Section 38: a provision of first or last resort?

Introduction

In essence, s.38 of the Commonwealth *Fol Act* may exempt documents where disclosure would otherwise contravene a secrecy provision listed in Schedule 3 to the *Fol Act*. Additionally, s.38 may be brought to bear by a secrecy provision which itself expressly applies the section to the document or information involved, or where another provision so applies the section. (This latter means of applying s.38 is used only rarely.)

Section 38 is a potentially powerful provision which is relied upon as a primary means of exemption by some agencies. The section is perceived in some quarters to be an efficient and effective blanket response to Fol requests. However, such is not the intended role of s.38, and it is necessary to bear in mind the practical and policy limitations on such use of secrecy provisions. These limitations bear significantly on how effective secrecy provisions can be in the Fol context.

In the first section of this paper, secrecy provisions are placed in context. Attention is then given to the actual workings of s.38, with particular reference to subsections 38(1A) and (2) as being the chief 'internal limitations' on the section. Lastly, the limitations in terms of policy are discussed.

Recognising that a secrecy provision is often used as a first resort in response to Fol requests, this paper aims to show why, in truth, such a provision is properly applied only as a last resort.

Secrecy provisions in context

In his article in the (1990) 19 *Federal Law Review* 119-97, John McGinness gives an excellent account of the origins and application of secrecy provisions, and comments on the related issues of reform and alternatives to use of such provisions. Much of the discussion below originates with his article, and specific page references are given in brackets where needed.

The first Commonwealth secrecy provision was enacted by the first Parliament in 1901. Until 1945, use of secrecy provisions was largely limited to the defence and national security contexts. With the expansion of government services into areas of health, education and income support, the number of secrecy provisions likewise expanded. At one stage, secrecy provisions were included in new legislation as a matter of drafting policy, irrespective of the actual need of the agency or department. In 1990, there were 150 Commonwealth secrecy provisions, a large proportion of which could be characterised as general secrecy provisions purporting to prohibit the disclosure of any information by an officer (pp.49-51).

Secrecy provisions are largely hold-overs from earlier eras of government and public administration during which the perceived need for strict official secrecy was pervasive. The notion of the secrecy provision stems in part from Australia's British heritage. A specific model for some Australian provisions was the heavily-criticised, and now amended, *British Official Secrets Act 1989* (pp.70-1, 75, 77).

As a matter of interest, Great Britain does not now have Fol legislation, but is considering a limited form of 'Open Government' for introduction in the future. It appears that the legislation and proposed Code of Practice on Government Information, if enacted, would provide only an individual right to seek access to one's own details, including access to health and safety information. Access to other information would not necessarily be by means of access to the documents themselves, but rather to a summary thereof.

The *Fol Act* itself, and all of the other elements of the 'administrative law package' enacted in the past two decades, represent just some of the massive changes that have occurred since 1901, when the first Commonwealth secrecy provision came into being. While some secrecy provisions have been narrowed and refined over the years, the approach behind them remains the same: that of making subject to criminal penalties the unauthorised disclosure of even innocuous information. This approach, by today's standards, is heavy-handed, unnecessary and counterproductive. McGinness points out the problems with such an approach in terms of criminal as well as administrative law, refers to the 40-year history of calls to reform secrecy provisions and recommends further reviews (pp.63, 72-3, 89).

Before the listing of secrecy provisions in Schedule 3 to the *Fol Act* (see below — there are now 31 provisions so listed), many cases were conducted before the Administrative Appeals Tribunal and Federal Court concerning whether a given secrecy provision was sufficiently specific and limited to be permitted recognition as the basis for use of s.38. The Tribunal and the Court were concerned to scrutinise carefully the breadth and probable effect of secrecy provisions lest they be used as a means of blanket exemption from disclosure. Since the advent of Schedule 3, such cases no longer arise, but some of the criteria applied in those cases are now used as standards to determine whether a given secrecy provision is suitable for inclusion in the Schedule. Those standards are:

- that the provision be specific and limited in terms of the *persons or class of persons* placed under the prohibition on disclosure;
- that the provision be sufficiently specific regarding the *type of information* covered by the prohibition; and
- that the 17 other Fol exemption provisions be *insufficient* to ensure the exemption of certain documents which are *'genuinely sensitive'* and which therefore merit the particular protection granted under s.38 as the only effective means by which access may be withheld.

