Speech by

Hon. R. WELFORD

MEMBER FOR EVERTON

Hansard 17 October 2001

FREEDOM OF INFORMATION AMENDMENT BILL

Hon. R. J. WELFORD (Everton—ALP) (Attorney-General and Minister for Justice) (11.50 a.m.): I move—

That the bill be now read a second time.

The Freedom of Information Amendment Bill 2001 contains amendments to improve the operation and administration of the Freedom of Information Act. The bill will enable a system to be implemented for the recovery of some of the expense to taxpayers of FOI administration. It introduces processing charges for non-personal affairs applications, bringing Queensland into line with all other Australian jurisdictions.

However, there will be no change for individuals who want to obtain access to information about their own personal affairs. This will continue to be available at no cost. I emphasise at the outset that, contrary to the false impression created by certain media commentary and reporting, nothing in this bill in any way affects the existing legal rights to access government documents. All categories of documents previously lawfully available will continue to be accessible.

The Goss Labor government enacted the Freedom of Information Act in 1992. It followed recommendations made by the Electoral and Administrative Review Commission and the Parliamentary Electoral and Administrative Review Committee and was based largely on the Commonwealth FOI legislation at that time. Its objective was to extend as far as possible the right of the community to have access to information held by the Queensland government.

Since its introduction, the FOI act has brought benefits to many sections of the Queensland community. However, in recent years, Queensland taxpayers have been subsidising the provision of access to non-personal affairs information at a massively escalating cost. That cost has grown from less than $1 million in 1993 to more than $7.7 million last financial year.

The current charging regime creates a perverse incentive for people to make large-scale and voluminous applications or embark on commercial research or fishing expeditions at unjustified public expense. In most cases these applications have come from well resourced applicants who would have no difficulty in meeting the reasonable costs of engaging public agencies to search and collate information for them.

This Freedom of Information Amendment Bill contains amendments in relation to FOI fees and charges, consistent with the relevant provisions of the Commonwealth Freedom of Information Act. The changes to the FOI charges regime facilitated by this bill will be implemented by amendments to an FOI regulation. The production of processing charges will require applicants to reconsider wide and all embracing applications because fees will reflect the workload required to process the application.

At present there is no incentive for applicants to confine their applications to the documents they actually require. As a result, some applicants have not even bothered to collect the documents or pay the costs incurred. This bill will enable a regulation to be made requiring applicants to pay a deposit. Agencies can begin to process an FOI application with the knowledge that applicants have made at least an initial payment, thereby signalling an intention to proceed with the application genuinely.

FOI applications which seek access to voluminous quantities of documents have also caused serious problems for the administration of freedom of information since its inception. The act is being amended to allow an agency greater scope to refuse to deal with applications which substantially or unreasonably divert the resources of an agency from its other responsibilities. This was the intention of the original provisions. These amendments are consistent with 1991 amendments to the Commonwealth FOI act, enacted as a result of recommendations made by the Senate Standing Committee on Legal and Constitutional Affairs, which reported in December 1987. The bill replaces section 28 of the FOI act, with provisions modelled on the Commonwealth legislation for this purpose.

Currently the considerations that an agency can have regard to before refusing to deal with an application on this ground are the number and volume of the documents and any difficulty that would exist in identifying, locating or collating the documents within the filing system of the agency. This bill clarifies the range of factors that an agency may have regard to in making a decision to refuse to deal with a voluminous FOI application. At the same time, however, the bill strengthens provisions requiring agencies to consult with applicants before refusing applications on workload grounds. The bill places the onus on agencies to give applicants practical help to focus more precisely the ambit of their applications to enable the application to be responded to in a more timely, efficient and effective manner. Such a decision cannot be made unless an applicant is given the opportunity to resubmit their application in a form that will remove any grounds for refusal.

Applicants and agencies will also be able to negotiate time frames within which the agency must decide the application or provide the information so as to minimise or limit the applicant's exposure to search costs. There is a right of appeal to the Information Commissioner from decisions about the imposition of charges and decisions to refuse to deal with an application on the ground that it will substantially or unreasonably divert the resources of an agency. The full range of rights of appeal to the Information Commissioner are therefore maintained.

Importantly, the bill allows for charges to be waived where the applicant is experiencing financial hardship. I believe this bill is a fair and just bill, reflecting the priorities of government and the Queensland community. I commend the bill to the House.