

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the Freedom of Information Act 1989 (the FOI Act) so as:

- (a) to insert into that Act a section that requires details of major contracts entered into between the Government and the private sector to be published on the internet within 90 days after they have been entered into, and
- (b) to define the expression “commercial-in-confidence provisions” for the purposes of the proposed section, and
- (c) to ensure that the published details of any such contract do not have to include the commercial-in-confidence provisions of the contract, and that those provisions are not subject to the public rights of access conferred by Part 3 of that Act.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent.

Clause 3 is a formal provision that gives effect to the amendments to the FOI Act set out in Schedule 1.

Schedule 1 Amendments

Details to be published of contracts between the Government and the private sector

Schedule 1 [1] inserts a new section 15A into Part 2 of the FOI Act. The proposed section provides that details of any contract for more than \$150,000 that is entered into between a government agency and a private sector entity (being a contract to undertake a project or to provide goods or services) are to be published on the agency’s internet website, and in such other manner as the Minister responsible for the agency may approve. The details are to be published within 90 days after the government agency enters into the contract. The details to be published vary, depending on whether the contract concerned is for less than \$5 million or for more than \$5 million, but in either case exclude commercial-in-confidence provisions (to be defined in the proposed section). The proposed section will not apply to contracts entered into before the commencement of the proposed section.

Further protection for “commercial-in-confidence provisions”

Schedule 1 [2] inserts a new paragraph into clause 7 (1) of Schedule 1 to the FOI Act.

The effect of the proposed paragraph is that commercial-in-confidence provisions of a government contract (within the meaning of proposed section 15A) will be specifically exempt from the public disclosure provisions of Part 3 of the FOI Act.

Schedule 1 [3] and [4] make consequential amendments to clause 7 (1) (b) (i) and (c) (i) of Schedule 1 to the FOI Act.