



Victoria Government Gazette

No. S 32 Tuesday 8 February 2011
By Authority of Victorian Government Printer

Freedom of Information Act 1982

Section 65AB

STATEMENT OF REASONS FOR SEEKING LEAVE TO APPEAL

Introduction

- 1 On 30 November 2010 the Victorian Civil and Administrative Tribunal (VCAT), constituted by Member Mr Ian Proctor, made a decision in the matter of Anthony Smeaton v Victorian WorkCover Authority [2010] VCAT 1908.
- 2 The Victorian WorkCover Authority (the agency) administers the workers compensation scheme created by the **Accident Compensation Act 1985**. Mr Smeaton is the representative of a worker who has made claims under that scheme.
- 3 In November 2009, Mr Smeaton made a request for access pursuant to the **Freedom of Information Act 1982** (the FOI Act) to various classes of documents. The agency exempted a number of documents from full or partial release in response to the request.
- 4 Mr Smeaton applied to the VCAT, which subsequently reviewed the exemptions applied and on 30 November 2010 ordered that Mr Smeaton be granted access to certain documents previously held to be exempt.
- 5 On 24 December 2010 the agency filed with the Supreme Court a summons on originating motion seeking leave to appeal the decision of the VCAT on public interest grounds.
- 6 This statement sets out a brief statement of the reasons for seeking leave to appeal and is provided in accordance with section 65AB of the FOI Act.

Statement of the reasons for seeking leave to appeal

- 7 Leave to appeal was sought on the basis that the VCAT had made errors of law regarding the proper interpretation of section 35 of the FOI Act. Further, leave was sought on the basis that a denial of natural justice had occurred in a review by the VCAT on documents additional to an agreed sample without notice to the parties. The proceedings were discontinued by consent on 19 January 2011.

Dated 8 February 2011

IAN FORSYTH
Acting Chief Executive
Victorian WorkCover Authority

SPECIAL

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