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Commonwealth of Australia

HOUSE OF REPRESENTATIVES

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Information Commissioner Bill 2009

No. , 2009

(Cabinet Secretary)

**A Bill for an Act to establish the Office of the
Information Commissioner, and for related
purposes**

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1 **A Bill for an Act to establish the Office of the**
2 **Information Commissioner, and for related**
3 **purposes**

4 The Parliament of Australia enacts:

5 **Part 1—Preliminary**
6

7 **1 Short title**

8 This Act may be cited as the *Information Commissioner Act 2009*.

Section 2

1 **2 Commencement**

2 (1) Each provision of this Act specified in column 1 of the table
3 commences, or is taken to have commenced, in accordance with
4 column 2 of the table. Any other statement in column 2 has effect
5 according to its terms.
6

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 and 2 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	
2. Sections 3 to 36	A single day to be fixed by Proclamation. However, if any of the provision(s) do not commence within the period of 6 months beginning on the day this Act receives the Royal Assent, they commence on the day after the end of that period.	

7 Note: This table relates only to the provisions of this Act as originally
8 passed by both Houses of the Parliament and assented to. It will not be
9 expanded to deal with provisions inserted in this Act after assent.

10 (2) Column 3 of the table contains additional information that is not
11 part of this Act. Information in this column may be added to or
12 edited in any published version of this Act.

13 **3 Definitions**

14 In this Act:

15 **agency** has the meaning given by the *Freedom of Information Act*
16 *1982*.

17 **Freedom of Information Commissioner** means the person
18 appointed under section 14 as the Freedom of Information
19 Commissioner.

Section 3

1 ***freedom of information functions*** has the meaning given by
2 section 8.

3 ***freedom of information matters*** has the meaning given by
4 subsection 31(1).

5 ***Information Commissioner*** means the person appointed under
6 section 14 as the Information Commissioner.

7 ***information commissioner functions*** has the meaning given by
8 section 7.

9 ***information officer*** has the meaning given by section 6.

10 ***partial access*** has a meaning affected by subsection 31(3).

11 ***Privacy Commissioner*** means the person appointed under
12 section 14 as the Privacy Commissioner.

13 ***privacy functions*** has the meaning given by section 9.

14 ***privacy matters*** has the meaning given by section 32.

Section 4

1

2 **Part 2—Office of the Information Commissioner**

2

3 **Division 1—Introduction**

3

4 **4 Guide to this Part**

4

5

This Part establishes the Office of the Information Commissioner.

6

The Office of the Information Commissioner consists of the information officers and the staff of the Office.

7

8

The information officers are the Information Commissioner, the Freedom of Information Commissioner and the Privacy Commissioner. The Information Commissioner is the head of the Office (for the purposes of the *Public Service Act 1999*).

9

10

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The functions of the Office are as follows:

13

(a) the freedom of information functions, which are about giving the Australian community access to information held by the Commonwealth Government in accordance with the *Freedom of Information Act 1982* (and other Acts);

14

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18

(b) the privacy functions, which are about protecting the privacy of individuals in accordance with the *Privacy Act 1988* (and other Acts);

19

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(c) the information commissioner functions, which are strategic functions concerning information management by the Commonwealth Government.

22

23

24

All of the information officers may perform the freedom of information functions and the privacy functions.

25

26

Only the Information Commissioner can perform the information commissioner functions.

27

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2 **Division 2—Establishment**

3 **5 Establishment**

4 (1) The Office of the Information Commissioner is established by this
5 section.

6 (2) The Office of the Information Commissioner consists of:

7 (a) the information officers; and

8 (b) the staff mentioned in Part 3.

9 (3) For the purposes of the *Public Service Act 1999*:

10 (a) the information officers and staff of the Office of the
11 Information Commissioner together constitute a Statutory
12 Agency; and

13 (b) the Information Commissioner is the Head of that Statutory
14 Agency.

15 Note: The Information Commissioner holds an office equivalent to that of a
16 Secretary of a Department (see the definition of *Agency Head* in
17 section 7 of the *Public Service Act 1999*).

