



**The Hon Kevin Andrews MP
Minister for Employment and Workplace Relations
Minister Assisting the Prime Minister for the Public Service**

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MEDIA RELEASE

DISCLOSURE OF INFORMATION — NEW PUBLIC SERVICE REGULATION

A new Public Service Regulation (regulation 2.1) concerning the disclosure of information by public servants came into effect today. It replaces the previous regulation 2.1 when its validity was called into question by the Federal Court's decision in *Bennett v The President, Human Rights and Equal Opportunity Commission [2003] FCA 143*.

Regulation 2.1 is part of the Code of Conduct for Australian Public Service employees. The new regulation prohibits the disclosure of information by public servants where it is reasonably foreseeable that disclosure could prejudice the effective working of government, or where the information is communicated or received in confidence.

The Minister for Employment and Workplace Relations, Kevin Andrews said today the new regulation, which is more narrowly focussed than its predecessor, has been developed taking full account of Justice Finn's comments in the Bennett case.

“It strikes the right balance between the public interest in having access to information held by government, the public interest in limiting disclosure to ensure the effective and proper conduct of government, and the constitutional rights of freedom of expression of individual public servants.

It is essential in a healthy democracy that members of the public have the opportunity to contribute to decision-making, and that there is public scrutiny of government. Public access to government information helps to make this possible”.

Mr Andrews said there are some circumstances where there is an overriding public interest in maintaining the confidentiality of government information. He said disclosing information inappropriately is against the public interest for a variety of reasons.

“At its most serious, leaking information can damage Australia's national security or reputation. In extreme circumstances it can put the lives of Australian officials and others at risk. The new regulation ensures that the law governing disclosure of information by public servants is compatible with the expectations of the Australian public and the legitimate interests of government in protecting certain information.”