Purpose
To enact a set of principles that will govern the use and protection of information held by certain government agencies and to create a Data Protection Agency (DPA).

Background
In conjunction with the Australia Card Bill 1986, the Government introduced the Privacy Bill 1986. That Bill sought to enact 11 Information Privacy Principles, while this Bill contains twelve. The DPA was to be created under the Australia Card Bill 1986. Following the defeat of the Australia Card Bill 1986 in the Senate, the Privacy Bill 1986 was not proceeded with.

Also refer to the Digest for the Privacy Bill 1986.

Main Provisions
'Agency' is defined to be a Minister, Department or a body established under an Act (other than one which provides for the government of an external Territory and the Northern Territory (Self-Government) Act 1978) other than the bodies listed. The more important exemptions are incorporated bodies, an organisation within the meaning of the Conciliation and Arbitration Act 1904, a Federal Court, the A.C.T. Courts, the Defence Forces and the Australian Federal Police (clause 6).

Clause 13 contains the Information Privacy Principles. In brief, they are:

1. Information is only to be collected for lawful purposes and by lawful means and only where the collection is necessary or directly related to the lawful purpose.

2. Where information is collected from an individual for inclusion in a record or a generally available publication, the person is to be made aware of the purpose of the gathering of the information and any person or body to which it is normal practice to pass on the information.

3. Where information is solicited and is to be included in a record or a generally available publication, the collector is to ensure that the information is up to date, complete and does not intrude unreasonably on the person's personal affairs.
4. Reasonable security precautions are to be taken to prevent loss, un­
authorised access and other misuse.

5. A record keeper is to ensure that people can ascertain if information about them is kept.

6. A record keeper is to ensure reasonable access to a person's data for that person though they will not be required to give access where a law authorises them to refuse access.

7. Where a person and a record keeper are unable to agree about the accuracy of information, a statement is to be attached to the record setting out the correction sought.

8. Record keepers are to take reasonable steps to ensure the accuracy of information before it is used.

9. Personal information is only to be used for relevant purposes.

10. Personal information is not to be used for a purpose other than the purpose for which it was collected, or a directly related purpose, unless the information subject has consented, the record keeper believes, on reasonable grounds, that the use of the information is necessary to prevent or minimise a threat to life or health, or such use is authorised by law.

11. A record keeper is not to disclose information unless the subject of the information has been made aware of that disclosure under principle 2; has consented; the record keeper believes, on reasonable grounds, that the disclosure of the information is necessary to prevent or minimise a threat to life or health; or such use is authorised by law.

12. A corporation or agency is not to use or disclose information externally unless the record is registered with the DPA.

Part VII of the Bill (clauses 43 to 87) deals with the DPA which will be established by clause 45. The DPA's functions are listed in clause 46 and include to investigate and report on breaches of the information Privacy Principles, conduct research and to conduct education.

The DPA is to consist of a President and two Commissioners (clause 49), though Associate Commissioners may be appointed (clause 50).

Clause 62 will establish the Data Protection Advisory Committee which is to consist of a Convenor and between six and 12 other Members. The Committee is to advise on matters relevant to the DPA, recommend material for inclusion in the DPA’s guidelines and to engage in and promote education and consultation (clause 63).

Division 4 of Part VII deals with investigations by the DPA. Where there has been a complaint against an agency, the DPA may conduct a preliminary inquiry (clause 73). Investigations are to be conducted in private and in a manner the DPA thinks fit (clause 74). The DPA will be able to obtain certain documents (clause 75), examine witnesses (clause 76) and direct persons to attend compulsory conferences (clause 77).

The DPA will be exempt from civil actions when acting in good faith (clause 80).

Clause 88 will allow the Governor-General to make regulations under the Bill.
For further information, if required, contact the Law and Government group.

14 August 1987

This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.

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