18 **6 Definition of *information officers***

19 Each of the following is an *information officer*:

20 (a) the Information Commissioner;

21 (b) the Freedom of Information Commissioner;

22 (c) the Privacy Commissioner.

Section 7

1

2 **Division 3—Functions and powers of the information**
3 **officers**

4 **7 Definition of *information commissioner functions***

5 The *information commissioner functions* are as follows:

- 6 (a) to report to the Minister on any matter that relates to the
7 Commonwealth Government's policy and practice with
8 respect to:
- 9 (i) the collection, use, disclosure, management,
10 administration or storage of, or accessibility to,
11 information held by the Government; and
 - 12 (ii) the systems used, or proposed to be used, for the
13 activities covered by subparagraph (i);
- 14 (b) any other function conferred by this Act or another Act (or an
15 instrument under this Act or another Act) on the Information
16 Commissioner other than a freedom of information function
17 or a privacy function.

18 **8 Definition of *freedom of information functions***

19 The *freedom of information functions* are as follows:

- 20 (a) promoting awareness and understanding of the *Freedom of*
21 *Information Act 1982* and the objects of that Act (including
22 all the matters set out in sections 3 and 3A of that Act);
- 23 (b) assisting agencies under section 8E of the *Freedom of*
24 *Information Act 1982* to publish information in accordance
25 with the information publication scheme under Part II of that
26 Act;
- 27 (c) the functions conferred by section 8F of the *Freedom of*
28 *Information Act 1982*;
- 29 (d) providing information, advice, assistance and training to any
30 person or agency on matters relevant to the operation of the
31 *Freedom of Information Act 1982*;
- 32 (e) issuing guidelines under section 93A of the *Freedom of*
33 *Information Act 1982*;

- 1 (f) making reports and recommendations to the Minister about:
2 (i) proposals for legislative change to the *Freedom of*
3 *Information Act 1982*; or
4 (ii) administrative action necessary or desirable in relation
5 to the operation of that Act;
6 (g) monitoring, investigating and reporting on compliance by
7 agencies with the *Freedom of Information Act 1982*;
8 (h) reviewing decisions under Part VII of the *Freedom of*
9 *Information Act 1982*;
10 (i) undertaking investigations under Part VIIB of the *Freedom of*
11 *Information Act 1982*;
12 (j) collecting information and statistics from agencies and
13 Ministers about the freedom of information matters (see
14 section 31) to be included in annual reports under section 30;
15 (k) any other function conferred on the Information
16 Commissioner by the *Freedom of Information Act 1982*;
17 (l) any other function conferred on the Information
18 Commissioner by another Act (or an instrument under
19 another Act) and expressed to be a freedom of information
20 function.

21 **9 Definition of *privacy functions***

- 22 (1) The *privacy functions* are functions conferred on the Information
23 Commissioner by an Act (or an instrument under an Act), if the
24 functions:
25 (a) relate to the privacy of an individual; and
26 (b) are not freedom of information functions.
27 (2) The functions mentioned in subsection (1) include, but are not
28 limited to, the provisions in the following table.
29

Provisions that confer privacy functions		
Item	Legislation	Provision
1	<i>Privacy Act 1988</i>	Division 2 of Part IV
2	<i>Crimes Act 1914</i>	Division 5 of Part VIIC
3	<i>Data-matching Program (Assistance</i>	Sections 12 to 14, and the Schedule

Section 10

Provisions that confer privacy functions

Item	Legislation	Provision
	<i>and Tax) Act 1990</i>	
4	<i>National Health Act 1953</i>	Section 135AA
5	<i>Telecommunications Act 1997</i>	Section 309

1 **10 Functions and powers of the Information Commissioner**

- 2 (1) The Information Commissioner has the following functions:
- 3 (a) the information commissioner functions;
- 4 (b) the freedom of information functions;
- 5 (c) the privacy functions.
- 6 (2) The Information Commissioner has power to do all things
- 7 necessary or convenient to be done for or in connection with the
- 8 performance of functions conferred by this section.

