

**Senate Standing Committee on Economics**  
**ANSWERS TO QUESTIONS ON NOTICE**  
Industry, Tourism and Resources Portfolio  
Supplementary Budget Estimates 2006-2007, 1 November 2006

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**AGENCY/DEPARTMENT:** DEPARTMENT OF INDUSTRY, TOURISM AND RESOURCES  
**TOPIC:** ACIS PROGRAM – PROHIBITION ON DISCLOSURE  
**REFERENCE:** HANSARD 1/11/06, PAGES E20

**QUESTION No.SI-9**  
(Hansard 1/11/06, p.E20)

**Senator Brandis** asked about:

What is the statutory source governing the 'application document'. If there is not a statutory source, can you tell us what the source of the document is?

**ANSWER**

Section 115A '*Minister may publish information relating to participants*' of the *ACIS Administration Act 1999* allows specific information about ACIS Scheme participants to be published. However, that section only applies to members registering in the ACIS Scheme after 14 April 2004 and to information provided for ACIS Stage 2 and 3 for those members registered in the scheme before 14 April 2004.

Therefore, effectively there is no specific statutory source governing the confidentiality of information pertaining to the Application for Registration for ACIS Stage 1. However, an equitable duty of confidence applies to information relating to ACIS Stage 1 due to undertakings made by AusIndustry in documents relating to that stage of ACIS.

In particular, the cover page for the Application for Registration for ACIS Stage 1 states that:

"Protecting your confidential information is important to us. AusIndustry customers should be aware, however, that public disclosure of some information could occur if the release of the information is required or permitted by law."

The Application for Registration and the Quarterly Return for ACIS Stage 1 also imported an obligation of confidence as each page was headed with the phrase "COMMERCIAL-IN-CONFIDENCE".

The ACIS Customer Guidelines also stated that the information provided would be treated as "strictly confidential" and noted that the provision of the information will be governed by the relevant provisions and penalties of the *Public Service Act 1999*, *Public Service Regulations*, *Privacy Act 1988* and the *Crimes Act 1914*. However, it should be noted that while those provisions require public servants to observe confidentiality in respect of information held by Government agencies, disclosure is allowed if it is in the course of the person's duties or the disclosure is otherwise authorised.