

PROPOSED AMENDMENTS TO FOI ACT

On 5 May the Victorian Government introduced into Parliament a Bill which proposes to amend the FOI Act. Debate on the Bill has been adjourned to 20 May 1999. If the Bill is enacted it will have important consequences for all FOI Officers.

It inserts a new Part into the FOI Act dealing with personal information. "Personal information" is defined to mean information:

- (a) that identifies any person or discloses their address or location; or
- (b) from which any person's identity, address or location can reasonably be determined.

The new Part applies to documents containing personal information apart from certain exceptions. The effect of the new Part will be that access must not be granted to a document containing personal information unless the Victorian Civil and Administrative Tribunal ("VCAT") orders it. Of course an agency will be able to grant access to a document with personal information deleted (if the document is not otherwise exempt from access).

If an agency refuses access to personal information, it must notify the applicant of a right to apply to VCAT within certain time limits for an order that the full document be released. If a decision is not made about access within 45 days of the request being received the agency is deemed to have refused access and the applicant can apply to VCAT.

If an application is made to VCAT there are obligations on the agency to notify the Tribunal of its view about release. It must also notify the subject of the personal information and advise him or her of certain rights and obligations.

The VCAT will be able to order release of the personal information if the agency consents and the subject consents or is deemed to have consented or it was impracticable to notify the subject of his or her rights and obligations.

It will also be able to order release if it thinks release of the full document is reasonable in all of the circumstances, including the proposed use of the information in the document. The onus will be on the applicant to convince the VCAT that release is reasonable. It will not be able to order release if that would be contrary to the public interest or reasonably likely to endanger the life or safety of a person.

If you require any further information about the proposed amendments and what it will mean for your agency please contact Mick Batskos on 9667 0233 or email: mbatskos@bigpond.com or fax 9667 0237

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