9 **11 Functions and powers of the Freedom of Information**

10 **Commissioner**

- 11 (1) The Freedom of Information Commissioner has the freedom of
- 12 information functions.
- 13 (2) The Freedom of Information Commissioner may also perform the
- 14 privacy functions.
- 15 (3) The Freedom of Information Commissioner has power to do all
- 16 things necessary or convenient to be done for or in connection with
- 17 the performance of functions conferred by this section.
- 18 (4) However, the following actions may only be taken with the
- 19 approval of the Information Commissioner:
- 20 (a) the issue, variation or revocation of a guideline mentioned in
- 21 paragraph 8(e);
- 22 (b) the making of a report or recommendation under paragraph
- 23 8(f) to the Minister about:
- 24 (i) proposals for legislative change to the *Freedom of*
- 25 *Information Act 1982*; or

- 1 (ii) administrative action necessary or desirable in relation
2 to the operation of that Act.
- 3 (5) If the Freedom of Information Commissioner performs a function,
4 or exercises a power, expressed by an Act (or an instrument under
5 an Act) to be conferred on the Information Commissioner:
- 6 (a) the Freedom of Information Commissioner must perform the
7 function or exercise the power upon his or her own belief or
8 state of mind (to the extent that the performance or exercise
9 is dependent on the belief or state of mind of the Information
10 Commissioner); and
- 11 (b) the function or power is taken to have been performed or
12 exercised by the Information Commissioner; and
- 13 (c) neither the Information Commissioner, nor the Privacy
14 Commissioner, is prevented from performing the same
15 function, or exercising the same power, on another occasion
16 (in relation to a different matter).

17 **12 Functions and powers of the Privacy Commissioner**

- 18 (1) The Privacy Commissioner has the privacy functions.
- 19 (2) The Privacy Commissioner may also perform the freedom of
20 information functions (whether or not the Privacy Commissioner
21 holds the qualifications mentioned in subsection 14(3)).
- 22 (3) The Privacy Commissioner has power to do all things necessary or
23 convenient to be done for or in connection with the performance of
24 functions conferred by this section.
- 25 (4) However, the following actions may only be undertaken with the
26 approval of the Information Commissioner:
- 27 (a) the issue, variation or revocation of the Code of Conduct
28 under section 18A of the *Privacy Act 1988*;
- 29 (b) approvals, variations or revocations of a privacy code under
30 paragraph 27(1)(aa) of the *Privacy Act 1988*;
- 31 (c) the preparation, and publication, or variation or revocation, of
32 guidelines under paragraph 27(1)(e) or (ea), or paragraph
33 28A(1)(e), of the *Privacy Act 1988*;

Section 12

- 1 (d) the issue, variation or revocation of guidelines for the
2 purposes of paragraph 27(1)(p) or (pa), or paragraph
3 28(1)(a), of the *Privacy Act 1988*;
- 4 (e) the making of a report or recommendation to the Minister in
5 relation to any matter that concerns the need for or the
6 desirability of legislative or administrative action in the
7 interests of the privacy of individuals under paragraph
8 27(1)(r) of the *Privacy Act 1988*;
- 9 (f) the making, variation or revocation of a determination for the
10 purposes of paragraph 28A(1)(d) of the *Privacy Act 1988*;
- 11 (g) advising the Minister whether an exclusion from the
12 application of Division 3 of Part VIIC of the *Crimes Act 1914*
13 should be granted and whether there should be any
14 restrictions on the circumstances in which an exclusion
15 would apply under paragraph 85ZZ(1)(b) of that Act.
- 16 (5) If the Privacy Commissioner performs a function, or exercises a
17 power, expressed by an Act (or an instrument under an Act) to be
18 conferred on the Information Commissioner:
- 19 (a) the Privacy Commissioner must perform the function or
20 exercise the power upon his or her own belief or state of
21 mind (to the extent that the performance or exercise is
22 dependent on the belief or state of mind of the Information
23 Commissioner); and
- 24 (b) the function or power is taken to have been performed or
25 exercised by the Information Commissioner; and
- 26 (c) neither the Information Commissioner, nor the Freedom of
27 Information Commissioner, is prevented from performing the
28 same function, or exercising the same power, on another
29 occasion (in relation to a different matter).

