

LEGISLATIVE ASSEMBLY

Read 1° 7 May 1986

(Brought from the Legislative Council)

A BILL

for

An Act to amend the *Freedom of Information Act* 1982 and for other purposes.

Freedom of Information (Amendment) Act 1985

The Parliament of Victoria enacts as follows:

Purpose.

1. The purpose of this Act is to make further provision relating to Cabinet documents and the publication of statements and to enable
5 requests for voluminous material to be refused in certain circumstances.

Commencement.

2. This Act comes into operation on the day on which it receives the Royal Assent.

Principal Act.

- 10 3. In this Act, the *Freedom of Information Act* 1982 is called the Principal Act.

No. 9858.
Amended by
Nos. 10046,
10087, 10150,
10155, 10163.

New section 11.**4. For section 11 of the Principal Act substitute—****Statement of documents in possession of agency.**

'11. (1) In this section "**Report**" means a document in the possession of an agency—

(a) created—

- (i) in or by the agency; or
- (ii) by the agency and another agency or agencies; or
- (iii) outside the agency—

for the purpose of submission to the responsible Minister or to the senior management of the agency; and

(b) containing the results of an investigation, evaluation or scientific study relating to—

- (i) the establishment of new, or the alteration of existing, agency policies, projects or programs; or
- (ii) the feasibility of establishing new, or altering existing, agency policies, projects or programs; or
- (iii) the changing of agency functions or the reorganization of agency structures; or
- (iv) the efficiency or effectiveness of agency operations; or
- (v) the scientific or technical basis for agency activities; or
- (vi) the social or environmental impact of agency activities; or

(vii) valuations conducted by or on behalf of the agency.

(2) The principal officer of an agency must—

(a) cause to be published in the prescribed form as soon as practicable after the commencement of the *Freedom of Information (Amendment) Act 1985* a statement (which may take the form of an index) specifying the reports which have been created by or for the agency since 5 July 1985 and are in the possession of the agency; and

(b) within 12 months after first publication of the statement under paragraph (a), and thereafter at intervals of 12 months, cause to be published in the prescribed form statements bringing up to date the information contained in the previous statement or statements.

(3) This section does not require a report containing exempt matter to be referred to in a statement published in accordance with sub-section (2) (a) if the fact of the existence of the document cannot be referred to in the statement without exempt matter being disclosed.

(4) This section does not permit a report that is an exempt document within the meaning of section 28 to be specified or referred to in a statement published in accordance with sub-section (2).

(5) An agency that comes into existence after the commencement of the *Freedom of Information (Amendment) Act 1985* must comply—

- 5
- (a) with the provisions of sub-section (2) (a) as soon as practicable after the day on which the agency comes into existence and not later than 12 months after that day; and
 - (b) with the provisions of sub-section (2) (b) as if the reference to “first publication” in that paragraph were a reference to first publication in compliance with this sub-section.’.

New section 26A.

10 5. After section 26 of the Principal Act insert—

Requests may be refused in certain circumstances.

“26A. (1) Where—

- 15
- (a) a request is expressed to relate to all documents, or to all documents of a specified class, that contain information of a specified kind or relate to a specified subject-matter; and
 - (b) the agency or Minister dealing with the request is satisfied that, apart from this sub-section, the work involved in giving access to all those documents would substantially and unreasonably divert the resources of the agency from its other operations or would interfere substantially and unreasonably with the performance by the Minister of the Minister’s functions, as the case may be, having regard to the number and volume of the documents and to any difficulty that would exist in identifying, locating or collating the documents within the filing system of the agency or of the office of the Minister—
- 20
- 25

the agency or Minister must commence to deal with the request but may apply to the Tribunal for a certificate stating whether or not the request is unreasonable and ought not to be granted.

30 (2) The agency or Minister shall immediately give to the Ombudsman a copy of an application to the Tribunal.

35 (3) The Registrar of the Tribunal shall invite the Ombudsman to report to the Tribunal within fourteen days after the Ombudsman receives a copy of an application on what would be involved in acceding to the application and what documents of the kind sought by the applicant are likely to be available.

40 (4) Upon receipt of the report of the Ombudsman, the Registrar of the Tribunal shall give a copy to each of the parties and the Tribunal shall, not less than three days after copies are so given, hold a hearing at which the Minister or agency, the applicant and the Ombudsman shall be invited to appear.

(5) The Tribunal shall make a decision as to whether the request of the applicant was reasonable and ought to be granted.

- (6) If the Tribunal decides that the request is unreasonable—
- (a) the Tribunal must give the agency or Minister a certificate to that effect; and
 - (b) the agency or Minister may refuse to grant access to the documents. 5
- (7) An agency or Minister must not refuse to grant access to a document in accordance with a request—
- (a) on the ground that the request does not comply with sub-section 17 (2); or
 - (b) in accordance with sub-section (6)— 10
- without first giving the applicant a reasonable opportunity of consultation with a view to the making of the request in a form that would remove the ground for refusal.”
- Table of Provisions to replace division into Parts.**
6. Section 2 of the Principal Act is repealed. 15