The Bill will allow certificates of formal evidence of telephone intercepts in narcotic cases; allow the location of callers to be traced in certain emergencies and extend certain definitions contained in the Telecommunications (Interception) Amendment Act 1985.

Background

Telecommunications intercepts have been used by the police for a number of years to gather information on the drug trade. Such information has been particularly useful in investigations where it has been used to identify suspects and their links.

Before authorised intercepts can be used as evidence in court, a number of formal evidentiary matters must be proved. Included in this evidence, the actions of Telecom in arranging the intercept must be proved. Under current laws, this will necessitate the employee who performed the intercept appearing in court. Telecom employees are extremely reluctant to appear in such hearings, fearing possible retribution for their part in the prosecution. The Bill will address this problem.

As the Telecommunications (Interception) Act 1979 (the Principal Act) currently stands, it is unlawful to intercept a telephone call even though the tracing of such a call may lead to lives being saved. The most common situation in which this applies is where someone is informed, by telephone, that someone else intends to commit suicide.
Outline

The Bill will allow formal evidence regarding Telecom's conduct of a telecommunications intercept to be given by certificate. The certificate is to be completed by the Managing Director and will be conclusive proof of its contents.

The interception and tracing of calls will be allowed in certain emergencies. Before any interception, the police must be satisfied that someone is dying, seriously injured or likely to die or be seriously injured, and that tracing the location of the caller would assist in the emergency. The Police may then request that Telecom intercept and trace the call. If such an intercept is performed, it is to be reported to the Managing Director, who is to include a report on the circumstances of each such intercept in the Annual Report which is presented to Parliament. The Bill will also authorise the police to pass the location of the caller to others who may be of assistance in such an emergency, such as doctors or ambulances.

Two definitions in the Principal Act that were altered by the Telecommunications (Interception) Amendment Act 1985 are further amended by this Bill. The definition of 'unlawfully obtained material' that may be used by the Stewart Royal Commission is to be widened to include documents etc. that may disclose an offence against State laws. At present, the definition refers only to those documents etc. that may disclose an offence against Commonwealth or Territory law. This amendment will implement the Government's original intention and make a wider range of evidence available to the Stewart Royal Commission. As well, the definition of proceedings in which intercepts may be used is to be amended to make it clear that they may be used in committal proceedings.

Main Provisions

Certificates of formal evidence will be allowed by clause 6 which inserts a new section 25A in the Principal Act.

Telecommunication intercepts and tracing in emergency situations is authorised by clause 7 which inserts a new Part V in the Principal Act.

The passing on of such information is authorised by an amendment to section 7 of the Principal Act (clause 4).
Changes to the definition of documents etc. that may be given to the Stewart Royal Commission are contained in clause 5, and changes to the definition of proceedings are contained in clause 4.

For further information, if required, contact:

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