1

2 **Part 3—Appointments and staffing for the Office of**
3 **the Information Commissioner**

4 **Division 1—Introduction**

5 **13 Guide to this Part**

6

This Division provides for:

7

(a) the appointment of the information officers; and

8

(b) the staff of the Office of the Information
Commissioner, who are engaged under the *Public
Service Act 1999*.

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The Information Commissioner may engage consultants.

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The Information Commissioner may delegate all of his or her
functions or powers, other than the information commissioner
functions, the preparation of reports, the making of certain
instruments (such as guidelines and determinations) and certain
formal procedural steps.

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Section 14

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2 **Division 2—The information officers**

3 **14 Appointment**

4 *Appointment of the Information Commissioner*

- 5 (1) The Information Commissioner is to be appointed by the
6 Governor-General by written instrument.

7 *Appointment of the Freedom of Information Commissioner*

- 8 (2) The Freedom of Information Commissioner is to be appointed by
9 the Governor-General by written instrument.

- 10 (3) A person may only be appointed as the Freedom of Information
11 Commissioner if he or she has obtained a degree from a university,
12 or an educational qualification of a similar standing, after studies in
13 the field of law.

14 *Appointment of the Privacy Commissioner*

- 15 (4) The Privacy Commissioner is to be appointed by the
16 Governor-General by written instrument.

17 Note: The information officers are all eligible for reappointment: see
18 subsection 33(4A) of the *Acts Interpretation Act 1901*.

19 **15 General terms and conditions of appointment**

- 20 (1) An information officer holds office for the period specified in the
21 information officer's instrument of appointment. The period must
22 not exceed 5 years.

- 23 (2) An information officer holds office on a full-time basis.

- 24 (3) An information officer holds office on the terms and conditions (if
25 any), in relation to matters not covered by this Act, that are
26 determined by the Governor-General.

1 **16 Restriction on outside employment**

2 An information officer must not engage in paid employment
3 outside the duties of his or her office without the Minister's
4 approval.

5 **17 Remuneration**

- 6 (1) An information officer is to be paid the remuneration that is
7 determined by the Remuneration Tribunal. If no determination of
8 remuneration by the Tribunal is in operation, the information
9 officer is to be paid the remuneration that is prescribed by the
10 regulations.
- 11 (2) An information officer is to be paid the allowances that are
12 prescribed by the regulations.
- 13 (3) This section has effect subject to the *Remuneration Tribunal Act*
14 *1973*.

15 **18 Leave of absence**

- 16 (1) An information officer has the recreation leave entitlements that
17 are determined by the Remuneration Tribunal.
- 18 (2) The Minister may grant an information officer leave of absence,
19 other than recreation leave, on the terms and conditions as to
20 remuneration or otherwise that the Minister determines.

21 **19 Resignation**

- 22 (1) An information officer may resign his or her appointment by
23 giving the Governor-General a written resignation.
- 24 (2) The resignation takes effect on the day it is received by the
25 Governor-General or, if a later day is specified in the resignation,
26 on that later day.

Section 20

1 **20 Termination of appointment**

- 2 (1) The Governor-General may terminate the appointment of an
3 information officer for misbehaviour or physical or mental
4 incapacity.
- 5 (2) The Governor-General must terminate the appointment of an
6 information officer if any of the following apply:
- 7 (a) the information officer:
- 8 (i) becomes bankrupt; or
9 (ii) applies to take the benefit of any law for the relief of
10 bankrupt or insolvent debtors; or
11 (iii) compounds with his or her creditors; or
12 (iv) makes an assignment of his or her remuneration for the
13 benefit of his or her creditors;
- 14 (b) the information officer is absent, except on leave of absence,
15 for 14 consecutive days or for 28 days in any 12 months;
- 16 (c) the information officer engages, except with the Minister's
17 approval, in paid employment outside the duties of his or her
18 office;
- 19 (d) the information officer fails, without reasonable excuse, to
20 comply with section 22 (disclosure of interests).

