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Comment

It is pleasing to report that on 22 March 1991 the Parliament of South Australia enacted freedom of information legislation, to commence operation on 1 January 1992. The legislation replaces government administrative arrangements which provided limited access rights to personal records. According to the Labor Government's Minister for Education, Mr Crafter, the Act draws on the Fol experience of the Commonwealth, Victoria and New South Wales. Like its Australian counterparts, the South Australian *Fol Act* confers on individuals a legally enforceable right to access documents in the possession of government agencies, a right to amend inaccurate personal records held by government and a right to seek review in the District Court of decisions refusing to grant access to documents. The Act also obliges agencies to publish an information statement describing their functions and certain documents in their possession. There are other positive aspects of the Act. The definition of 'personal affairs' (which includes financial affairs, criminal affairs, marital relationships and employment records) neatly avoids the narrow interpretation given to the phrase by the Commonwealth AAT. Provision is made for access to documents created after 1 January 1987 for non-personal documents and unrestricted access to information concerning the personal affairs of the applicant.

Unfortunately, the South Australian Act has also picked up some of the worst features of other Acts. A large number of agencies are totally exempt from the Act, including the Auditor-General, the State Bank of South Australia, and the Attorney-General in respect of functions related to the enforcement of the criminal law. In addition, the regulations can exempt any agency from the Act. Fees and charges will be subject to regulation, and judging from the parliamentary debates will reflect the user-pays principle. A 'Ministerial certificate' can be issued in respect of Cabinet documents, law enforcement documents and documents exempt under other *Fol Acts* which limits external review of agency decisions based on these exemptions. Even if a court overturns a certificate, it can be reinstated by the Premier. Of most concern is the breadth of the exemption provisions. The Cabinet documents exemption is the widest in Australia, as are the internal working documents and secrecy provision exemptions. The scope of the exemptions calls into question whether the Government is really committed to effective Fol legislation. Of course, time will tell.

In this issue, Harry Hammitt looks at the United States *Freedom of Information Act* and the concept of public interest.

Paul Villanti
Peter Bayne