



FAX UPDATE

No.4 of 1999

PROPOSED AMENDMENTS TO FOI ACT

On 9 November 1999 the new Victorian Government introduced into Parliament a Bill that proposes to amend the FOI Act to introduce the policies foreshadowed by Mr Bracks during the recent election campaign. The Bill was read for a second time today and debate on the Bill has been adjourned. If the Bill is enacted it will have important consequences for all FOI Officers.

If passed, the amendments will repeal the recently introduced Part IIIA of the FOI Act in relation to personal information. However, the definition of “information relating to the personal affairs of a person” in section 33 of the FOI Act will also be amended to specifically include 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.

This will hopefully have the effect of clarifying once and for all that the name or address or other identifying information about a government employee is clearly information relating to that person's personal affairs. The main issue will therefore become whether disclosure is unreasonable.

The amendments will also make significantly narrower the test of whether a document is to be exempt on the basis that it contains information that is “commercial in confidence”.

It will also make it more difficult for documents to be classed as exempt Cabinet documents if they were not actually prepared as a submission to Cabinet. It will no longer be enough for them to merely have been considered by Cabinet.

If an agency proposes to apply for leave to appeal a decision of the VCAT to the Supreme Court, the Minister responsible for the agency will be required, within 7 days of the agency filing the application with the Supreme Court, to inform both Houses of Parliament of why it is in the public interest for the documents in question not to be released.

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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