21 **21 Acting appointments**

- 22 (1) The Minister may, by written instrument, appoint a person to act as
23 an information officer:
- 24 (a) during a vacancy in the office of the information officer
25 (whether or not an appointment has previously been made to
26 the office); or
27 (b) during any period, or during all periods, when the
28 information officer:
- 29 (i) is absent from duty or from Australia; or
30 (ii) is, for any reason, unable to perform the duties of the
31 office.
- 32 (2) A person appointed to act during a vacancy mentioned in
33 paragraph (1)(a) must not act for more than 12 months.

Section 22

- 1 (3) A person must not be appointed to act as the Freedom of
2 Information Commissioner unless he or she is qualified, as
3 mentioned in subsection 14(3), to be appointed as the Freedom of
4 Information Commissioner.
- 5 (4) Anything done by or in relation to a person purporting to act under
6 an appointment is not invalid merely because of any of the
7 following:
- 8 (a) the occasion for the appointment had not arisen;
 - 9 (b) there was a defect or irregularity in connection with the
10 appointment;
 - 11 (c) the appointment had ceased to have effect;
 - 12 (d) the occasion to act had not arisen or had ceased.

13 Note: See sections 20 and 33A of the *Acts Interpretation Act 1901*.

14 **22 Disclosure of interests**

15 An information officer must give written notice to the Minister of
16 all interests, pecuniary or otherwise, that the information officer
17 has or acquires and that conflict or could conflict with the proper
18 performance of the information officer's functions.

Section 23

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2 **Division 3—Staff, consultants and delegations**

3 **23 Staff**

4 The staff of the Office of the Information Commissioner must be
5 persons engaged under the *Public Service Act 1999*.

6 **24 Consultants**

- 7 (1) The Information Commissioner may, on behalf of the
8 Commonwealth, engage consultants to assist in the performance of
9 the functions and the exercise of the powers of the Information
10 Commissioner (see section 10).
- 11 (2) However, a consultant engaged under subsection (1) may only
12 perform a function, or exercise a power, if the function or power
13 can be delegated to a member of staff of the Office of the
14 Information Commissioner under section 25.

15 **25 Delegation by the Information Commissioner**

16 The Information Commissioner may delegate, in writing, all or any
17 of his or her functions or powers to a member of staff of the Office
18 of the Information Commissioner, other than the following:

- 19 (a) the information commissioner functions conferred by
20 paragraph 7(a) (reporting to the Minister);
- 21 (b) preparing the report mentioned in section 30;
- 22 (c) issuing guidelines as mentioned in paragraph 8(e);
- 23 (d) the function conferred by section 55H of the *Freedom of*
24 *Information Act 1982* (referring questions of law in a review
25 to the Federal Court of Australia);
- 26 (e) the function conferred by section 55K of the *Freedom of*
27 *Information Act 1982* (making a decision on an IC review);
- 28 (f) the function conferred by section 55Q of the *Freedom of*
29 *Information Act 1982* (correcting errors in IC review
30 decisions);

Section 25

- 1 (g) the function conferred by section 73 of the *Freedom of*
2 *Information Act 1982* (discretion not to investigate a
3 complaint);
4 (h) the function conferred by section 86 of the *Freedom of*
5 *Information Act 1982* (obligation to notify on completion of
6 investigation);
7 (i) the function conferred by sections 89 and 89A of the
8 *Freedom of Information Act 1982* (implementation notices
9 and reports);
10 (j) the function conferred by section 89K of the *Freedom of*
11 *Information Act 1982* (making a vexatious applicant
12 declaration);
13 (k) issuing guidelines under section 17 of the *Privacy Act 1988*;
14 (l) making determinations for the purposes of section 52 of the
15 *Privacy Act 1988*.

