

EXPLANATORY STATEMENT

Statutory Rules 1987 Nos. 285

Issued by the Authority of the Attorney-General

FREEDOM OF INFORMATION ACT 1982: ~~FREEDOM OF INFORMATION~~
~~(MISCELLANEOUS PROVISIONS) REGULATIONS (AMENDMENT)~~ AND FREEDOM
OF INFORMATION (ADDRESSES) REGULATIONS (REPEAL)

These regulations:

- (1) amend the Freedom of Information (Miscellaneous Provisions) Regulations; and
- (2) repeal the Freedom of Information (Addresses) Regulations.

Section 94 of the Act empowers the Governor-General to make Regulations prescribing all matters that are necessary or convenient to be prescribed for carrying out or giving effect to the Act. Subsection 33(3) of the Acts Interpretation Act 1901 provides that, unless the contrary intention appears, a power conferred by an Act to make a Regulation is to be construed as including a power to repeal the Regulation.

(1) Freedom of Information (Miscellaneous Provisions)
Regulations (Amendment)

Section 93 of the Act provides for the prescription of requirements concerning the provision by agencies of statistical information relating to the Freedom of Information Act 1982. Paragraph 6(a) in the Freedom of Information (Miscellaneous Provisions) Regulations used to provide that information which is required to be furnished monthly shall be furnished not later than 21 days after the end of the month. Under a recent simplification of reporting requirements, monthly reporting has been replaced by quarterly reporting. The Regulations amend paragraph 6(a) to replace the references to months with references to quarters.

Section 4 of the Act is an interpretation provision and subsection 4(1) includes definitions of the expressions "prescribed authority", "principal officer", and "responsible Minister".

The definition of "prescribed authority" in subsection 4(1) is in wide terms so as to bring all statutory bodies and other agencies performing functions of the Commonwealth Government within the scope of the Act. Included in the definition are persons performing the duties of an office established by an

enactment, bodies established for a public purpose in accordance with an enactment and other bodies, declared by the Regulations to be prescribed authorities, being bodies established by the Governor-General or by a Minister, or over which the Commonwealth can exercise control. Schedule 1 to the Regulations lists bodies in this last category of prescribed authorities.

The "principal officer" of an agency is, in the case of a Department, the Secretary to the Department. In the case of a prescribed authority, the "principal officer" is the person constituting the authority, the person entitled to preside at a meeting of the authority, or the person holding an office declared in the Regulations to be the principal office. Schedule 2 to the Regulations lists all the offices declared as principal offices.

The "responsible Minister" of an agency is the Minister administering the Department or, in the case of a prescribed authority established by an enactment, the Minister administering the enactment. For all other prescribed authorities, it is necessary to declare a Minister to be the responsible Minister. Schedule 3 to the Regulations lists the responsible Ministers for this last category of prescribed authorities.

The amendments to the Freedom of Information (Miscellaneous Provisions) Regulations have updated the three Schedules to take account of changes in administrative arrangements, and certain other developments since the Regulations were last amended in 1986.

Notes on the Regulations are attached.

(2) Freedom of Information (Addresses) Regulations (Repeal)

The Freedom of Information (Addresses) Regulations ("the Addresses Regulations") were made pursuant to paragraph 19(1)(c) of the Freedom of Information Act 1982 as originally enacted, and set out in Schedules a list of addresses of agencies and Ministers to which requests made pursuant to the Act might be posted or delivered. These Regulations were made redundant by section 10 of the Freedom of Information Amendment Act 1983 which amended section 19 to establish a system of notifying the "appropriate address" of an agency or Minister in the Gazette or the Commonwealth Government Directory.

The new Regulation repeals the Addresses Regulations.

ATTACHMENT

NOTES ON REGULATIONS

Freedom of Information (Miscellaneous Provisions) Regulations (Amendment)

Regulation 1- Principal Regulations

Regulation 1 provides that the expression "Principal Regulations" means the Freedom of Information (Miscellaneous Provisions) Regulations.

Regulation 2 - Amendment of Regulation 6

Regulation 2 substitutes in Regulation 6 of the Principal Regulations the word "quarter" for "month" so as to accord with recently simplified administrative procedures, whereby agencies and Ministers provide quarterly rather than monthly statistical returns.

Regulation 3 - Schedule 1

Regulation 3 omits from Schedule 1 the references to the Australian Bicentennial Authority and the Australian Institute of Sport.

The Authority has been omitted because it is a company which cannot be declared to be a prescribed authority by regulation within the terms of sub-section 4(1) of the Act, as the Commonwealth is not "in a position to exercise control" over the Authority.

The Institute was formerly a company but is now a statutory authority by virtue of the Australian Institute of Sport Act 1986. It therefore falls within paragraph (a) of the definition of "prescribed authority" in subsection 4(1) of the Act, and does not need to be declared a "prescribed authority" by regulation.

Regulation 4 - Schedule 2

Regulation 4 repeals Schedule 2 and substitutes a new Schedule 2 which reflects changes in administrative arrangements and the creation, abolition or variation in the names of certain prescribed authorities and/or their principal offices.

Regulation 5 - Schedule 3

Regulation 5 repeals Schedule 3 and substitutes a new Schedule 3 which reflects changes in administrative arrangements and the creation, abolition or variation in names of certain prescribed authorities and/or their responsible Ministers.