

Information Privacy and Other Legislation Amendment Bill 2023

Amendments during consideration in detail to be moved by
The Honourable the Attorney-General and Minister for Justice and Minister
for the Prevention of Domestic and Family Violence

1 **Clause 2 (Commencement)**

Page 14, line 7, ‘part 6’—

omit, insert—

parts 1A and 6

2 **After clause 2**

Page 14, after line 10—

insert—

Part 1A Amendment of Coal Mining Safety and Health Act 1999

2A Act amended

This part amends the *Coal Mining Safety and
Health Act 1999*.

2B Insertion of new pt 20, div 11

Part 20—

insert—

Division 11 Transitional provision for Information Privacy and Other Legislation Amendment Act 2023

327 Application of sch 3, definition *union*

- (1) Schedule 3, definition *union*, as in force from the commencement, is taken to have applied from 1 December 2023 for all purposes.
- (2) To remove any doubt, it is declared that the amendment of schedule 3, definition *union* by the *Information Privacy and Other Legislation Amendment Act 2023*, section 2C—
 - (a) has effect only to reflect a change of the union’s name; and
 - (b) does not affect the appointment or funding of industry safety and health representatives under part 8 before the commencement.

2C Amendment of sch 3 (Dictionary)

Schedule 3, definition *union*—

omit, insert—

union means the Mining and Energy Union, Queensland District Branch.

3 Clause 4 (Amendment of s 408E (Computer hacking and misuse))

Page 15, line 1, ‘Section 408(1)’—

omit, insert—

Section 408E(1)

4 Clause 14 (Replacement of s 16 (Meaning of *document to which the privacy principles do not apply*))

Page 18, line 22, ‘*principles*’—

omit, insert—

principle

5 Clause 16 (Amendment of s 18 (Meaning of *agency* otherwise))

Page 19, lines 9 to 11, ‘an entity to which the privacy principle requirements do not apply’

omit, insert—

an excluded entity

6 Clause 16 (Amendment of s 18 (Meaning of *agency* otherwise))

Page 19, lines 15 and 16, ‘*entity to which the privacy principle requirements do not apply*’—

omit, insert—

excluded entity

7 Clause 19 (Amendment of s 21 (Meaning of *public authority*))

Page 20, line 15—

omit, insert—

subsection (4)

8 Clause 19 (Amendment of s 21 (Meaning of *public authority*))

Page 20, lines 18 and 19—

omit.

9 Clause 19 (Amendment of s 21 (Meaning of *public authority*))

Page 20, line 23, ‘Section 21(1A)’—

omit, insert—

Section 21(1B)

- 10 Clause 19 (Amendment of s 21 (Meaning of *public authority*))**
Page 20, line 24, ‘to (6)’—
omit, insert—
to (5)
- 11 Clause 23 (Amendment of s 27 (Agencies to comply with IPPs))**
Page 22, line 5, ‘, other than an APP entity,’—
omit.
- 12 Clause 23 (Amendment of s 27 (Agencies to comply with IPPs))**
Page 22, lines 14 to 18—
omit.
- 13 Clause 33 (Replacement of ch 3 (Disclosure and amendment by application under this Act))**
Page 29, line 25, ‘(1)’—
omit.
- 14 Clause 33 (Replacement of ch 3 (Disclosure and amendment by application under this Act))**
Page 30, lines 1 to 3—
omit.
- 15 Clause 33 (Replacement of ch 3 (Disclosure and amendment by application under this Act))**
Page 31, lines 28 and 29—
omit, insert—

- (a) immediately, and continue to, take all reasonable steps to—
 - (i) contain the data breach; and
 - (ii) mitigate the harm caused by the data breach; and

16 Clause 33 (Replacement of ch 3 (Disclosure and amendment by application under this Act))

Page 32, lines 12 to 28—

omit, insert—

- (4) If, at any time, the agency becomes aware the data breach may affect another agency, the agency must give a written notice to the other agency of the data breach that includes—
 - (a) a description of the data breach; and
 - (b) a description of the kind of personal information the subject of the data breach, without including any personal information in the description.

17 Clause 33 (Replacement of ch 3 (Disclosure and amendment by application under this Act))

Page 33, line 11, ‘completed.’—

omit, insert—

completed by no longer than the period reasonably required for the agency to complete the assessment.

