

Serial 105
Information Amendment (Inter-organisation Disclosure) Bill 2010
Mr Mills

A Bill for an Act to amend the *Information Act*

NORTHERN TERRITORY OF AUSTRALIA

INFORMATION AMENDMENT (INTER-ORGANISATION DISCLOSURE) ACT 2010

Act No. [] of 2010

Table of provisions

1	Short title	1
2	Act amended	1
3	Amendment of long title	1
4	Amendment of section 3 (Objects)	2
5	Amendment of section 4 (Definitions)	2
6	Amendment of section 10 (General principle of accountability for government information)	3
7	New section 14A	3
	14A Application of Part 5A	
8	New Part 5A	3
	Part 5A Public sector organisations disclosing confidential information	
	Division 1 Interpretation	
	84A Definitions	
	Division 2 Authority to disclose confidential information	
	84B Holding entity may disclose confidential information	
	84C Effect of authorisation	
	Division 3 Procedure for application for disclosure	
	84D Making application	
	84E Acknowledgment of application	
	84F Deciding application	
	84G Time for disclosing information	
	Division 4 Review of refusal of application for disclosure	
	84H Application of Division	
	84J Requesting review	
	84K Deciding review	
	84L Implementing decision	
	Division 5 Miscellaneous matters	
	84M Delegation	
9	Amendment of section 98 (Annual report)	8



NORTHERN TERRITORY OF AUSTRALIA

Act No. [] of 2010

An Act to amend the *Information Act*

[Assented to [] 2010]
[Second reading [] 2010]

The Legislative Assembly of the Northern Territory enacts as follows:

1 Short title

This Act may be cited as the *Information Amendment (Inter-organisation Disclosure) Act 2010*.

2 Act amended

This Act amends the *Information Act*.

3 Amendment of long title

Long title

omit

collection and handling of personal information

substitute

collection, disclosure and handling of information

4 Amendment of section 3 (Objects)

- (1) After section 3(1)(b)(iii)

insert

(ba) to provide for the disclosure of information by public sector organisations to each other of information that would not otherwise be permitted by law;

- (2) Section 3(3)(b)

omit

available.

substitute

available; and

- (3) After section 3(3)(b)

insert

(c) does not limit public sector organisations entering into arrangements to share government information to the extent permitted by law.

5 Amendment of section 4 (Definitions)

Section 4

insert (in alphabetical order)

child protection information, for Part 5A, see section 84A.

Commonwealth or State entity, for Part 5A, see section 84A.

confidential information, for Part 5A, see section 84A.

holding entity, for Part 5A, see section 84A.

public sector entity, for Part 5A, see section 84A.

relevant law, for Part 5A, see section 84A.

reviewer, for Part 5A, see section 84A.

review notice, for Part 5A, see section 84A.

6 Amendment of section 10 (General principle of accountability for government information)

After section 10(2)

insert

- (2A) In addition, public sector organisations are encouraged to share government information to the extent it is permitted by law.

7 New section 14A

After section 14, in Part 2

insert

14A Application of Part 5A

Part 5A (Public sector organisations disclosing confidential information) applies in relation to government information:

- (a) held at any time after the Part commences, regardless of when it was created or received; and
- (b) collected at any time after the Part commences; and
- (c) handled at any time after the Part commences, regardless of when it was collected.

8 New Part 5A

After section 84

insert

Part 5A Public sector organisations disclosing confidential information

Division 1 Interpretation

84A Definitions

child protection information means confidential information that relates to the protection of a child from harm or exploitation, and includes information required to, or that may help, protect a child from harm or exploitation.

Commonwealth or State entity means an entity established under a law of the Commonwealth, a State or another Territory.

confidential information means government information:

- (a) that is acquired or obtained in the exercise of a power or performance of a function under a relevant law; and
- (b) for which there is a restriction on its disclosure under the relevant law.

holding entity means a public sector organisation that holds confidential information.

public sector entity means any of the following:

- (a) a public sector organisation other than an organisation mentioned in section 5(1)(b), (c), (i) or (j);
- (b) a Commonwealth or State entity;
- (c) a law enforcement agency mentioned in paragraph (b), (c) or (d) of the definition **law enforcement agency** in section 4;
- (d) another entity prescribed by regulation.

relevant law means any of the following:

- (a) *Care and Protection of Children Act*;
- (b) *Child Protection (Offender Reporting and Registration) Act*;
- (c) *Coroners Act*;
- (d) *Domestic and Family Violence Act*;
- (e) *Education Act*;
- (f) *Health and Community Service Complaints Act*;
- (g) *Ombudsman Act*;
- (h) *Public Interest Disclosure Act*;
- (i) *Volatile Substance Abuse Prevention Act*;
- (j) a law prescribed by regulation.

reviewer, for a decision of a holding entity, means:

- (a) for a local authority – the principal member of the local authority; or

-
- (b) for another entity – the Minister having responsibility for the entity.

review notice, for a decision, means a written notice stating:

- (a) the decision; and
- (b) the reasons for the decision; and
- (c) the following details:
 - (i) the person given the notice may request a review of the decision;
 - (ii) the period allowed for requesting the review;
 - (iii) how to request the review.