These standards reflect the concerns which continue to arise in connection with secrecy provisions. It is interesting to note that approximately one in five of the existing Commonwealth secrecy provisions have been accepted as suitable for listing in Schedule 3. Even in the absence of the reform of secrecy provisions as a whole, the above standards will continue to constitute a hurdle which existing secrecy provisions will have to clear in order to obtain recognition in Fol terms within schedule 3.

Section 38 — internal limitations

The current form of s.38 originated in 1987 with the *Report on the Operation and Administration of the Freedom of Information Legislation* (Parliamentary Paper No. 441 of 1987) by the Senate Standing Committee on Legal and Constitutional Affairs (the Committee). The Committee recommended the listing of secrecy provisions in a schedule to the *Fol Act* (para. 12.31); this was accomplished through the revision of s.38(1) and the insertion

of Schedule 3 by the *Freedom of Information Amendment Act 1991* (the 1991 Amendment Act).

Subsections 38(1A) and (2) represent important practical limitations on the use of s.38; both subsections are founded on the principle that the overly expansive use of secrecy provisions as a means of FoI exemption is to be avoided.

Subsection 38(1A)

The 1991 Amendment Act inserted the new s.38(1A) into the *FoI Act*. In the words of the Explanatory Memorandum, this was seen as:

> consequential upon the repeal and replacement of subsection 38(1) to ensure that a person is not denied access under section 38 of the FoI Act to a document *merely because the secrecy provision to which section 38 applies prohibits disclosure of the document to other persons* ***but not to that person***. For example, if an enactment containing a section 38 secrecy provision also contains a provision allowing disclosure at the discretion of the agency and if the agency exercises the discretion to disclose the document to a person who has made an FoI request for the document, the document is not exempt from disclosure under s.38 to that person. [emphasis added]

Thus, the perceived effect of s.38(1A) is to confine the scope of the s.38 exemption to the terms of the particular secrecy provision at issue, including the possible exercise of any discretions (to disclose information) existing under that provision. If, under the terms of the latter, the applicant has in certain circumstances been granted lawful access, then the s.38 exemption will be unavailable.

Subsection 38(1A) exists to limit the application of s.38 to the terms of the underlying secrecy provision and was introduced for that purpose. When one examines the actual terms of secrecy provisions, two common limitations found in them are prominent.

The first is found in the phrases 'except in the performance of his or her duties, functions or powers under this Act' and 'for the purposes of, or in connection with, the performance of a function or duty or the exercise of a power under this Act'. These phrases are, in effect, exceptions to the otherwise general prohibitions against disclosure. The second limitation is implicit in the prohibition against the disclosure of 'any information about another person'.

The first limitation is the more significant one, as the performance of duties or exercise of functions may be interpreted broadly so as to encompass any other routine disclosures that may be linked to duties or functions under the particular legislation. In *Canadian Pacific Tobacco Company LTD v Stapleton* (1952) 86 CLR 1, Dixon CJ commented:

> I think that the words 'except in the performance of any duty as an officer' ought to receive a very wide interpretation. The word 'duty' there is not, I think, used in a sense that is confined to a legal obligation, but really would be better represented by the word 'function'. The exception governs all that is incidental to the carrying out of what is commonly called 'the duties of an officer's employment'; that is to say, the functions and proper actions which his employment authorises.

Subsequent decisions continue to apply *Canadian Pacific Tobacco Company LTD v Stapelton*, and in some instances have sought to broaden the principle of that case (see *Mobil Oil Australia v FCT* (1963) 113 CLR 475, and *FCT v Nestle Australia Ltd* (1986) 69 ALR 445). In the latter decision, the Full Federal Court followed the *Canadian Pacific* case and found that a secrecy provision in the *Income Tax Assessment Act 1936* did not prevent tax officers from disclosing information to the Director of Public Prosecutions (DPP). The Full Federal Court stated that the term, 'duty of an officer':

> extends beyond the performance of work of an administrative nature such as processing returns, making assessments, considering and dealing with objections, conducting investigations into the affairs of taxpayers and matters of this nature. It includes the occasions on which (s)he is required by the judicial process to produce documents or give evidence in courts, by affidavit or viva voce, concerning the affairs of some other person which (s)he has acquired as an 'officer'.