Section 26

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Part 4—Information Advisory Committee

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26 Guide to this Part

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This Part establishes an Information Advisory Committee to assist and advise the Information Commissioner on matters relating to the performance of the information commissioner functions.

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27 Establishment and functions

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(1) There is to be an Information Advisory Committee, with the function of assisting and advising the Information Commissioner in matters relating to the performance of the information commissioner functions.

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(2) The Committee consists of the following persons:
(a) the Information Commissioner, as Chair;
(b) senior officers of agencies nominated in writing by the Minister, in consultation with the relevant Ministers;
(c) such other persons as the Minister thinks fit and who, in the Minister's opinion, hold suitable qualifications or experience.

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(3) A Committee member appointed by the Minister for the purposes of paragraph (2)(c) is entitled to be paid travel allowance in accordance with the regulations.

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(4) However, a person covered by subsection (3) is not entitled to be paid any remuneration or allowances in relation to the holding of the position of Committee member other than any travel allowance that is prescribed for the purposes of subsection (3).

Part 5—Miscellaneous**28 Guide to this Part**

This Part deals with a number of other matters relevant to the operation of the Office of the Information Commissioner. These are as follows:

- (a) an offence for unauthorised dealings with information;
- (b) the requirements for annual reports;
- (c) immunity from legal suit;
- (d) the making of regulations.

29 Unauthorised dealing with information

(1) A person commits an offence if:

- (a) the person makes a record of, discloses or otherwise uses information; and
- (b) the information was acquired by the person in the course of performing functions or exercising powers conferred for the purposes of an information commissioner function, a freedom of information function or a privacy function.

Penalty: Imprisonment for 2 years.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

(2) This section does not apply if:

- (a) the person records, discloses or otherwise uses the information in the course of performing the same functions or exercising the same powers as those in the course of which the information was acquired; or

Section 30

- 1 (b) the person acquires the information for any other lawful
2 purpose; or
3 (c) the person to whom the information relates consents to the
4 recording, disclosure or use of the information.

5 Note: A defendant bears an evidential burden in relation to the matters in
6 subsection (2) (see subsection 13.3(3) of the *Criminal Code*).

- 7 (3) A person to whom this section applies must not be required to do
8 either of the following unless that disclosure or production is
9 necessary for the purposes of this Act:
10 (a) disclose to a court information that the person acquired in the
11 course of performing functions or exercising powers under
12 this Act for the purposes of another Act (or an instrument
13 under another Act) that confers an information commissioner
14 function, a freedom of information function or a privacy
15 function;
16 (b) produce all or part of a document that contains information of
17 that kind to a court.
18 (4) For the purposes of subsection (3), *court* includes any tribunal,
19 authority or person having power to require the production of
20 documents or the answering of questions.

21 **30 Annual report**

- 22 (1) The Information Commissioner must, as soon as practicable after
23 the end of each financial year, prepare and give to the Minister a
24 report on the operations of the Office of the Information
25 Commissioner during that year.

26 Note: See also section 34C of the *Acts Interpretation Act 1901*, which
27 contains extra rules about annual reports.

- 28 (2) The Minister must cause a copy of the report to be laid before each
29 House of the Parliament within 15 sitting days of that House after
30 the report is received.

31 *What must be included in the report*

- 32 (3) The report must include the following:
33 (a) the freedom of information matters (see section 31);

1 (b) the privacy matters (see section 32).

