2010‑2011‑2012‑2013

The Parliament of the

Commonwealth of Australia

THE SENATE

Presented and read a first time

Telecommunications Amendment (Get a Warrant) Bill 2013

No. , 2013

(Senator Ludlam)

A Bill for an Act to amend the *Telecommunications (Interception and Access) Act 1979*, and for related purposes

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A Bill for an Act to amend the *Telecommunications (Interception and Access) Act 1979*, and for related purposes

The Parliament of Australia enacts:

1 Short title

 This Act may be cited as the *Telecommunications Amendment (Get a Warrant) Act 2013*.

2 Commencement

 This Act commences on the day after this Act 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 Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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

Telecommunications (Interception and Access) Act 1979

1 After section 109

Insert:

109A Access to existing information or documents

 In addition to authorising interception of communications, a Part 2‑2 warrant also authorises a person to access information or a document if:

 (a) the information or document will, or is likely to, assist the Organisation in carrying out its function of obtaining intelligence relating to the security matter mentioned in the Part 2‑2 warrant; and

 (b) the person is approved under section 12 in respect of the warrant.

109B Access to prospective information or documents

 In addition to authorising interception of communications, a Part 2‑2 warrant also authorises the disclosure of specified information or specified documents that come into existence during the period for which the authorisation is in force if:

 (a) the information or document will, or is likely to, assist the Organisation in carrying out its function of obtaining intelligence relating to the security matter mentioned in the Part 2‑2 warrant; and

 (b) the person is approved under section 12 in respect of the warrant.

2 Paragraph 116(1)(c)

Repeal the paragraph, substitute:

 (c) there are reasonable grounds for suspecting that a particular carrier:

 (i) holds stored communications; or

 (ii) holds information or a document; or

 (iii) will hold specified information or specified documents that come into existence during the period for which the authorisation is in force;

 that the person has made, or that another person has made and for which the person is the intended recipient; and

3 Section 117

Repeal the section, substitute:

117 What stored and other communications warrants authorise

 (1) A stored and other communications warrant authorises persons approved under subsection 127(2) in respect of the warrant to access, subject to any conditions or restrictions that are specified in the warrant, any stored communications, documents or information of a kind referred to in subsection (2) if the communication, document or information:

 (a) was made by the person in respect of whom the warrant was issued; or

 (b) was made by another person in circumstances where the intended recipient is the person in respect of whom the warrant was issued.

 (2) A stored and other communications warrant can apply to any of the following:

 (a) stored communications;

 (b) information or documents;

 (c) specified information or specified documents that come into existence:

 (i) after the time that the warrant is issued; and

 (ii) during the period for which the authorisation is in force.

4 Subsection 171(1)

Omit “Divisions 3, 4 and 4A set”, substitute “Division 4 sets”.

5 Subsection 171(1) (note 1)

Omit “Division 3 covers the Organisation.”.

6 Subsection 171(1) (note 1)

Omit “Division 4A covers disclosures for the purposes of foreign law enforcement.”.

7 Subsection 171(1) (note 2)

Omit “Those Divisions do not”, substitute “Division 4 does not”.

8 Section 172

Omit “Division 3, 4 and 4A do”, substitute “Division 4 does”.

9 Section 173 (heading)

Omit “**Divisions 3 to 5**”, substitute “**Division 4**”.

10 Section 173

Omit “Divisions 3 to 5”, substitute “Division 4”.

11 Section 173

Omit “anything else in those Divisions or in”.

12 Division 3 of Part 4‑1 of Chapter 4

Repeal the Division.

13 Sections 177 and 178

Repeal the sections.

14 Section 180

Repeal the section.

15 Division 4A of Part 4‑1 of Chapter 4

Repeal the Division.

16 Section 180F

Omit “or 4A”.

17 Paragraph 181(a)

Omit “Division 3, 4 or 4A”, substitute “Division 4”.

18 Section 181A

Repeal the section.

19 Subparagraph 181B(3)(b)(i)

Repeal the subparagraph.

20 Paragraph 182(1)(a)

Omit “or 4A”.

21 Paragraph 182(2)(a)

Repeal the paragraph.

22 Subsection 182(5) (definition of *non‑missing person information*)

Omit “or 4A”.