In the decision of *R v Yates* 22 ATR 424, the New South Wales Court of Criminal Appeal also applied the *Canadian Pacific* case and found that officers of the Sales Tax Commission were acting within the 'performance of their duty' when they passed on information about the appellant to the Australian Federal Police and the DPP which led to the appellant being charged under the *Crimes Act*. Although the conduct in this case was further away from the duties of the officers described in *Canadian Pacific*, the acts 'were such as to fall within the scope of what Dixon CJ was talking about' and therefore were within the scope of the phrase 'in the performance of the officer's duties'.

The terminology used by the courts indicates a desire to give the phrase 'duty of an officer' a very broad reading. The comment of Priestley J in *R v Yates,* above, indicates the Courts' willingness to make such a broad reading in reference to officers in other Departments:

> the view taken since *Canadian Pacific Tobacco Company LTD v Stapelton* of the way in which 'performance of any duty' should be interpreted, as exemplified by the subsequent cases, *is inconsistent with limiting the carrying out of that duty* . . . [emphasis added]

Of course, an outsider is not in a position to determine, in the language of *Canadian Pacific*, 'all that is incidental' to the performance of duties or exercise of functions by an officer of a Department. The cases discussed above, however, clearly demonstrate that the 'course of duties' exception is a broad and significant one.

This will be important to the proper application of s.38, as s.38(1A) will have the effect of making s.38 unavailable where disclosure is possible under the secrecy provision.

The second limitation referred to above, and influential in the s.38(1A) context, is one that is implicit in the prohibition against the disclosure of 'any information about *another* person' (emphasis added). This phrase clearly permits the disclosure of an individual's affairs to the person concerned. Where the disclosure is to the person concerned, the secrecy provisions are not breached, and therefore s.38 cannot be used. This result may be reached not only by means of s.38(1A), but also (2).

However, where the documents to be disclosed involve not only the affairs of the FoI applicant, but also those of other persons, the two subsections may operate differently. A provision concerning 'information about another person' would apply to prohibit disclosure of the 'joint' information about a number of persons, even to the person who originally provided the information (in the absence of the consent of the other parties or other authorisation). As the underlying secrecy provision would thus apply, the terms of s.38(1A) would be satisfied, and s.38 would be available, subject to s.38(2). The only qualification to this statement arises where disclosure of such joint information to the provider is essential if the officer involved is to perform his or her duties under the

applicable Act. In this case, disclosure would not breach the secrecy provision, and s.38 would not apply.

Subsection 38(2)

Subsection 38(2) imposes an additional limitation on the use of s.38. This limitation arises when the documents at issue comprise personal information ('joint' and otherwise) about the FoI applicant. The effect of s.38(2) will often be to deny use of s.38 even where the terms of the particular secrecy provision involved are otherwise satisfied.

Subsection 38(2) (as modified by the 1991 Amendment Act) adds the additional qualification that 'this section does not apply in relation to the document so far as it contains personal information about the person.' The concept of 'personal information' is a very broad one, and encompasses the situation in which particular information is jointly personal to a number of parties at the same time.

The application of the s.38(2) exception to both 'sole' and 'joint' personal information is consistent with the intent of the *Privacy Act* to enhance the position of the individual in relation to personal information and the handling of it by government agencies. There is nothing in the *Privacy Act* or elsewhere to suggest that this enhancement of individual interests should be limited where the 'personal information' involved has a 'joint' or 'shared' character.

The Senate Standing Committee endorsed the addition of s.38(2) limiting s.38 in relation to a document which 'contains information that relates to the personal affairs of the person' (para. 12.37). Noting that the effect of the new subsection would be to prevent reliance on s.38 where people seek 'access to information held about themselves', the Committee observed that the attendant difficulties 'may be more apparent than real' and that other suitable exemption provisions may be available (paras 12.38 and 39).

The *Privacy Act* inserted the new s.38(2) into the *FoI Act,* and the Explanatory Memorandum to the *Privacy Act* (clause 230) also refers to the existence of other substantive FoI exemption provisions as relevant. Where joint personal information is involved, the question of FoI access must be resolved under exemption provisions other than s.38, most notably s.41.

The leading decisions on the operation of s.38(2), and the relationship of ss.38 and 41, are those of Deputy President Thompson of the AAT in *Forrest and Department of Social Security* (1991) 23 ALD 649 and *VXV and Department of Social Security* (1992) 27 ALD 362.

