant that is certified in writing by a certifying officer of the authority to be a true copy of the warrant),

(b) a copy of each notification under section 59A (2) of the Commonwealth Act of the issue of such a warrant,

(c) (Repealed)

(d) a copy of each certificate issued under section 61 (4) of the Commonwealth Act by a certifying officer of the authority, and

(e) a copy of each authorisation by the chief officer under section 66 (2) of the Commonwealth Act.

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

(1) The chief officer of an eligible authority shall cause:

(a) particulars of each telephone application for a Part 2-5 warrant made by the

authority,

- (b) in relation to each application by the authority for a Part 2-5 warrant, a statement as to whether:
 - (i) the application was withdrawn or refused, or
 - (ii) a warrant was issued on the application,
- (b1) in relation to each Part 2-5 warrant whose authority is exercised by the eligible authority, particulars of:
 - (i) the warrant, and
 - (ii) the day on which, and the time at which, each interception under the warrant began, and
 - (iii) the duration of each such interception, and
 - (iv) the name of the person who carried out each such interception, and
 - (v) in relation to a named person warrant—each service to or from which communications have been intercepted under the warrant,
- (c) in relation to each restricted record that has at any time been in the possession of the authority, particulars of:
 - (i) if the restricted record is a record obtained by an interception under a warrant issued to the authority—that warrant,
 - (ii) each occasion when the restricted record came (whether by its making or otherwise) to be in the possession of the authority,
 - (iii) each occasion (if any) when the restricted record ceased (whether by its destruction or otherwise) to be in the possession of the authority, and
 - (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,
- (d) particulars of each use made by the authority of lawfully obtained information,
- (e) particulars of each communication of lawfully obtained information by an officer of the authority to a person or body other than such an officer, and
- (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,

to be recorded in writing or by means of a computer as soon as practicable after the happening of the events to which the particulars relate or the statement relates, as

the case may be.

- (1A) If a Part 2-5 warrant is a named person warrant, the particulars referred to in subsection (1) (b1) (ii) must indicate the service in respect of which each interception occurred.
- (2) The chief officer of an eligible authority shall cause to be kept in the authority's records each record that the chief officer has caused to be made under this section.

6 Documents to be given by an eligible authority to the Minister

The chief officer of an eligible authority shall give to the Minister:

- (a) (Repealed)
- (b) within 3 months after a warrant issued to the authority ceases to be in force, a written report about:
 - (i) the use made by the authority of information obtained by interceptions under the warrant, and
 - (ii) the communication of that information to persons other than officers of the authority, and
- (c) as soon as practicable, and in any event within 3 months, after each 30 June, a written report that sets out such information as:
 - (i) Division 2 of Part 2-8 of the Commonwealth Act requires to be set out in the Minister's report under that Division relating to the year ending on that 30 June, and
 - (ii) can be derived from the authority's records.

7 Documents to be given by State Minister to Commonwealth Minister

The Minister is to give the Minister administering the Commonwealth Act a report of a kind referred to in section 6 (b) or (c) as soon as practicable after the report is given to the Minister.

8 Keeping and destruction of restricted records

- (1) The chief officer of an eligible authority shall cause a restricted record (whether made before or after the commencement of section 35 of the Commonwealth Act) that is in the possession of the authority to be kept, except when it is being otherwise dealt with in accordance with 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.
- (2) The chief officer of an eligible authority shall cause a restricted record of a kind referred to in subsection (1) to be destroyed forthwith where 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 kind referred to in section 11 or with a report on such an inspection.

Part 3 Functions of the Ombudsman

9 Functions—generally

The Ombudsman may:

- (a) inspect an eligible authority's records in order to ascertain the extent of compliance by the authority's officers with Part 2,
- (b) report to the Minister about the results of those inspections, and
- (c) do anything incidental or conducive to the performance of any of the preceding functions.

10 Regular inspections of an eligible authority's records

- (1) The Ombudsman shall inspect the records of each eligible authority:
 - (a) at least once during the period beginning at the commencement of this Act and ending on 30 June 1988, and
 - (b) at least twice during each financial year beginning on or after 1 July 1988,in order to ascertain the extent to which the authority's officers have complied with Part 2 since that commencement, or since the last inspection under this Part of the authority's records, as the case requires.
- (2) The Ombudsman may at any time inspect an authority's records in order to ascertain the extent to which the authority's officers have complied during any period with Part 2.

11 Reports

- (1) The Ombudsman shall, as soon as practicable, and in any event within 3 months, after the end of each financial year, report to the Minister in writing, in relation to each eligible authority, about the results of the inspections under section 10 (1), during that financial year, of the authority's records.
- (1A) The Ombudsman must include in each report under subsection (1) in relation to a financial year (starting with the financial year beginning on 1 July 2006) the following:
 - (a) a summary of the inspections conducted in the financial year under section 10,
 - (b) particulars of any deficiencies identified that impact on the integrity of the telecommunications interception regime established by the Commonwealth Act,

- (c) particulars of the remedial action (if any) taken or proposed to be taken to address those deficiencies.