2 **31 Definition of the *freedom of information matters***

3 (1) The *freedom of information matters* are as follows:

- 4 (a) information about any guidelines mentioned in paragraph
5 8(e) issued during the year and the matters to which those
6 guidelines relate;
- 7 (b) the number of requests under the *Freedom of Information Act*
8 *1982* to which subsection (2) applies;
- 9 (c) the number of applications under section 48 of the *Freedom*
10 *of Information Act 1982* received during the year and
11 particulars of the results of those applications;
- 12 (d) particulars of the total charges collected during the year in
13 dealing with requests and other applications whenever
14 received;
- 15 (e) the number of applications made under Part VI of the
16 *Freedom of Information Act 1982* during the year for the
17 internal review of decisions, and particulars of the results of
18 those reviews;
- 19 (f) the number of applications made under Part VII of the
20 *Freedom of Information Act 1982* during the year to the
21 Information Commissioner for the review of decisions, and
22 particulars of the results of those reviews;
- 23 (g) the number of applications made under Part VIIA of the
24 *Freedom of Information Act 1982* during the year to the
25 Administrative Appeals Tribunal for the review of decisions,
26 and particulars of the results of those reviews;
- 27 (h) the number of complaints made under Part VIIB of the
28 *Freedom of Information Act 1982* during the year to the
29 Information Commissioner, and particulars of the results of
30 investigations undertaken as a result of those complaints;
- 31 (i) a description of any efforts made by the Information
32 Commissioner to assist agencies to comply with the agency's
33 obligations under the *Freedom of Information Act 1982*.

34 (2) This subsection applies to a request if, during the year:

- 35 (a) the request was received under section 15 of the *Freedom of*
36 *Information Act 1982*; or

Section 32

- 1 (b) access (other than partial access) to the document (or all of
2 the documents) to which the request relates was given; or
3 (c) access to the document (or all of the documents) to which the
4 request relates was refused; or
5 (d) partial access to the document (or documents) to which the
6 request relates was granted.
- 7 (3) Without limiting subsection (2), and for the purposes of that
8 subsection, *partial access* is granted in respect of a request if either
9 or both of the following conditions are satisfied in relation to the
10 request:
11 (a) access was granted to an edited copy (within the meaning of
12 section 22 of the *Freedom of Information Act 1982*) of the
13 document (or any of the documents) requested;
14 (b) the request related to 2 or more documents and access was
15 refused to one or more of the documents.

16 **32 Definition of the *privacy matters***

- 17 (1) The *privacy matters* are as follows:
18 (a) a statement of the performance of the privacy functions
19 conferred by paragraphs 28(1)(a) and (f) of the *Privacy Act*
20 *1988*;
21 (b) a statement about the operation of approved privacy codes
22 under the *Privacy Act 1988* that contain procedures, covered
23 by subsection (2), including the following:
24 (i) action taken by adjudicators to monitor compliance with
25 the codes;
26 (ii) details about the number of complaints made under
27 codes, their nature and outcome.
- 28 (2) This subsection covers procedures for making and dealing with
29 complaints in relation to acts or practices that may be an
30 interference with the privacy of an individual.

31 **33 Review of operation of Act**

- 32 (1) The Minister must cause a review of the operation of this Act to be
33 undertaken.

- 1 (2) The review must:
2 (a) start 2 years after the commencement of this section; and
3 (b) be completed within 6 months.
- 4 (3) The Minister must cause a written report about the review to be
5 prepared.
- 6 (4) The Minister must cause a copy of the report to be laid before each
7 House of the Parliament within 15 sitting days of that House after
8 the Minister receives the report.

9 **34 Privileges and immunities of the Crown**

10 The Office of the Information Commissioner has the privileges and
11 immunities of the Crown.

12 **35 Information officer etc. not to be sued**

- 13 (1) This section applies to a person if:
14 (a) the person is an information officer; or
15 (b) the person is acting under the direction or authority of an
16 information officer.
- 17 (2) The person is not liable to an action, suit or proceeding in relation
18 to an act done or omitted to be done in good faith in the exercise or
19 purported exercise of any power or authority conferred for the
20 purposes of an information commissioner function, a freedom of
21 information function or a privacy function.

22 **36 Regulations**

23 The Governor-General may make regulations prescribing matters:
24 (a) required or permitted by this Act to be prescribed; or
25 (b) necessary or convenient to be prescribed for carrying out or
26 giving effect to this Act.