Schedule 2—References to stored communications

Telecommunications (Interception and Access) Act 1979

1 Subsection 5(1) (definition of *access*)

Omit “stored”, substitute “stored or other”.

2 Subsection 5(1) (definition of *lawfully accessed information*)

Omit “stored”, substitute “stored or other”.

3 Subsection 5(1) (definition of *mutual assistance application*)

Omit “stored”, substitute “stored and other”.

4 Subsection 5(1) (definition of *preserve*)

Omit “stored”, substitute “stored or other” (wherever occurring).

5 Subsection 5(1) (definition of *relates*)

Omit “stored”, substitute “stored or other” (wherever occurring).

6 Subsection 5(1) (definition of *stored communications warrant*)

Omit “***stored***”, substitute “***stored and other***”.

7 Subsection 5(1) (definition of *stored communications warrant information*)

Omit “***stored***”, substitute “***stored and other***”.

8 Subsection 5(1) (definition of *telephone application*)

Omit “stored”, substitute “stored and other”.

9 Subsection 5(1) (definition of *warrant*)

Omit “stored”, substitute “stored and other”.

10 Section 6AA (heading)

Omit “**stored**”, substitute “**stored and other**”.

11 Section 6AA

Omit “stored”, substitute “stored and other”.

12 Paragraph 6EAA(a)(ii)

Omit “stored”, substitute “stored and other”.

13 Section 6EB (heading)

Omit “**stored**”, substitute “**stored and other**”.

14 Section 6EB

Omit “***stored***”, substitute “***stored and other***”.

15 Section 6EB

Omit “stored”, substitute “stored and other” (wherever occurring).

16 Paragraph 6H(c)

Omit “stored”, substitute “stored and other”.

17 Subsection 9(1A)

Omit “stored”, substitute “stored and other”.

18 Subsection 9A(1C)

Omit “stored”, substitute “stored or other”.

19 Subsection 10(1A)

Omit “stored”, substitute “stored and other”.

20 Chapter 3 (heading)

Omit “**stored**”, substitute “**stored and other**”.

21 Part 3‑1A of Chapter 3 (heading)

Omit “**stored**”, substitute “**stored and other**”.

22 Section 107G

Omit “stored”, substitute “stored and other” (wherever occurring).

23 Subsection 107H(1)

Omit “stored”, substitute “stored and other”.

24 Section 107J

Omit “stored”, substitute “stored and other” (wherever occurring).

25 Section 107K

Omit “stored”, substitute “stored and other” (wherever occurring).

26 Section 107L

Omit “stored”, substitute “stored and other” (wherever occurring).

27 Paragraph 107M(1)(a)

Omit “stored”, substitute “stored and other” (wherever occurring).

28 Subsection 107N(1)

Omit “stored”, substitute “stored and other”.

29 Section 107P

Omit “stored”, substitute “stored and other” (wherever occurring).

30 Subparagraph 107Q(b)(ii)

Omit “stored”, substitute “stored and other” (wherever occurring).

31 Section 107R

Omit “stored”, substitute “stored and other” (wherever occurring).

32 Part 3‑1 of Chapter 3 (heading)

Omit “**stored**”, substitute “**stored and other**”.

33 Section 108 (heading)

Omit “**stored**”, substitute “**stored and other**”.

34 Section 108

Omit “stored”, substitute “stored and other” (wherever occurring).

35 Part 3‑2 of Chapter 3 (heading)

Omit “**stored**”, substitute “**stored and other**”.

36 Section 109 (heading)

Omit “**stored**”, substitute “**stored and other**”.

37 Section 109

Omit “stored”, substitute “stored and other”.

38 Part 3‑3 of Chapter 3 (heading)

Omit “**stored**”, substitute “**stored and other**”.

39 Section 110 (heading)

Omit “**stored**”, substitute “**stored and other**”.

40 Subsection 110(1)

Omit “stored”, substitute “stored and other”.

41 Section 116 (heading)

Omit “**stored**”, substitute “**stored and other**”.

42 Section 116

Omit “stored”, substitute “stored and other” (wherever occurring).

43 Section 117 (heading)

Omit “**stored**”, substitute “**stored and other**”.