Note—

In complying with this section, the Ombudsman remains bound by section 63 of the Commonwealth Act, which prohibits the disclosure of intercepted information or designated warrant information.

- (2) The Ombudsman may report to the Minister in writing at any time about the results of an inspection under this Part and shall do so if so requested by the Minister.
- (3) The Ombudsman shall give a copy of a report under subsection (1) or (2) to the chief officer of the eligible authority to which the report relates.

12 Ombudsman may report on breaches

Where, as a result of an inspection under this Part of the records of an eligible authority, the Ombudsman is of the opinion that an officer of the authority has contravened:

- (a) a provision of the Commonwealth Act, or
- (b) a requirement referred to in section 6 (a) or (b),

the Ombudsman may include in his or her report on the inspection a report on the contravention.

13 Ombudsman's general powers

- (1) For the purposes of an inspection under this Part of an eligible authority's records, the Ombudsman:
 - (a) may, after notifying the chief officer of the authority, enter at any reasonable time premises occupied by the authority,
 - (b) is entitled to have full and free access at all reasonable times to all records of the authority,
 - (c) notwithstanding any other law, is entitled to make copies of, and to take extracts from, records of the authority, and
 - (d) may require an officer of the authority to give the Ombudsman such information as the Ombudsman considers necessary, being information that is in the officer's possession, or to which the officer has access, and that is relevant to the inspection.
- (2) The chief officer of an eligible authority shall ensure that the authority's officers provide to the Ombudsman such assistance in connection with the exercise of the Ombudsman's functions under this Part as the Ombudsman reasonably requires.

14 Power to obtain relevant information

- (1) Where the Ombudsman has reason to believe that an officer of an eligible authority is able to give information relevant to an inspection under this Part of the authority's records, subsections (2) and (3) have effect.
- (2) The Ombudsman may, by writing given to the officer, require the officer to give the information to the Ombudsman:
 - (a) by writing signed by the officer, and
 - (b) at a specified place and within a specified period.
- (3) The Ombudsman may, by writing given to the officer, require the officer to attend:
 - (a) before a specified inspecting officer,
 - (b) at a specified place, and
 - (c) within a specified period or at a specified time on a specified day,in order to answer questions relevant to the inspection.
- (4) Where the Ombudsman:
 - (a) has reason to believe that an officer of an eligible authority is able to give information relevant to an inspection under this Part of the authority's records, and
 - (b) does not know the officer's identity,the Ombudsman may, by writing given to the chief officer of the authority, require the chief officer, or a person nominated by the chief officer, to attend:
 - (c) before a specified inspecting officer,
 - (d) at a specified place, and
 - (e) within a specified period or at a specified time on a specified day,in order to answer questions relevant to the inspection.
- (5) The place, and the period or the time and day, specified in a requirement under this section shall be reasonable having regard to the circumstances in which the requirement is made.

15 Ombudsman to be given information and access notwithstanding other laws

- (1) Notwithstanding any other law, a person is not excused from giving information, answering a question, or giving access to a document, as and when required by or under this Part, on the ground that giving the information, answering the question, or giving access to the document, as the case may be, would contravene a law, would be

contrary to the public interest or might tend to incriminate the person or make the person liable to a penalty, but:

- (a) the information, the answer, or the fact that the person has so given access to the document, as the case may be, and
- (b) any information or thing (including a document) obtained as a direct or indirect consequence of giving the firstmentioned information, answering the question or giving access to the firstmentioned document, as the case may be,

is not admissible in evidence against the person except in a proceeding by way of a prosecution for an offence against section 22.

- (2) Nothing in any other law prevents an officer of an eligible authority from:
 - (a) giving information to an inspecting officer (whether orally or in writing and whether or not in answer to a question), or
 - (b) giving to an inspecting officer access to a record of the authority,for the purposes of an inspection under this Part of the authority's records.
- (3) 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 (2).

16 Dealing with information for the purposes of inspection and report

Where:

- (a) information is given or communicated to an inspecting officer, as permitted by section 15 (2) or this section, for the purposes of an inspection, or of a report on an inspection, under this Part of an eligible authority's records, or
- (b) an inspecting officer obtains information as a result of being given access to records of an eligible authority, as permitted by section 15 (2), for the purposes of an inspection under this Part of the authority's records,

the inspecting officer may, notwithstanding any other law, communicate to another inspecting officer, make use of, or make a record of, the information for the purposes of an inspection, or of a report on an inspection, under this Part of the authority's records.

17 Ombudsman not to be sued

Subject to the provisions applying by virtue of section 19, 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 exercise, or the purported exercise, of a function conferred by this Part.

18 Delegation by Ombudsman

The Ombudsman may delegate to another inspecting officer any of the Ombudsman's functions, other than:

- (a) this power of delegation, and
- (b) a power to report to the Minister.

