

## **EXPLANATORY STATEMENT**

### **Select Legislative Instrument 2007 No. 53**

Issued by the Authority of the Attorney-General

*Freedom of Information Act 1982*

*Freedom of Information (Miscellaneous Provisions) Amendment Regulations 2007  
(No. 1)*

Subsection 94(1) of the *Freedom of Information Act 1982* (the Act) provides, in part, that the Governor-General may 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 convenient to be prescribed for carrying out or giving effect to the Act.

Subsection 4(1) of the Act defines the terms ‘principal officer’ and ‘responsible Minister’.

The purpose of the Regulations is to prescribe the Chief Executive Officer (CEO) of the Federal Magistrates Court of Australia (FMC) as the ‘principal officer’ for the purposes of subparagraph (b)(i) of the definition of ‘principal officer’ in the Act, and to prescribe the Attorney-General as the ‘responsible Minister’ in respect of the FMC for the purposes of paragraph (d) of the definition of ‘responsible Minister’ in the Act.

The ‘principal officer’ of an agency and the ‘responsible Minister’ in respect of an agency have responsibility under the Act for various duties and powers that are essential to the effective operation of the Act. For example, a decision on a Freedom of Information (FOI) request to an agency may be made by either the responsible Minister, the principal officer of the agency, or an officer of the agency acting in accordance with arrangements approved by the responsible Minister or the principal officer of the agency.

Subparagraph (b)(i) of the definition of ‘principal officer’ declares the principal officer in relation to a prescribed authority to be the person holding, or performing the duties of the principal office as described in the *Freedom of Information (Miscellaneous Provisions) Regulations 1982* (the Principal Regulations). Regulation 4 of the Principal Regulations provides that an office specified in Column 3 of an item in Schedule 2 to the Principal Regulations is declared to be the principal office in respect of the prescribed authority or authorities specified in Column 2 of that item. The Regulations specify the CEO of the FMC for this purpose.

Paragraph (d) of the definition of ‘responsible Minister’ declares the Minister in relation to a prescribed authority which does not fall within paragraph (a) or (c) of the definition of ‘prescribed authority’ in subsection 4(1) of the Act, to be the Minister declared by the Principal Regulations to be the responsible Minister. Regulation 5 of

the Principal Regulations provides that a Minister specified in Column 3 of an item in Schedule 3 to the Principal Regulations is declared to be the responsible Minister in respect of the prescribed authority specified in Column 2 of that item. The Regulations specify the Attorney-General as the responsible Minister for the FMC.

The Regulations are a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

The Regulations have no or low impacts on business and individuals or the economy. Therefore, no further regulatory analysis is required in accordance with the Government's best practice regulation requirements. The Office of Best Practice Regulation has confirmed the Attorney-General's Department's preliminary assessment.

The Regulations commenced on the day after they were registered on the Federal Register of Legislative Instruments.

The Regulations were developed in consultation with the FMC. Wider consultation was unnecessary because this instrument affects only the FMC.

Details of the Regulations are set out in the [Attachment](#).

**ATTACHMENT***Freedom of Information (Miscellaneous Provisions) Amendment Regulations 2007 (No. 1)*

Details of the Regulations are:

Regulation 1 provides that the name of these Regulations is the *Freedom of Information (Miscellaneous Provisions) Amendment Regulations 2007 (No. 1)*.

Regulation 2 provides that these Regulations commence on the day after they are registered on the Federal Register of Legislative Instruments.

Regulation 3 provides for Schedule 1 to amend the *Freedom of Information (Miscellaneous Provisions) Regulations 1982*.

Schedule 1 – Amendments

**Item [1] – Schedule 2, after item 71**

This item inserts the Chief Executive Officer of the Federal Magistrates Court of Australia as the ‘principal officer’ for the purposes of subparagraph (b)(i) of the definition of ‘principal officer’ in subsection 4(1) of the *Freedom of Information Act 1982*.

**Item [2] – Schedule 3, after item 8**

This item inserts the Attorney-General as the ‘responsible Minister’ in respect of the Federal Magistrates Court of Australia for the purposes of paragraph (d) of the definition of ‘responsible Minister’ in subsection 4(1) of the *Freedom of Information Act 1982*.