In *Forrest*, access was sought to four pension documents completed by the applicant's former *de facto* spouse (para. 3 of decision). In paragraph 11 of its reasons, the AAT concluded that such documents (which related to the demise of the *de facto* relationship) contained, in the terms of s.38(2) as it then was, 'information relating to the person's personal affairs'. The applicant had not prepared or seen the documents at issue.

Counsel for the Department did not dispute the fact that the 'personal affairs' involved were those of the applicant, as well as of the applicant's former spouse (para. 12). Instead counsel argued that s.38(2) could not apply where the 'personal affairs' did not arise from direct dealings between the applicant and the Department.

Deputy President Thompson rejected such a limitation on the subsection, and preferred instead to interpret the provision according to its 'natural meaning' (para. 13). He then disallowed a s.38 claim in respect of those identified parts of the *de facto's* pension documents which also related to the FoI applicant's 'personal affairs' (para. 14). The matter was remitted to the Department for consideration under s.41 of the *FoI Act* and possible consultation under s.27A. In my view, the manner in which Deputy President Thompson proceeded in the *Forrest* case was correct.

The AAT decision in *Forrest* was not appealed. In due course, the Department considered the matter as directed and denied access under s.41. The *VXV* case, above, is the further AAT hearing which resulted. In this hearing, Deputy President Thompson supported the Department's view that disclosure of the former *de facto* spouse's 'personal affairs' (while overlapping with the applicant's 'affairs') would be 'unreasonable'. The basis for this decision is open to question, however a further discussion is not possible here.

Thus, the key to applying s.38(2) is to determine the degree to which a given document contains 'personal information' about the FoI applicant. The FoI s.4 definition of 'personal information' relates to 'information . . . about an individual whose identity is apparent, or can reasonably be ascertained'. Given its origin in the *Privacy Act*, the FoI definition is phrased, not surprisingly, in the broadest possible terms. The breadth of the term is noted in clause 35 of the Explanatory Memorandum to the *Privacy Act*:

> The range of information/opinion coming within the definition is *infinite* and would include, for example, information relating to the person's physical description, residence, place of work, business and business activities, employment, occupation, investments and property holdings, *relationship to other persons*, recreational interests and political, philosophical or religious beliefs. [emphasis added]

With the introduction of 'personal information', the limitations posed in the *Forrest* case by the term 'personal affairs' are no longer present. Those former limitations required Deputy President Thompson to carefully consider whether details about a *de facto* relationship were the 'personal affairs' of the parties to it, and presumably also caused him to carefully limit the extent of the FoI applicant's 'personal affairs' as found in the pension documents at issue in the *Forrest* matter. The concept of 'personal information', however, described above as being potentially 'infinite' in its reach, would appear to dispense with the need for the careful delineation of 'personal affairs' as carried out in the *Forrest* case.

The operation of s.38(2) is such that the practical utility of s.38 is severely limited as to any FoI applicants who are the subject of, or even referred to or mentioned in, the documents at issue. As to these applicants, attention is better given to other exemption provisions such as ss.41 or 45. Where the FoI request is made by a party extraneous to the documents at issue, however, s.38(2) will have no operation and reliance may be placed on s.38, assuming that the terms of subsections 38(1) and (1A) are otherwise met. This result is due both to the *Forrest* case, which is clearly correct in its approach, and to the expanded definition of personal information, which has ensured the broader application of the *Forrest* principles concerning s.38(2).

Relevance of FoI Act s ctions 27A and 41

As noted above, some matters which cannot be resolved in terms of s.38 must be considered under s.41. Since the October 1991 amendments to the FoI Act, s.41 has concerned 'personal information' rather than 'personal

affairs'. The definition of 'personal information' is broad enough to include all information about an identified or **id ntifiabl** *individual.* This represents a significant departure from pre-October 1991 law, particularly in relation to the possible extension of s.41 into what was previously described by the courts and tribunals as 'work' or 'business' affairs.

The first task in relation to s.41 is to identify whether there is, in the documents at issue, the 'personal information' of any person other than the FoI applicant (see s.41(2)). Having identified that 'personal information' is present, the FoI decision-maker will then need to turn his or her mind to the possible public interest grounds which may bear upon the disclosure of that information. This is necessary to determine whether such disclosure, in the terms of s.41, would be 'unreasonable'. The consideration of relevant public interest considerations should first of all be an exercise in 'lateral thinking'; the relevant grounds of the public interest are not limited to those stated in previous decisions or those perhaps advanced by the FoI applicant.

