

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS
ATTORNEY-GENERAL'S DEPARTMENT

Output 1.3

Question No. 32

Senator Carr asked the following question at the hearing on 31 October 2006:

With reference to the media release from the Attorney-General of 30 October, which stated that the Government will introduce regulations under the *Privacy Act 1988* to ensure that all RTD operators are covered by the Act:

- (a) Will they be fairly straightforward regulations, simply clarifying the application of the Privacy Act?
- (b) When does the Department expect that these regulations will be introduced to Parliament?
- (c) When does the Department expect that these regulations will take effect?
- (d) Approximately how many RTD operators are currently covered by the Privacy Act and how many are not?
- (e) Will the practical effect of the proposed regulations be to ensure that all operators will be required to comply with the National Privacy Principles under the Act, no matter what their size?

The answer to the honourable senator's question is as follows:

(a) Yes. Under section 6C, small businesses with an annual turnover of less than \$3 million are exempt from the operation of the *Privacy Act 1988*. The Privacy Act recognises that in certain situations small businesses that would otherwise be exempt under section 6C should in fact be treated as organisations to which the requirements of the Act apply. Section 6E permits regulations to be made to prescribe any small business operator as an organisation for the purposes of the Privacy Act.

The regulations referred to in the 30 October media release will be drafted pursuant to section 6E. The regulations will prescribe all small RTD business operators as organisations for the purposes of the Privacy Act. The regulations will have the effect of confirming the application of the Privacy Act to all RTD operators that otherwise would have been exempt from the operation of the Act.

- (b) This is a matter for government.
- (c) It is anticipated that the regulations will commence on royal assent.
- (d) In its *Report on Residential Tenancy Databases* the Working Party identified 10 tenancy databases operating in Australia. We are not aware of how many are currently covered by the Privacy Act.
- (e) Yes.