



Express law *fast track information for clients*

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Review of the Freedom of Information Act

The Attorney-General, Nicola Roxon, yesterday announced that former public servant Dr Allan Hawke AC will conduct an independent review of both the *Freedom of Information Act 1982* (FOI Act) and the *Australian Information Commissioner Act 2010* (AIC Act).

Why is this review occurring?

The review is required by s 93B of the FOI Act and s 33 of the AIC Act, which provide for a review of the operation of the FOI Act and the AIC Act respectively to be conducted two years after the majority of the Government's freedom of information (FOI) reforms commenced in November 2010.

Terms of reference

The review will examine the effectiveness of the Government's recent FOI law reforms.

The review will also consider the following matters:

- the impact on the FOI system of the new structures and processes introduced following the reforms in 2010 for review of decisions and investigations of complaints under the FOI Act
- the effectiveness of the Office of the Australian Information Commissioner
- the effectiveness of the new two-tier system of merits review of decisions to refuse access to documents and related matters
- the reformulation of the exemptions in the FOI Act, including the application of the new public interest test, taking into account: the requirement to ensure the legitimate protection of sensitive government documents, including Cabinet documents; the necessity for the government to continue to obtain frank and fearless advice from agencies and from third parties who deal with government
- the appropriateness of the range of agencies covered, either in part or in whole, by the FOI Act
- the role of fees and charges on FOI, taking into account the recommendations of the Information Commissioner's recent review of the current charging regime
- the desirability of minimising the regulatory and administrative burden, including costs, on government agencies.

Will agencies have an opportunity to participate in the review?

The terms of reference specifically provide for the review to include consultation with relevant stakeholders.

Timeframe for the review

The review will commence in November 2012. In keeping with the requirements of s 93B of the FOI Act and s 33 of the AIC Act, Dr Hawke is required to report to the Government within six months, ie by 30 April 2013.

Response from the Australian Information Commissioner

The Australian Information Commissioner, Professor John McMillan AO, yesterday issued a statement welcoming the announcement of the review.

Dr Allan Hawke AC

Dr Hawke is a highly respected former Australian senior public servant and diplomat. Dr Hawke has served as Chief of Staff to Prime Minister Paul Keating; Secretary of the Department of Veterans' Affairs (1994–1996); Secretary of the Department of Transport and Regional Services (1996–1999); and Secretary of the Department of Defence (1999–2002). Dr Hawke was High Commissioner to New Zealand from 2003 to 2005 and Chancellor of the Australian National University from 2006 to 2009.

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