Because the general public interest is to be balanced against the public interest in the non-disclosure of third-party details, this process is known as the 'modified public interest test'. A significant decision on this 'test' is that of Deputy President Hall in *Chandra and Minister for Immigration and Ethnic Affairs* (1984) 6 ALN 257 at 259.

It should be borne in mind that any public interest test is an objective one, calling on the decision-maker to draw on all that is known or may reasonably be inferred about the surrounding circumstances, and not a subjective test, where the decision-maker may merely follow the seemingly sensible claims by a third party that documents should not be disclosed (*Searle Australia Pty Ltd v Public Interest Advocacy Centre*, (1992) 108 ALR 163, D294).

Also relevant is the degree to which the personal information involved is accessible in whole or in part by other means, for example because it is disclosed elsewhere. Any such other disclosure of personal information would suggest that disclosure of the same information under the *FoI Act* would not be 'unreasonable' within s.41.

The *FoI Act* establishes the following process for dealing with potential third-party concerns about release of personal information:

(1) a preliminary decision is made on whether disclosure of personal information would be 'unreasonable';
(2) if the preliminary view is that disclosure would be 'unreasonable', the relevant personal information (which may be much wider than, for example, a mere name) may be deleted and the process of initial decision-making regarding this particular third-party information would be complete (this must be the result of a full and proper decision concerning 'unreasonableness', and not of the desire for administrative convenience);
(3) if the preliminary view is that release is not 'unreasonable', the individual concerned must be given a reasonable opportunity of making submissions, and those submissions are to be taken into account by (but are not binding on) the FoI decision-maker in reaching a final *independent* view on 'unreasonableness' (s.27A(1)) — the Act does not prescribe the means of affording the third party the 'reasonable opportunity of making submissions' — there is no obligation to provide copies of the subject documents (although this is the usual and preferred course), and the form of consultation may involve merely the closest description of the documents possible without the effective disclosure of the personal information of other parties;
(4) if the final decision is to release any personal information at issue, the individual concerned is notified of the decision and given the opportunity to pursue 'reverse-FoI' review rights before the information is actually disclosed to the applicant (see s.27A(2)) the FoI applicant having been timely informed of the decision to disclose, but advised that actual disclosure is subject to resolution of any third-party appeal; and
(5) the third party concerned may pursue either internal review or review at the Administrative Appeals Tribunal of the decision to release the information concerned (ss.54(1E) and 59A).

Section 38 — policy limitations

A number of the practical limitations of s.38 are discussed above. From that discussion, one could reasonably conclude that s.38 cannot properly serve as a vehicle for the blanket FoI exemption of documents. In this sense, s.38 cannot be a provision of first resort, because its operation depends on the terms of the secrecy provisions involved, on the content of the documents at issue and on the surrounding circumstances. Use of s.38 should involve the same care and circumspection as, one hopes, is more frequently shown in relation to other exemption provisions in the *FoI Act.*

Moreover, it should equally be borne in mind that s.38 not only *cannot be* used in an uncritical fashion, but that for a number of significant policy reasons, it *should not be.* The *FoI Act* largely exists to facilitate access to documents, and any provision which may be used, perhaps improperly, to create a loophole in the disclosure requirements of the Act is properly viewed with suspicion. The argument may be made that secrecy provisions are outmoded in terms of origins, inappropriate in terms of values and unnecessary in terms of alternatives. Viewed in this light, the supposed benefits of secrecy provisions may now be outweighed by the costs which they impose.

As McGinness stresses, secrecy provisions have great impact on the culture and attitude of the public service concerning information disclosure. Even though prosecutions under the provisions are quite rare, the mere existence of such potential penalties can make officers and agencies uncomfortable about any kind of disclosure. This discomfort will be increased where actual oaths of secrecy, which may or may not have any legal effect, are required. Such feelings of unease are hardly consistent with the principles of open government which have received so much emphasis in recent years (p.74).

There are a number of alternatives, usable in all but the most sensitive circumstances, which will afford the necessary protection of information without the kind of side effects described above. Among these are:

> reliance on loyalty of officials, formal and informal sanctions within a career service and between ministerial colleagues, formal public service disciplinary procedures, security checks and training of staff, security classifications and privacy markings on documents, other physical security measures, Cabinet procedures, the law on official corruption, common law and statutory protection of rights with respect to information (breach of confidence, contract, defamation, copyright, *Privacy Act 1988*) [p.76]

The above list, as compiled by McGinness, illustrates that there is no shortage of other, presumably less dele-

terious, means of protecting most of the information now protected under secrecy provisions. By themselves, the law of breach of confidence and the *Privacy Act* afford substantial alternative means of protection (pp.82-3).

