

REVISED

1983

The Parliament of the
Commonwealth of Australia

The Senate

ARCHIVES BILL 1983

(Amendments and new clauses to be
moved on behalf of the Government)

EXPLANATORY MEMORANDUM

(Circulated by authority of the Attorney-General,
Senator the Honourable Gareth Evans for and on behalf of
the Minister for Home Affairs and Environment
the Honourable Barry Cohen MP)

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Amendment No. (1) : New sub-Clause 6(3)

The purpose of this clause is to ensure that normal government controls over Commonwealth records, will apply to any Commonwealth records which might appear in collections of personal papers deposited with the Archives.

2. The amendment does not in any way affect the freedom of a donor to determine conditions of access to personal papers.

Amendment No. (2) : New sub-Clause 36(5)

3. The purpose of this amendment is to ensure that copyright owned by the ABC and the Special Broadcasting Service, involving records more than 30 years old, is adequately protected.

4. Protection covering records less than 30 years old can be ensured under arrangements and conditions prescribed under Clause 56.

Amendment No. (3) : Applications to Administrative Appeals Tribunal

5. Clause 43 provides for an application to be made to the Administrative Appeals Tribunal for a review of certain decisions made by the Archives.

6. The proposed Government amendment (3) has been drafted to provide that an application may be made under clause 43 for a review by the Administrative Appeals Tribunal of decisions made under sub-clauses 31(4) and 37(1).

7. Where a person is refused access to a Commonwealth record for the reason that the Archives withholds, under clause 31(4), the record from public access for a reasonable time pending examination of the record under section 35 to determine whether it is an exempt record, an application may be made to the Tribunal for a review of the refusal to grant access for that reason.

8. Sub-clause 37(1) provides, among other things, that the Director-General of Archives may, for the purpose of ensuring the safe custody and proper preservation of any record, determine reasonable conditions to which access to the record is to be subject. Where a person is granted access to a record on conditions determined by the Director-General, under sub-clause 37(1), application may be made to the Tribunal for a review of the decision refusing to grant access otherwise than on those conditions.

9. Where a person is refused access to a record for the reason that the Director-General of Archives has determined under sub-clause 37(1) that, for the purpose of ensuring its safe custody and proper preservation, the record is to be withheld from public access, an application may be made to the Tribunal for a review of the refusal to grant access for that reason.

Amendment No. (4) : Powers of Tribunal

10. Clause 44(1A) is consequential upon the amendment proposed to clause 43.