18 Clause 33 (Replacement of ch 3 (Disclosure and amendment by application under this Act))

Page 35, lines 7 and 8—

omit, insert—

- (i) the individuals whose personal information has been accessed, disclosed or lost;

19 Clause 33 (Replacement of ch 3 (Disclosure and amendment by application under this Act))

Page 46, line 15, ‘presence,’—

omit, insert—

presence or by audio visual link,

20 Clause 33 (Replacement of ch 3 (Disclosure and amendment by application under this Act))

Page 46, lines 26 to 29—

omit.

21 Clause 33 (Replacement of ch 3 (Disclosure and amendment by application under this Act))

Page 47, line 10, ‘(1)’—

omit.

22 Clause 33 (Replacement of ch 3 (Disclosure and amendment by application under this Act))

Page 47, lines 12 to 24—

omit, insert—

agency, if either of the following apply—

- (a) the agency has consented to the commissioner’s request for entry made under section 68;
- (b) the agency has failed to consent to the commissioner’s request for entry made under section 68, and the entry is made in compliance with the notice given for the entry under section 68(2).

23 Clause 33 (Replacement of ch 3 (Disclosure and amendment by application under this Act))

Page 47, line 28, ‘section 67(1)(a)’—

omit, insert—

section 67

24 Clause 33 (Replacement of ch 3 (Disclosure and amendment by application under this Act))

Page 48, line 1, ‘under section 67(1)’—

omit.

25 Clause 33 (Replacement of ch 3 (Disclosure and amendment by application under this Act))

Page 48, lines 14 and 15, ‘, under section 67(1)(b),’—

omit.

26 Clause 33 (Replacement of ch 3 (Disclosure and amendment by application under this Act))

Page 48, line 17—

omit, insert—

time when the place—

(a) is open for carrying on the business; or

(b) is otherwise open for entry.

27 Clause 33 (Replacement of ch 3 (Disclosure and amendment by application under this Act))

Page 48, after line 22—

insert—

- (4) For subsection (2)(d), an agency’s *place of business* does not include a part of the place where a person resides.

28 Clause 33 (Replacement of ch 3 (Disclosure and amendment by application under this Act))

Page 48, lines 24 and 25, ‘after entering places’—
omit.

29 Clause 33 (Replacement of ch 3 (Disclosure and amendment by application under this Act))

Page 48, line 27, before ‘If’—
insert—

(1)

30 Clause 33 (Replacement of ch 3 (Disclosure and amendment by application under this Act))

Page 48, line 28, ‘section 67(1)’—
omit, insert—

section 67

31 Clause 33 (Replacement of ch 3 (Disclosure and amendment by application under this Act))

Page 49, after line 9—
insert—

(2) Also, if the agency agrees, an authorised officer may exercise a power mentioned in subsection (1)(a) or (b) by audio visual link provided by the agency.

(3) In this section—

audio visual link means facilities that enable reasonably contemporaneous and continuous audio and visual communication between persons at different places and includes videoconferencing.

32 Clause 33 (Replacement of ch 3 (Disclosure and amendment by application under this Act))

Page 51, lines 31 and 32, ‘section 69(1)’—

omit, insert—

section 69

33 Clause 35 (Amendment of s 135 (Performance monitoring and support functions))

Page 52, line 26, ‘135(1)(a)(ii)’—

omit, insert—

135(1)(a)(i) and (ii)

34 Clause 35 (Amendment of s 135 (Performance monitoring and support functions))

Page 52, after line 27—

insert—

(i) conducting—

(A) reviews of personal information handling practices of relevant entities, including technologies, programs, policies and procedures, to identify privacy related issues of a systemic nature generally or to identify particular grounds for the issue of compliance notices; or

(B) reviews of acts or practices of agencies in relation to compliance with chapter 3A, including data handling systems and practices, to identify data breach related issues of a systemic nature generally or to identify particular grounds for the issue of compliance notices; and

35 Clause 35 (Amendment of s 135 (Performance monitoring and support functions))

Page 53, lines 6 to 8—

omit, insert—

(3) Section 135(1)(b)(i), ‘the privacy principles’—

omit, insert—

this Act

36 Clause 36 (Amendment of s 136 (Decision-making functions))

Page 54, line 15, ‘an agency’—

omit, insert—

a relevant entity

37 Clause 41 (Amendment of s 158 (Compliance notice))

Page 57, line 22, ‘(a)’—

omit, insert—

(b)

38 After clause 73

Page 80, after line 16—

insert—

73A Amendment of sch 2 (Entities to which the privacy principles do not apply)

(1) Schedule 2, heading, ‘Entities to which the privacy principles do not apply’—

omit, insert—

Excluded entities

(2) Schedule 2, part 1, heading, ‘Entities to which the privacy principles do not apply’—

omit, insert—

Excluded entities

- (3) Schedule 2, part 1—

insert—

7 an APP entity under the *Privacy Act 1988* (Cwlth)

- (4) Schedule 2, part 2, heading, ‘to which the privacy principles do not apply’—

omit, insert—

that are excluded entities

39 Clause 75 (Amendment of sch 5 (Dictionary))

Page 105, after line 8—

insert—

excluded entity see section 18(4).