The general process of the reform of secrecy provisions involves confining their operation to those areas in which they are strictly necessary. This process, if implemented, would likely result in the repeal of many secrecy provisions, and the substantial amendment of many others, including those in the 'core area' of secrecy — defence and international relations. Even there, precedents exist for the imposition of 'penalties by reference to the damage flowing from disclosure' (pp.77-8).

Some reform measures have already been suggested, and others may be under development. In its final report dated December 1991, the Gibbs Committee, in the course of its review of Commonwealth Criminal Law, recommended repeal of s.70 and s.79(3) of the *Crimes Act 1914.* The Committee described ss.70 and 79(3) as 'catch-all provisions' applying to the unauthorised disclosure of information by public servants. As replacements for these provisions, the Committee recommended the enactment of narrow and specific penal provisions that would apply the force of the criminal law only in relation to specified categories of the most sensitive information, such as intelligence, defence and foreign relations. The categories in relation to which such penal provisions would not apply, in the Committee's view, include 'information affecting personal privacy'. The views of the Committee would, if implemented, presumably result in the repeal of many secrecy provisions contained in Commonwealth legislation.

At present, the House of Representatives Standing Committee on Legal and Constitutional Affairs (formerly the 'Lavarch' and now the 'Melham' Committee) is considering issues concerning the Government's treatment of third party information, both personal and commercial. The eventual findings of the Melham Committee may also very well have implications for secrecy provisions in Commonwealth legislation.

In the FoI context, reform could involve the reduction in number of secrecy provisions listed in Schedule 3, the insertion of a 'sunset clause' provision into s.38 or abolition of s.38 and Schedule 3 altogether. While the first option would appear the most likely and saleable, there are three new State *FoI Acts* which take either the second or third options:

the Tasmanian *Freedom of Information Act 1991*, which permits certain State secrecy provisions to be the basis of exemption only until *1 January 1995*;

the Western Australian *Freedom of Information Act 1992,* which *does not contain any equivalent of s.38*; and

the Queensland *Freedom of Information Act 1992,* which places a *November 1994* sunset clause on the FoI use of State secrecy provisions.

Because these State Acts are so recent, it could be argued that they represent the best current thinking on the relationship between FoI Acts and secrecy provisions. There is no reason to think that State agencies hold uniformly less sensitive information such that the FoI/secrecy link there is unnecessary. It is more likely to be the case that the States have examined the kinds of alternatives set out above, have gauged the true sensitivity of the documents held and the effectiveness of other exemption provisions in protecting them, and have concluded that s.38 equivalents are not cost-effective in the broadest policy sense.

Conclusion

The objective of this paper has been to place the use of secrecy provisions within the FoI Act in an overall perspective. At first instance, it may seem that s.38 is an available and convenient means of exempting material from disclosure. A decision like *Forrest*, with its implications for s.38(2) and use of s.38, by itself should dispel automatic recourse to s.38. There have also been discussed a number of other considerations which should cause one to query the practical and policy implications of use of s.38. The section may properly be seen then, as a provision of last resort.

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The views expressed in this paper are the views of the author himself, and should not in any way be taken to represent the views of the Commonwealth Attorney-General's Department.

Postscript

The Queensland Law Reform Commission has just released *The Freedom of Information Act 1992 Review of Secrecy Provision Exemptions* (Report No. 46). The Report contains a very extensive and detailed analysis of existing secrecy provisions in Queensland legislation. The Report also makes a determination which of the existing provisions would be treated as a secrecy provision for the purposes of s.48 of the *FoI Act (Qld).* The Report provides a useful model for similar studies in other jurisdictions. It can be obtained from the Qld Law Reform Commission, PO Box 312 Roma Street, Brisbane 4003 or tel (07) 227 4544, fax (07) 227 9045.

Preliminary research on Tasmanian secrecy provisions is underway at the University of Tasmania. Contact Rick Snell, Law School, University of Tasmania, GPO Box 252C, Hobart 7001, tel (002) 20 2062 or fax (002) 20 7623: email R.Snell@law.utas.edu.au.