



New South Wales

# Freedom of Information Amendment (Improving Public Access to Information) Bill 2006

## Explanatory note

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* to require an independent review of that Act to be conducted to improve public access to information and for other purposes.

## 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 assent.

**Clause 3** is a formal provision that gives effect to the amendment to the *Freedom of Information Act 1989* (**the Principal Act**) as set out in Schedule 1.

**Clause 4** provides for the repeal of the proposed Act on the day following the day on which the Act commences. Once the amendment has commenced the proposed Act will be spent and section 30 of the *Interpretation Act 1987* provides that the repeal of an amending Act does not affect the amendment made by that Act.

## **Schedule 1      Amendment**

**Schedule 1** inserts proposed sections 70 and 71 into the Principal Act.

Proposed section 70 requires the Minister to appoint one or more persons or a body to conduct an independent review of the Principal Act to determine whether its policy objectives remain valid and whether its terms remain appropriate for securing those objectives. The proposed section specifies particular matters to be considered in the review and requires the holding of public hearings, the consideration of public submissions and the tabling of a report of the review in Parliament.

Proposed section 71 requires the Minister to conduct a subsequent review, to be commenced as soon as possible after a period of 5 years from the deadline for the provision to the Minister of the report of the first review. This subsequent review is to have the same general purpose as the first review and a report of the review is also to be tabled in Parliament. However, the proposed section 71 does not specify particular matters to be considered or require public hearings or the consideration of public submissions.



New South Wales

# Freedom of Information Amendment (Improving Public Access to Information) Bill 2006

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New South Wales

# Freedom of Information Amendment (Improving Public Access to Information) Bill 2006

No. , 2006

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## A Bill for

An Act to amend the *Freedom of Information Act 1989* to require an independent review of that Act to be carried out to improve public access to information; and for other purposes.

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<b>The Legislature of New South Wales enacts:</b>	1
<b>1 Name of Act</b>	2
This Act is the <i>Freedom of Information Amendment (Improving Public Access to Information) Act 2006</i> .	3 4
<b>2 Commencement</b>	5
This Act commences on assent.	6
<b>3 Amendment of Freedom of Information Act 1989 No 5</b>	7
The <i>Freedom of Information Act 1989</i> is amended as set out in Schedule 1.	8 9
<b>4 Repeal of Act</b>	10
(1) This Act is repealed on the day following the day on which this Act commences.	11 12
(2) The repeal of this Act does not, because of the operation of section 30 of the <i>Interpretation Act 1987</i> , affect any amendment made by this Act.	13 14

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## Schedule 1      Amendment

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(Section 3)

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### Sections 70 and 71

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Insert after section 69:

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#### 70      Initial review of Act

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- (1) As soon as possible after the commencement of this section, the Minister is to appoint one or more persons or a body (*the reviewer*) to conduct an independent review of this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives. 6  
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- (2) The reviewer is not to be a Department or other Division of the Government Service of New South Wales or the Head or a member of staff of such a Division. 12  
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- (3) Without limiting subsection (1), in conducting the review the reviewer is to consider the following matters in particular: 15  
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  - (a) whether the rights of members of the public to obtain access to information held by the Government are being supported adequately by the provisions of this Act and by their operation in practice, 17  
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  - (b) whether the objects of this Act would be more appropriately served by the establishment of an independent body to receive and determine freedom of information applications and by a presumption that any document to which access is sought is not an exempt document within the meaning of this Act, 21  
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  - (c) any trends in the determination of applications under this Act since the Act's commencement, 27  
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  - (d) the appropriateness of the grounds on which access to documents may be refused under this Act and of the exemption of certain bodies and offices from the operation of this Act, 29  
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Freedom of Information Amendment (Improving Public Access to Information) Bill 2006

Schedule 1 Amendment

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|-----|--|----------------------------|
| (e) | the impact of technological change on information-keeping practices in so far as those practices are relevant to the objects and implementation of this Act,   | 1<br>2<br>3                |
| (f) | the interaction of this Act with other legislation of New South Wales that makes provision with respect to access to information (including the <i>Privacy and Personal Information Protection Act 1998</i> , the <i>Health Records and Information Privacy Act 2002</i> , the <i>Local Government Act 1993</i> and the <i>State Records Act 1998</i> ), | 4<br>5<br>6<br>7<br>8<br>9 |
| (g) | the impact of piecemeal amendment of this Act since the Act's commencement,  | 10<br>11                   |
| (h) | the costs of dealing with applications under this Act and the appropriateness of fees and other charges relating to the lodgment and processing of those applications,   | 12<br>13<br>14             |
| (i) | the timeliness of the processing and determination of applications under this Act.   | 15<br>16                   |
| (4) | The reviewer is to commence the review as soon as possible after being appointed under this section.   | 17<br>18                   |
| (5) | The reviewer is to hold public hearings at locations throughout New South Wales, and invite and consider public submissions, on matters falling within the scope of the review.  | 19<br>20<br>21             |
| (6) | Within the period of 18 months after the appointment of the reviewer the reviewer is to provide the Minister with a report on the outcome of the review.   | 22<br>23<br>24             |
| (7) | The Minister is to cause the report to be tabled in each House of Parliament as soon as practicable after the report is provided to the Minister.  | 25<br>26<br>27             |



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**71 Further review of Act**

- (1) As soon as possible after the period of 5 years after the end of the period of 18 months referred to in section 70 (6), the Minister is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.
- (2) A report on the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of that period of 5 years.

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