44 Section 117

Omit “stored”, substitute “stored and other” (wherever occurring).

45 Section 118 (heading)

Omit “**stored**”, substitute “**stored and other**”.

46 Section 118

Omit “stored”, substitute “stored and other” (wherever occurring).

47 Section 119 (heading)

Omit “**stored**”, substitute “**stored and other**”.

48 Section 119

Omit “stored”, substitute “stored and other” (wherever occurring).

49 Section 120 (heading)

Omit “**stored**”, substitute “**stored and other**”.

50 Subsection 120(1)

Omit “stored”, substitute “stored and other”.

51 Section 121 (heading)

Omit “**stored**”, substitute “**stored and other**”.

52 Paragraph 121(a)

Omit “stored”, substitute “stored and other”.

53 Section 122 (heading)

Omit “**stored**”, substitute “**stored and other**”.

54 Subsection 122(1)

Omit “stored”, substitute “stored and other”.

55 Section 123 (heading)

Omit “**stored**”, substitute “**stored and other**”.

56 Section 123

Omit “stored”, substitute “stored and other” (wherever occurring).

57 Section 124 (heading)

Omit “**stored**”, substitute “**stored and other**”.

58 Section 124

Omit “stored”, substitute “stored and other” (wherever occurring).

59 Section 125 (heading)

Omit “**stored**”, substitute “**stored and other**”.

60 Section 125

Omit “stored”, substitute “stored and other”.

61 Section 126

Omit “stored”, substitute “stored and other” (wherever occurring).

62 Subsection 127(1)

Omit “stored”, substitute “stored and other”.

63 Section 128

Omit “stored”, substitute “stored and other” (wherever occurring).

64 Paragraph 130(1)(a)

Omit “stored”, substitute “stored and other”.

65 Section 131 (heading)

Omit “**stored**”, substitute “**stored and other**”.

66 Section 131

Omit “stored”, substitute “stored and other”.

67 Subsection 132(1)

Omit “stored”, substitute “stored and other”.

68 Subparagraph 133(1)(b)(iii)

Omit “stored”, substitute “stored and other”.

69 Section 134 (heading)

Omit “**stored**”, substitute “**stored and other**”.

70 Section 134

Omit “stored”, substitute “stored and other” (wherever occurring).

71 Section 135

Omit “stored”, substitute “stored and other” (wherever occurring).

72 Subsection 135(5) (heading)

Omit “*Stored*”, substitute “*Stored and other*”.

73 Paragraph 136(1)(b)

Omit “stored”, substitute “stored and other”.

74 Paragraph 137(1)(b)

Omit “stored”, substitute “stored and other”.

75 Section 138

Omit “stored”, substitute “stored and other” (wherever occurring).

76 Paragraph 139(1)(b)

Omit “stored”, substitute “stored and other”.

77 Paragraph 139A(1)(b)

Omit “stored”, substitute “stored and other”.

78 Subsection 143(2)

Omit “stored”, substitute “stored and other”.

79 Subsection 143(3)

Omit “stored”, substitute “stored and other”.

80 Section 144

Omit “stored”, substitute “stored and other” (wherever occurring).

81 Section 146

Omit “stored”, substitute “stored and other”(wherever occurring).

82 Section 147

Omit “stored”, substitute “stored and other”(wherever occurring).

83 Section 148 (heading)

Omit “**stored**”, substitute “**stored and other**”.

84 Section 148

Omit “stored”, substitute “stored and other”(wherever occurring).

85 Paragraph 149(b)

Omit “stored”, substitute “stored and other”.

86 Paragraph 150(1)(a)

Omit “stored”, substitute “stored and other”.

87 Paragraph 151(a)

Omit “stored”, substitute “stored and other”.

88 Subsection 153(3) (note)

Omit “stored”, substitute “stored and other”.

89 Part 3‑6 of Chapter 3 (heading)

Omit “**stored**”, substitute “**stored and other**”.

90 Section 161 (heading)

Omit “**stored**”, substitute “**stored and other**”.

91 Section 162

Omit “stored”, substitute “stored and other” (wherever occurring).

92 Section 163A

Omit “stored”, substitute “stored and other”.

93 Subsection 165(1)

Omit “stored”, substitute “stored and other”.