

## Gail Easton

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**From:** Stephanie Howarth on behalf of Administration - OIC  
**Sent:** Monday, 14 November 2011 12:55 PM  
**To:** Amanda Powell  
**Subject:** Clause 228(1) of the Civil Proceedings Bill

**Attachments:** Picture (Enhanced Metafile)

Dear Amanda

The Office of the Information Commissioner (OIC) has no comment regarding clause 228(1) of the Civil Proceedings Bill.

In relation to clause 228(2) of the Bill, OIC notes that '*(c) for a purpose prescribed under a regulation*' is to be inserted into column 4 of section 61(2) of the *Electoral Act 1992*.

Currently this column provides:

***Circumstances in which information is to be given***

- (a) on request by the department or State public authority; and*
- (b) without charge*

OIC supports the addition of '*(c) for a purpose prescribed under a regulation*' as a further cumulative limiting requirement, as this would prevent breaches of the Information Privacy Principles/National Privacy Principles (by ensuring that access would be for a lawful purpose, and secondary use and disclosure could be permitted through the regulation).

However, OIC notes that the amendment of column 4 of section 61(2) of the *Electoral Act 1992* currently proposed by clause 228(2) of the Bill would result in the following:

***Circumstances in which information is to be given***

- (a) on request by the department or State public authority; and*
- (b) without charge*
- (c) for a purpose prescribed by a regulation.*

That is, clause 228(2) of the Bill does not provide for an 'and' at the end of sub-section (b). As a result, OIC considers that it is not clear that the requirement in paragraph (c) is cumulative and limiting.

Accordingly, OIC suggests that clause 228(2) of the Bill should be adjusted so that it amends column 4 of section 61(2) of the *Electoral Act 1992* to provide:

***Circumstances in which information is to be given***

- (a) on request by the department or State public authority; and*
- (b) without charge; **and***
- (c) for a purpose prescribed by a regulation.*

Alternatively, if it is intended that '*(c) for a purpose prescribed under a regulation*' is a separate alternative, rather than a further cumulative limiting requirement, OIC respectfully submits that paragraph (c) would have no utility, as an agency could continue to request the electoral information on its own behest pursuant to paragraphs (a) and (b), and it would not be necessary for there to be an authorising regulation under paragraph (c).

Please do not hesitate to contact me if you require any further information.

Yours sincerely



A Rickard

**Acting Assistant Information Commissioner**

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