



## *Express law* fast track information for clients

3 December 2012

### **Amendments to the Privacy Act 1988**

The [Privacy Amendment \(Enhancing Privacy Protection\) Bill 2012](#) has been passed by Parliament and will make a number of significant amendments to the *Privacy Act 1988*.

The Bill will implement the Government's first stage response to the Australian Law Reform Commission's report number 108, *For Your Information: Australian Privacy Law and Practice*.

#### ***Main features of the Bill***

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On 29 November 2012, the House of Representatives agreed to the amendments to the Bill that were passed by the Senate on 27 November 2012. Only 4 of the amendments made by the Senate are significant and they are outlined below.

#### **Commencement of amendments**

The primary change is the date of commencement of the Bill. Following an amendment to the Bill made by the Senate, most of the amendments to the Privacy Act will commence the day after the end of the period of 15 months from the date the *Privacy Amendment (Enhancing Privacy Protection) Act 2012* receives Royal Assent. The Bill is expected to take effect in April 2014.

The extended commencement date will give agencies more time to prepare for the changes. It is expected that the Australian Information Commissioner will update its guidelines and guidance to agencies and credit entities.

#### **Offshore disclosures by credit providers**

The requirement for credit providers to have an Australian link when making disclosures overseas has been removed. Instead, credit providers must disclose the likely location of information disclosed overseas. Credit providers must take all reasonable steps to ensure that the overseas entity does not breach credit reporting provisions. The change enables credit providers to continue to make disclosures to related offshore entities, such as call centres and data processing facilities. Additional protections have been added to make credit entities responsible for disclosure of information.

#### **Extension of liability for overseas entities**

The credit provider will be liable for acts or practices engaged in by an entity without an Australian link if the provider has disclosed credit information to that entity.

## Extension to mortgage insurers

Mortgage insurers have been included as entities that credit providers can disclose repayment history information to.

See our previous issue of [Express law](#) for more detail about amendments to the Privacy Act.

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