19 Application of the [Ombudsman Act 1974](#)

- (1) Section 35B of the [Ombudsman Act 1974](#) does not apply in relation to the exercise or proposed exercise of a function of an inspecting officer under this Part.
- (2) Anything that an inspecting officer has done or omitted to do under this Part shall not be included in a report or special report under section 30 or 31 of the [Ombudsman Act 1974](#).
- (3) Subject to section 15 of this Act, section 34 of the [Ombudsman Act 1974](#) applies to information obtained as an inspecting officer and so applies as if:
 - (a) a reference in section 34 to information did not include a reference to lawfully obtained information, and
 - (b) paragraphs (a) and (b) (i) of section 34 (1) were omitted.

19A Exchange of information between Ombudsman and Commonwealth Ombudsman

- (1) The Ombudsman may enter into an arrangement (an **information sharing arrangement**) with the Commonwealth Ombudsman for the purpose of sharing or exchanging information held by the Ombudsman and the Commonwealth Ombudsman.
- (2) The information to which an information sharing arrangement may relate is limited to the following:
 - (a) information concerning eligible authorities,
 - (b) any other information relevant to the exercise of the respective functions of the Ombudsman and Commonwealth Ombudsman under this Act and the Commonwealth Act.
- (3) Under an information sharing arrangement, the Ombudsman and the Commonwealth Ombudsman are, despite any other Act or other law of the State, authorised:
 - (a) to request and receive information held by the other party to the arrangement, and
 - (b) to disclose information to the other party,

but only to the extent that the information is reasonably necessary to assist in the exercise of functions of the Ombudsman under this Act or the functions of the Commonwealth Ombudsman under the Commonwealth Act.

(4) This section does not limit the operation of any Act under which the Ombudsman or the Commonwealth Ombudsman is authorised or required to disclose information to another person or body.

(5) In this section:

Commonwealth Ombudsman means the Commonwealth Ombudsman appointed under the *Ombudsman Act 1976* of the Commonwealth.

Part 4 Miscellaneous

20 Copies of reports for Commonwealth Minister

The Minister shall give the Minister administering the Commonwealth Act, as soon as practicable after a report on an inspection of the kind referred to in section 11 is given to the Minister, a copy of the report.

21 Disclosure by persons under the Minister's administration

A person, other than an inspecting officer, engaged in the administration of this Act shall not disclose any information or record obtained by the person in the administration of this Act, unless the disclosure is made:

- (a) in accordance with the Commonwealth Act,
- (b) for the purpose of any proceedings under:
 - (i) section 37 of the *Ombudsman Act 1974*,
 - (ii) Part 3 of the *Royal Commissions Act 1923*,
 - (iii) Part 4 of the *Special Commissions of Inquiry Act 1983*,
 - (iv) section 25, 27 or 29 of the *Crime Commission Act 2012*, or
 - (v) Part 9 of the *Independent Commission Against Corruption Act 1988*, or
 - (vi) the *Police Integrity Commission Act 1996*, or
 - (vii) the *Royal Commission (Police Service) Act 1994*, or
- (c) for the purpose of discharging the person's functions under this or any other Act.

Penalty: 10 penalty units.

22 Offences relating to inspections under Part 3

- (1) A person shall not, without reasonable excuse, refuse or fail:
- (a) to attend before a person,
 - (b) to furnish information, or
 - (c) to answer a question,
- when required under section 14 to do so.
- (2) A person shall not:
- (a) without reasonable excuse, wilfully obstruct, hinder or resist a person in connection with the exercise of the Ombudsman's functions under Part 3, or
 - (b) give to an inspecting officer, in connection with an inspection under Part 3, information or a statement that the firstmentioned person knows to be false or misleading in a material particular.

Penalty: 10 penalty units or imprisonment for 6 months.

23 Proceedings for offences

Proceedings for an offence against this Act or the regulations shall be dealt with summarily before the Local Court.

24 Regulations

- (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) A regulation may create an offence punishable by a penalty not exceeding 5 penalty units.

25 Savings, transitional and other provisions

Schedule 1 has effect.

Schedule 1 Savings, transitional and other provisions

(Section 25)

Part 1 General

1 Regulations

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:

Telecommunications (Interception and Access) (New South Wales) Amendment Act 2009

- (2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date.
- (3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:
 - (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or
 - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

Part 2 Provisions consequent on enactment of *Telecommunications (Interception and Access) (New South Wales) Amendment Act 2009*

2 Definition

In this Part:

amending Act means the *Telecommunications (Interception and Access) (New South Wales) Amendment Act 2009*.

3 Application of amendments

- (1) Section 3A (as inserted by the amending Act) extends to the inspection of the records of an eligible authority even if the records were made (or required to be made) before the commencement of the section.
- (2) Section 7 (as in force immediately before its substitution by the amending Act) continues to have effect in relation to documents given to the Minister before that substitution.