Telecommunications Amendment (Integrated Public Number Database) Bill 2009

No. , 2009

(Broadband, Communications and the Digital Economy)

A Bill for an Act to amend the Telecommunications Act 1997, and for related purposes
1 Short title ................................................................................................................. 1
2 Commencement ........................................................................................................ 1
3 Schedule(s) ............................................................................................................... 1

Schedule 1—Amendments

Part 1—Data for emergency warnings 3
Telecommunications Act 1997 3

Part 2—Location dependent carriage services 10
Telecommunications Act 1997 10
A Bill for an Act to amend the *Telecommunications Act 1997*, and for related purposes

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Telecommunications Amendment (Integrated Public Number Database) Act 2009*.

2 Commencement

This Act commences on the day after it receives the Royal Assent.

3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule
concerned, and any other item in a Schedule to this Act has effect according to its terms.
Schedule 1—Amendments

Part 1—Data for emergency warnings

Telecommunications Act 1997

1 At the end of Division 1 of Part 13
   Add:

275B Emergency management person

   (1) In this Part:

      emergency management person means a person who holds,
      occupies or performs the duties of an office or position specified
      under subsection (2).

   (2) The Minister administering the Administrative Decisions (Judicial
      Review) Act 1977 may, by legislative instrument, specify either or
      both of the following for the purposes of the definition of
      emergency management person in subsection (1) of this section:
      (a) offices;
      (b) positions.

   (3) Offices or positions established by or under a law of a State or
      Territory may be specified under subsection (2).

   (4) Subsection (3) does not limit subsection (2).

   (5) Before making an instrument under subsection (2), the Minister
      administering the Administrative Decisions (Judicial Review) Act
      1977 must consult the Minister administering this Act.

275C Emergency

   In this Part:

      emergency means an emergency or disaster (however described)
      within the meaning of an emergency law.
Schedule 1 Amendments
Part 1 Data for emergency warnings

275D Emergency law

(1) In this Part:

emergency law means a law specified under subsection (2).

(2) The Minister administering the Administrative Decisions (Judicial Review) Act 1977 may, by legislative instrument, specify a law of a State or a Territory for the purposes of the definition of emergency law in subsection (1) of this section.

275E Relevant information

In this Part:

relevant information means information, or the contents of a document, disclosed as permitted by section 285A.

2 After section 285

Insert:

285A Data for emergency warnings

(1) Sections 276 and 277 do not prohibit a disclosure by a person of information or a document if:

(a) the information is, or the document consists of, information (including unlisted telephone numbers) contained in an integrated public number database; and

(b) the disclosure is made to an emergency management person; and

(c) the disclosure is made for the purpose of the information, or the contents of the document, being later used or disclosed:

(i) for a purpose connected with persons being alerted to an emergency or a likely emergency; or

(ii) for the purpose of reasonable testing of whether, in the event of an emergency occurring, persons would be able to be alerted to that emergency.

(2) In this section:

integrated public number database means:
(a) an integrated public number database maintained by Telstra as mentioned in Part 4 of Schedule 2; or
(b) an integrated public number database maintained by a person as mentioned in section 472.

3 After Division 3A of Part 13
Insert:

Division 3B—Emergency warnings

295V Use or disclosure of information by emergency management persons

Likely emergencies

(1) If an emergency management person believes on reasonable grounds that an emergency is likely to occur, the person may use or disclose relevant information (other than the names of persons) for a purpose connected with persons being alerted to that likely emergency.

Actual emergencies

(2) If an emergency occurs, an emergency management person may use or disclose relevant information (other than the names of persons) for a purpose connected with persons being alerted to that emergency.

Testing

(3) An emergency management person may use or disclose relevant information (other than the names of persons) for the purpose of reasonable testing of whether, in the event of an emergency occurring, persons would be able to be alerted to that emergency.

Other

(4) An emergency management person may disclose relevant information (other than the names of persons) to another person for the purpose of the information being later used or disclosed for a purpose connected with persons being alerted to an emergency or a likely emergency.
**Schedule 1** Amendments

**Part 1** Data for emergency warnings

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### 295W Use or disclosure of information by other persons

#### Actual or likely emergencies

(1) If information is disclosed to a person as permitted by subsection 295V(1) or (2) or this subsection, the person may use or disclose the information for a purpose connected with persons being alerted to the emergency or likely emergency concerned.

#### Testing

(2) If information is disclosed to a person as permitted by subsection 295V(3) or this subsection, the person may use or disclose the information for the purpose of reasonable testing of whether, in the event of an emergency occurring, persons would be able to be alerted to that emergency.

#### Other

(3) If information is disclosed to a person as permitted by subsection 295V(4) or this subsection, the person may use or disclose the information for a purpose connected with persons being alerted to an emergency or a likely emergency.

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### 295X Effect on telecommunications network

In using or disclosing information that is permitted by section 295V or 295W, a person must take reasonable steps to ensure that the use or disclosure does not adversely affect the operation of a telecommunications network.

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### 295Y Coronal and other inquiries

The disclosure of relevant information to:

(a) a coronial inquiry; or

(b) another inquiry specified by the Minister administering the *Administrative Decisions (Judicial Review) Act 1977*, by legislative instrument, for the purposes of this paragraph; in relation to an emergency or likely emergency is taken, for the purposes of this Division, to be a disclosure for a purpose connected with persons being alerted to the emergency or likely emergency concerned.
295Z Offence—use or disclosure of information by emergency management persons

An emergency management person commits an offence if:

(a) the person uses or discloses relevant information; and

(b) the use or disclosure is not permitted under section 295V.

