



COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



HOUSE OF REPRESENTATIVES
INFORMATION COMMISSIONER BILL 2009

FREEDOM OF INFORMATION
AMENDMENT (REFORM) BILL 2009

Second Reading

SPEECH

Wednesday, 12 May 2010

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES

SPEECH

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Questioner
Speaker Byrne, Anthony, MP

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Mr BYRNE (Holt—Parliamentary Secretary to the Prime Minister and Parliamentary Secretary for Trade) (11.11 am)—in reply—In summing up this particular piece of legislation I would like to welcome the contribution of all members to the debate. I would like to respond, however, to some of the comments made by the member for Stirling earlier in this debate. Senator Ludwig has acknowledged that the latest FOI annual report shows that the FOI Act is in need of reform. This is what makes the reforms in these bills so important. However, had the member for Stirling read the latest annual report, he would have found that the numbers do not always speak for themselves, and that some of the figures he quoted are not, as he said, evidence that there is less freedom of information under the Rudd government than there was under the Howard government.

The latest FOI annual report for 2008-09 does show that FOI access requests are slightly down on the previous year. This decrease can be explained by a decrease in the number of requests submitted to the Department of Immigration and Citizenship, as DIAC is providing access to international movement records outside of the FOI Act. This is a change that should be welcomed. Departments are not requiring applicants to go through FOI but are giving them access through easier and less formal means. Refusal rates, we are told, were also slightly up. However, FOI requests for non-personal information have increased from 15 per cent in 2007-08 to 20 per cent in 2008-09, indicating that the FOI Act is being increasingly used to seek access to other documents, such as those concerning policy development and government decision making. Some of these documents just should not be released, as they relate to highly sensitive information such as matters of security or defence. This is one reason for the slight increase in refusal rates. I do not, however, think that the member for Stirling would ever suggest that such information should be given out, particularly in the national interest.

But let us turn to the reason we are here today: because the Rudd government is ushering in a new regime for access to government information. After over a decade of secrecy in the Howard government—which John Hartigan labelled the most secretive government we have ever had, even in war time—these reforms are critical and necessary. These reforms are a key aspect of the Rudd government's policy to restore trust and integrity in government, and constitute the most significant overhaul of FOI since its enactment. The FOI Act is a cornerstone law in Australian government accountability legislation. These reforms will revitalise the FOI Act so that it provides a stronger foundation for more openness in government. Indeed, the proposed new objects clause for the FOI Act recognises that giving the Australian community access to government held information will promote Australia's representative democracy.

Several witnesses in the public hearings conducted by the Senate Finance and Public Administration Committee expressed support for the reforms in the bill and urged their prompt enactment by this parliament. I should acknowledge, however, that there are some witnesses who would also prefer to see other measures such as the removal of more exemptions and exclusions. The government believes that these bills represent the right balance between meeting the public interest in disclosure of government information and in establishing those interests where a strong public interest lies in maintaining confidentiality of government held information. Together with the structural reforms proposed by the Information Commissioner Bill 2009 these bills aim to ensure that the right of access to documents is not unduly restricted by a liberal application of exemption criteria.

Provision is made in the bill for a review to be undertaken of the FOI Act two years from the commencement of the bill. The review will be comprehensive and include an examination of agencies exempted from the operation of the act.

I will, in summing up on this bill, mention two very significant changes to the FOI Act that will be effected by the FOI Amendment (Reform) Bill. The proposed new agency information publication scheme marks a significant change in the focus of the FOI Act. Instead of a framework that is largely reactive to access requests, the information publication scheme establishes a legislative framework for agency driven proactive publication of government information. This scheme goes further than establishing fixed classes of information for publication. Agencies will need to actively consider the information they hold, which can and should be made available to the public.

In another very significant change the period that the FOI Act governs access to government information will be reduced while accelerating the application of the Archives Act. The bill amends the Archives Act to bring forward the open access periods for all records other than cabinet notebooks and census information from 30 years to 20 years. The open access period for cabinet notebooks is to be brought forward from 50 years to 30 years. These are some of the more significant changes. This bill, together with the Information Commissioner Bill 2009, comprises a strong package of measures to enhance public access to government held information.

Question agreed to.

Bill read a second time.