Division 2 Authority to disclose confidential information

84B Holding entity may disclose confidential information

- (1) A holding entity may, under this Part, disclose confidential information to a public sector entity:
 - (a) on its own initiative; or
 - (b) on application made by the public sector entity.
- (2) The holding entity may make the disclosure only if satisfied:
 - (a) the information is directly related to a legislative or administrative responsibility of the public sector entity; and
 - (b) for child protection information – the disclosure is for the protection of a child from harm or exploitation.

84C Effect of authorisation

- (1) The disclosure of confidential information under this Part is taken to be authorised for the relevant law.
- (2) Subsection (1) has effect despite any restriction on the disclosure under the relevant law.
- (3) Without limiting subsection (1), a person who discloses information under this Part must not be taken to have contravened a provision of the relevant law merely because of the disclosure.

Division 3 Procedure for application for disclosure

84D Making application

- (1) A public sector entity may apply to a holding entity for the disclosure of confidential information to the applicant.
- (2) The application must be in writing and state the reasons for making it.

84E Acknowledgment of application

Within 4 days after receiving the application, the holding entity must give the applicant written notice of receipt of the application.

84F Deciding application

- (1) Within 7 days after receiving the application, the holding entity must decide whether to disclose or refuse to disclose the information.
- (2) If the holding entity refuses to disclose the information, the entity must give the applicant a review notice about the decision.

84G Time for disclosing information

- (1) If the holding entity decides to disclose the information, the entity must give the applicant the information within:
 - (a) 14 days after making the decision; or
 - (b) the longer period stated in a written notice given to the applicant before the end of the 14-day period.
- (2) The holding entity may give notice under subsection (1)(b) only in one of the following circumstances:
 - (a) the application relates to a large amount of information;
 - (b) extensive searches are required to locate the information to which the application relates;
 - (c) complying with the 14-day period would unreasonably interfere with the conduct of the operations of the holding entity.
- (3) The notice must state the circumstances for giving the notice.

Division 4 Review of refusal of application for disclosure

84H Application of Division

This Division applies if a holding entity gives, or is required to give, a review notice to a public sector entity about a decision to refuse an application under Division 3.

84J Requesting review

- (1) The applicant may ask the reviewer for the holding entity to review the decision.
- (2) The request for review must:
 - (a) be made within 30 days after:
 - (i) receipt of the review notice; or
 - (ii) if notice is not given – the applicant becomes aware of the decision; and
 - (b) be in writing; and
 - (c) state details of the application to which the decision relates; and
 - (d) state the reasons for seeking the review.

84K Deciding review

- (1) Within 14 days after receiving the request, the reviewer must:
 - (a) review the decision; and
 - (b) either:
 - (i) confirm the decision; or
 - (ii) set aside the decision and make a decision in substitution for it; and
 - (c) give written notice to the applicant and the holding entity stating:
 - (i) the reviewer's decision on the review; and
 - (ii) the reasons for the decision.

-
- (2) If the decision relates to confidential information or information mentioned in section 49B or 49C, the reviewer must conduct the review in conjunction with the Minister administering the Act mentioned in the section.
 - (3) In addition, the reviewer may conduct the review in conjunction with the Ombudsman, Information Commissioner or other office holder the reviewer considers appropriate.

84L Implementing decision

If, on the review, the reviewer sets aside the decision and makes a decision in substitution for it, the holding entity must implement the reviewer's decision as soon as practicable.

Division 5 Miscellaneous matters

84M Delegation

- (1) The reviewer for a holding entity may delegate to the chief executive officer of the entity any of the reviewer's powers and functions under this Part.
- (2) However, the reviewer cannot delegate a power or function for the review of a decision made:
 - (a) by the reviewer or chief executive officer of the entity; or
 - (b) about child protection information.

9 Amendment of section 98 (Annual report)

After section 98(2)(b)

insert

- (ba) specify the following in respect of the application of Part 5A to each public sector unit:
 - (i) the number of applications for confidential information under section 84D that were received and dealt with;
 - (ii) the public sector entities involved in the applications;
 - (iii) the decisions made on the applications;
 - (iv) the reasons for refusing applications;
 - (v) the number of reviews of decisions requested;

(vi) the decisions on the reviews;