Penalty: Imprisonment for 2 years.

295ZA Offence—use or disclosure of information by other persons

(1) A person commits an offence if:

(a) information is disclosed to the person as permitted by subsection 295V(1) or (2) or 295W(1); and

(b) the person uses or discloses the information; and

(c) the use or disclosure referred to in paragraph (b) of this subsection is not for a purpose connected with persons being alerted to the emergency or likely emergency concerned.

Penalty: Imprisonment for 2 years.

(2) A person commits an offence if:

(a) information is disclosed to the person as permitted by subsection 295V(3) or 295W(2); and

(b) the person uses or discloses the information; and

(c) the use or disclosure referred to in paragraph (b) of this subsection is not for the purpose of reasonable testing of whether, in the event of an emergency occurring, persons would be able to be alerted to that emergency.

Penalty: Imprisonment for 2 years.

(3) A person commits an offence if:

(a) information is disclosed to the person as permitted by subsection 295V(4) or 295W(3); and

(b) the person uses or discloses the information; and

(c) the use or disclosure referred to in paragraph (b) of this subsection is not for a purpose connected with persons being alerted to an emergency or a likely emergency.

Penalty: Imprisonment for 2 years.
295ZB  Reports of access

(1) If an emergency management person discloses relevant information, the person must give a written report to the Minister administering the Administrative Decisions (Judicial Review) Act 1977 and to the ACMA that covers the following matters:

(a) if the disclosure occurred under subsection 295V(1) or (2)—a description of the emergency or likely emergency concerned and its location;

(b) in any case—the number of telephone numbers that were disclosed and the day that disclosure occurred;

(c) in any case—the number of persons to whom the emergency management person disclosed those numbers and the purpose of each disclosure.

(2) The emergency management person must give the report to the Minister administering the Administrative Decisions (Judicial Review) Act 1977 and to the ACMA as soon as practicable after the last disclosure referred to in paragraph (1)(c) of this section occurs (disregarding section 295Y).

295ZC  Annual reports to the ACMA and Privacy Commissioner

If an emergency management person discloses relevant information during a financial year, the person must, within 2 months after the end of that financial year, give a written report to the ACMA and to the Privacy Commissioner that covers the following matters in relation to each such disclosure:

(a) if the disclosure occurred under subsection 295V(1) or (2)—a description of the emergency or likely emergency concerned and its location;

(b) in any case—the number of telephone numbers that were disclosed and the day that disclosure occurred;

(c) in any case—the number of persons to whom the emergency management person disclosed those numbers and the purpose of each disclosure (whether the disclosure occurred in that financial year or the following financial year).

295ZD  Arrangements with States and Territories

(1) The Minister administering the Administrative Decisions (Judicial Review) Act 1977 may make arrangements with a Minister of a
State or a Territory with respect to the performance of functions or
duties, or the exercise of powers, by an emergency management
person under this Division.

(2) An instrument by which an arrangement under this section is made
is not a legislative instrument.

295ZE Commonwealth immunity

No action, suit or proceeding lies against the Commonwealth in
relation to loss, damage or injury to any person or property as a
result of the use or disclosure of relevant information:

(a) for a purpose connected with persons being alerted to an
emergency or a likely emergency; or

(b) for the purpose of reasonable testing of whether, in the event
of an emergency occurring, persons would be able to be
alerted to that emergency.

4 Subparagraph 306(1)(b)(i)

After “285,” insert “285A,”.
Part 2—Location dependent carriage services

Telecommunications Act 1997

5 After section 291

Insert:

291A Location dependent carriage services

(1) Sections 276 and 277 do not prohibit a disclosure by a person of information or a document if:
   (a) the information or document relates to information (other than information relating to an unlisted telephone number) contained in an integrated public number database; and
   (b) the disclosure is to a carrier or a carriage service provider; and
   (c) the disclosure is made for a purpose of, or is connected with, the supply, or proposed supply, by a person of a location dependent carriage service.

(2) Sections 276 and 277 do not prohibit a disclosure or use by a carrier or a carriage service provider of information or a document if:
   (a) the information or document relates to information (other than information relating to an unlisted telephone number) contained in an integrated public number database; and
   (b) the disclosure or use is made for a purpose of, or is connected with, the supply, or proposed supply, by a person of a location dependent carriage service.

(3) In this section:

integrated public number database means:
   (a) an integrated public number database maintained by Telstra as mentioned in Part 4 of Schedule 2; or
   (b) an integrated public number database maintained by a person as mentioned in section 472.
location dependent carriage service means a carriage service that depends for its provision on the availability of information about the addresses of end users of the carriage service.

6 After section 302

Insert:

302A Location dependent carriage services

(1) If information or a document is disclosed to a person as permitted by section 291A or this subsection, a person must not disclose or use the information or document except for the purpose of, or in connection with, the supply, or proposed supply, by a person of a location dependent carriage service.

Note: Section 291A deals with the disclosure or use of information or documents for the purposes of the supply, or proposed supply, by a person of a location dependent carriage service.

(2) In this section:

location dependent carriage service means a carriage service that depends for its provision on the availability of information about the addresses of end users of the carriage service.

7 Subparagraph 306(1)(b)(i)

Omit “or 291”, substitute “, 291 or 291A”.

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