



New South Wales

Privacy and Personal Information Protection Amendment (Notification of Serious Violations of Privacy by Public Sector Agencies) Bill 2019

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to require a public sector agency that has caused a serious violation of the privacy of an individual by contravening an information protection principle or a privacy code of practice, or by disclosing personal information kept in a public register, to notify the individual concerned, and the Privacy Commissioner, of the contravention or disclosure.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent to the proposed Act.

Schedule 1 **Amendment of Privacy and Personal Information Protection Act 1998 No 133**

Schedule 1 inserts the following provisions into the *Privacy and Personal Information Protection Act 1998*:

Part 6A Notification of serious violations of privacy

Division 1 Preliminary

Proposed section 59A defines when a public sector agency has caused a serious violation of an individual's privacy.

Proposed section 59B lists the matters that are to be taken into consideration by a public sector agency, or by the Privacy Commissioner, when determining whether or not the agency has caused a serious violation of an individual's privacy.

Division 2 Notification of serious violations of privacy

Proposed section 59C requires public sector agencies to notify individuals about any serious violations of their privacy caused by the agencies.

Proposed section 59D requires public sector agencies to notify the Privacy Commissioner about any serious violations of privacy they have caused.

Proposed section 59E requires public sector agencies to make an assessment of any suspected serious violation of privacy they may have caused.

Division 3 Privacy Commissioner may require notification

Proposed section 59F provides for the Privacy Commissioner to direct public sector agencies to notify serious violations of privacy they have caused.

Proposed section 59G requires a public sector agency to comply with any such direction from the Privacy Commissioner.

Division 4 Exemptions

Proposed section 59H provides for the Privacy Commissioner to declare a serious violation of privacy to be exempt from the operation of the proposed Part.

Proposed section 59I exempts public sector agencies that have taken remedial action from the operation of the proposed Part.

Proposed section 59J exempts law enforcement agencies from the operation of the proposed Part in some circumstances.

Proposed section 59K exempts public sector agencies from the operation of the proposed Part in relation to a disclosure of information that is prohibited by other legislation.