

EXPLANATORY STATEMENT

Statutory Rules 1983 No. 338

Issued by the authority of the Attorney-General

FREEDOM OF INFORMATION (MISCELLANEOUS PROVISIONS) REGULATIONS (AMENDMENT)

These regulations, made under sections 4 and 94 of the Freedom of Information Act 1982 ("the Act"), amend the Freedom of Information (Miscellaneous Provisions) Regulations.

Section 94 of the Act empowers the Governor-General to make regulations, not inconsistent with the Act, prescribing all matters that are required or permitted by the Act to be prescribed or are necessary or are convenient to be prescribed for carrying out or giving effect to the Act. Section 4 of the Act is an interpretation provision. Sub-section 4(1), so far as is relevant, defines the expressions "prescribed authority", "principal officer" and "responsible Minister" as follows:

"'prescribed authority' means -

...

(b) any other body, whether incorporated or unincorporated, declared by the regulations to be a prescribed authority for the purposes of this Act, being -

(i) a body established by the Governor-General or by a Minister; or

(ii) an incorporated company or association over which the Commonwealth is in a position to exercise control;"

"'principal officer' means -

...

(b) in relation to a prescribed authority -

(i) if the regulations declare an office to be the principal office in respect of the authority - the person holding, or performing the duties of, that office;"

"'responsible Minister' means -

...

- (d) in relation to any other prescribed authority - the Minister declared by the regulations to be the responsible Minister in respect of that authority".

The Freedom of Information (Miscellaneous Provisions) Regulations, so far as are relevant, set out -

- . in Schedule 1 - a list of bodies each declared a "prescribed authority" for the purposes of the FOI Act;
- . in Schedule 2 - a list of officers each prescribed a "principal officer" for the purposes of the FOI Act; and
- . in Schedule 3 - a list of persons declared to be prescribed officers in relation to a court, or a tribunal, authority or body exempt under section 6 of the Act in respect of non-administrative matters.

The proposed regulations contain amendments of these Schedules reflecting changes in administrative arrangements effected by the Administrative Arrangements Orders dated 11 March 1983 and 1 July 1983, other changes that have occurred since the Freedom of Information (Miscellaneous Provisions) Regulations were made and amendments consequential upon the coming into operation of the Freedom of Information Amendment Act 1983.

The proposed regulations also include a new Schedule 3 setting out a list of Ministers each declared in respect of certain prescribed authorities to be the "responsible Minister" for those authorities for the purposes of the FOI Act. These authorities presently have no "responsible Minister".

Notes on the amending regulations are attached.

S.R. 212 /83

NOTES ON AMENDING REGULATIONS

Regulation 1 - Principal Regulations

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

Regulation 2 - New regulation 5

2. Regulation 2 repeals regulation 5 of the Principal Regulations and inserts a new regulation 5. The repeal of regulation 5 of the Principal Regulations is consequential upon an amendment made by the Freedom of Information Amendment Act 1983, which avoids having separate terminology for the principal decision-maker in respect of courts and tribunals to that used in respect of other agencies. New Regulation 5 declares each of the Ministers listed in new Schedule 3 to be a "responsible Minister" for the purposes of paragraph (d) of the definition of that expression in sub-section 4(1) of the Act.

Regulation 3 - Schedule 1

3. Regulation 3 repeals Schedule 1 to the Principal Regulations and substitutes a new Schedule 1.

Regulation 4 - Schedule 2

4. Regulation 4 amends a number of items in Schedule 2 to the Principal Regulations.

Regulation 5 - Schedule 3

5. Regulation 5 repeals Schedule 3 in the Principal Regulations and inserts a new Schedule 3. The repeal of Schedule 3 in the Principal Regulations is consequential upon the amendment made by regulation 2 repealing regulation 5 in the Principal Regulations. New Schedule 3 sets out a list of Ministers each declared in respect of a specified prescribed authority to be the "responsible Minister" for that authority for the purposes of paragraph (d) of the definition of that expression in sub-section 4(1) of the Act.