40 Clause 84 (Amendment of s 16 (Meaning of *public authority*))

Page 112, lines 20 to 26—

omit.

41 Clause 84 (Amendment of s 16 (Meaning of *public authority*))

Page 113, lines 2 and 3—

omit.

42 Clause 117 (Replacement of s 102 (Requiring a search))

Page 156, lines 5 and 6, ‘relevant reviewable decision’—

omit, insert—

decision relating to an access application

43 Clause 117 (Replacement of s 102 (Requiring a search))

Page 156, lines 13 to 15—

omit.

44 Clause 119 (Insertion of new s 105A)

Page 157, line 29, ‘satisfactory to the access applicant’—

omit, insert—

consistent with the primary object of this Act

45 Clause 122 (Amendment of s 110 (Decision on external review))

Page 160, line 19, after ‘section 110A’—

insert—

or 110B

46 Clause 123 (Insertion of new s 110A)

Page 160, line 20, ‘s 110A’—

omit, insert—

ss 110A and 110B

47 Clause 123 (Insertion of new s 110A)

Page 161, line 15, ‘satisfactory to the access applicant’—

omit, insert—

consistent with the primary object of this Act

48 Clause 123 (Insertion of new s 110A)

Page 163, after line 3—

insert—

110B Direction to decide whether documents to be amended

- (1) This section applies in relation to an external review of a relevant decision made by an agency or Minister in relation to an amendment application (the *original amendment application*) if—
 - (a) the information commissioner would, other than for this section, have decided to set aside the relevant decision and make a decision in substitution for the relevant decision under section 110(1)(c); and
 - (b) the commissioner believes it would be more efficient and effective for the agency or Minister to consider whether amendment of the subject documents is to be permitted or refused than for the commissioner to make a decision in substitution for the relevant decision under section 110(1)(c); and
 - (c) the commissioner believes that if the agency or Minister were to consider whether amendment of the subject documents is to be permitted or refused, it is reasonably likely the agency or Minister would be able to make a decision that is consistent with the primary object of this Act.
- (2) The commissioner may, after consulting with the agency or Minister about the matters mentioned in subsection (1), set aside the relevant decision and give a notice to the agency or Minister—
 - (a) stating that the relevant decision is set aside; and
 - (b) directing the agency or Minister to decide whether amendment of the subject documents is to be permitted or refused as if the ground for making the relevant decision did not apply in relation to the documents.

- (3) If an agency or Minister is given a notice under subsection (2), a new amendment application is taken to have been made by the amendment applicant under section 78E in relation to the subject documents.
- (4) For subsection (3)—
 - (a) the new amendment application is taken to have been made on the day that is 21 business days after the information commissioner gives the notice to the agency or Minister under subsection (2); and
 - (b) despite section 78E(4)(d)(i), the new amendment application need not be accompanied by evidence of identity for the amendment applicant; and
 - (c) despite section 78E(4)(d)(ii), if an agent is acting for the amendment applicant and the agent is the same agent who acted on the original amendment application, the new amendment application need not be accompanied by evidence of the agent's authorisation; and
 - (d) for section 78P, the original amendment application is taken never to have been made in relation to the subject documents.

- (5) In this section—

amendment applicant means the applicant for the original amendment application.

relevant decision, in relation to an amendment application, means a decision—

- (a) that the application or a part of the application is outside the scope of this Act under section 78J(1)(b); or
- (b) that the application does not comply with all relevant application requirements under section 78K(6); or

- (c) to refuse to deal with the application under chapter 3A, part 4.

subject documents means documents the subject of the original amendment application amendment of which was neither permitted nor refused because of the relevant decision.

49 Clause 139 (Insertion of new sch 4A)

Page 175, lines 28 and 29, from ‘giving access to’ to ‘give access to’—

omit, insert—

about whether access is to be given to documents that purports to, but may not, be a decision on

50 Clause 139 (Insertion of new sch 4A)

Page 175, line 31, ‘access may not have been given to’—

omit, insert—

decision may not be on

51 Long title

Long title, before ‘the Criminal Code’—

insert—

the Coal Mining Safety and Health Act 1999,

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