

# Australia Enacts Private Sector Data Protection Legislation

**O**N DECEMBER 6TH 2000 Australia's federal Parliament passed the Privacy Amendment (Private Sector) Act 2000. The new Act incorporates privacy principles similar to the Privacy Commissioner's January 1999 voluntary National Principles for the Fair Handling of Personal Information (NPPs).

Organisations may enforce their own codes but they must be approved by the Privacy Commissioner as having obligations at least equivalent to the NPPs, and meet other requirements. Each code must have an independent adjudicator to handle complaints. If a code does not provide a complaints-handling mechanism, the Privacy Commissioner will adjudicate (PL&B Dec 00 p.2).

## **BUILDING A CULTURE THAT RESPECTS PRIVACY**

Federal Privacy Commissioner Malcolm Crompton said that the new Act would give Australians greater control over the use of their personal information when they deal with government, business and other private sector organisations. At the same time, the law would provide the regulatory tools to build a culture that respects privacy.

## **ORGANISATIONS COVERED BY THE LAW**

The Act will apply to organisations in the private sector, which could be an individual, a body corporate, a partnership, an unincorporated association or a trust. This definition will cover:

- businesses with a turnover of \$3 million or more, or small businesses with a turnover of less than \$3 million that choose to opt-in
- not-for-profit such as charitable organisations, sports clubs and unions
- federal government contractors

- health service providers that hold health information (even if their turnover is less than \$3 million)
- organisations that carry on a business that collects or discloses personal information for a benefit, service or advantage (even if their turnover is less than \$3 million)
- incorporated State Government business enterprises, and any organisation that regulations say are covered.

## **ORGANISATIONS NOT YET COVERED BY THE LAW**

- State or Territory Authorities – for example, Ministers, departments, courts and local government councils
- political parties and acts of political representatives in relation to electoral matters
- most small businesses with an annual turnover of less than \$3 million
- acts or practices in relation to employee records of an individual if the act or practice directly relates to a current or former employment relationship between the employer and the individual and
- acts or practices of media organisations in the practice of journalism.

The new provisions will start to apply to the organisations listed above on December 21st 2001. Small busi-

nesses (except health services) covered by the new provisions have until December 21st 2002.

## **NEW NETWORK**

Crompton explained that his office would provide advice and other assistance to help businesses adjust over the next twelve months, particularly in developing guidelines for drawing up sectoral codes, and advising on establishing complaints handling bodies. The Privacy Office will also commission research to develop a comprehensive understanding of privacy needs and expectations held by individuals, businesses and other private sector organisations.

Crompton also announced the establishment of the Australian Privacy Connections Network to include businesses, consumer groups, and government agencies.

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*Further information about the Australian Act can be found at <http://www.privacy.gov.au/news/pab.html>. Privacy Commissioner Malcolm Crompton can be contacted at GPO Box 5218, Sydney, Australia NSW 104210  
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