



# **Freedom of Information Act 1982**

## **Act No. 3 of 1982 as amended**

This compilation was prepared on 10 July 2008  
taking into account amendments up to Act No. 66 of 2008

The text of any of those amendments not in force  
on that date is appended in the Notes section

The operation of amendments that have been incorporated may be  
affected by application provisions that are set out in the Notes section

Prepared by the Office of Legislative Drafting and Publishing,  
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# **An Act to give to members of the public rights of access to official documents of the Government of the Commonwealth and of its agencies**

## **Part I—Preliminary**

### **1 Short title** [see Note 1]

This Act may be cited as the *Freedom of Information Act 1982*.

### **2 Commencement** [see Note 1]

The several Parts of this Act shall come into operation on such respective dates as are fixed by Proclamation.

### **3 Object**

- (1) The object of this Act is to extend as far as possible the right of the Australian community to access to information in the possession of the Government of the Commonwealth by:
  - (a) making available to the public information about the operations of departments and public authorities and, in particular, ensuring that rules and practices affecting members of the public in their dealings with departments and public authorities are readily available to persons affected by those rules and practices; and
  - (b) creating a general right of access to information in documentary form in the possession of Ministers, departments and public authorities, limited only by exceptions and exemptions necessary for the protection of essential public interests and the private and business affairs of persons in respect of whom information is collected and held by departments and public authorities; and
  - (c) creating a right to bring about the amendment of records containing personal information that is incomplete, incorrect, out of date or misleading.
- (2) It is the intention of the Parliament that the provisions of this Act shall be interpreted so as to further the object set out in

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subsection (1) and that any discretions conferred by this Act shall be exercised as far as possible so as to facilitate and promote, promptly and at the lowest reasonable cost, the disclosure of information.

#### 4 Interpretation

(1) In this Act, unless the contrary intention appears:

**ACT enactment** means an enactment as defined by section 3 of the *Australian Capital Territory (Self-Government) Act 1988*.

**agency** means a Department, a prescribed authority or an eligible case manager.

**applicant** means a person who has made a request.

**Cabinet notebook** means a notebook or other like record that contains notes of discussions or deliberations taking place in a meeting of the Cabinet or of a committee of the Cabinet, being notes made in the course of those discussions or deliberations by, or under the authority of, the Secretary to the Cabinet.

**Commission of inquiry** has the same meaning as it has in the *Quarantine Act 1908*.

**Defence Imagery and Geospatial Organisation** means that part of the Department of Defence known as the Defence Imagery and Geospatial Organisation.

**Defence Intelligence Organisation** means that part of the Department of Defence known as the Defence Intelligence Organisation.

**Defence Signals Directorate** means that part of the Department of Defence known as the Defence Signals Directorate.

**Department** means a Department of the Australian Public Service that corresponds to a Department of State of the Commonwealth but does not include the branch of the Australian Public Service comprising the transitional staff as defined by section 3 of the *A.C.T. Self-Government (Consequential Provisions) Act 1988*.

**document** includes:

- (a) any of, or any part of any of, the following things:
  - (i) any paper or other material on which there is writing;
  - (ii) a map, plan, drawing or photograph;
  - (iii) any paper or other material on which there are marks, figures, symbols or perforations having a meaning for persons qualified to interpret them;
  - (iv) any article or material from which sounds, images or writings are capable of being reproduced with or without the aid of any other article or device;
  - (v) any article on which information has been stored or recorded, either mechanically or electronically;
  - (vi) any other record of information; or
- (b) any copy, reproduction or duplicate of such a thing; or
- (c) any part of such a copy, reproduction or duplicate;

but does not include:

- (d) library material maintained for reference purposes; or
- (e) Cabinet notebooks.

**document of an agency** or **document of the agency** means a document in the possession of an agency, or in the possession of the agency concerned, as the case requires, whether created in the agency or received in the agency.

**edited copy**, in relation to a document, means a copy of the document from which deletions have been made under section 22.

**eligible case manager** means an entity (within the meaning of the *Employment Services Act 1994*):

- (a) that is, or has at any time been, a contracted case manager within the meaning of that Act; and
- (b) that is not:
  - (i) a Department; or
  - (ii) a prescribed authority.

**enactment** means, subject to section 4A:

- (a) an Act;
- (b) an Ordinance of the Australian Capital Territory; or

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- (c) an instrument (including rules, regulations or by-laws) made under an Act or under such an Ordinance and includes an enactment as amended by another enactment.

***exempt content-service document*** means:

- (a) a document containing content, or a record of content (within the meaning of Schedule 7 to the *Broadcasting Services Act 1992*), that:
  - (i) has been delivered by, or accessed using, a content service (within the meaning of that Schedule); and
  - (ii) was offensive content-service content when it was delivered by, or accessed using, that content service; or
- (b) a document that sets out how to access, or that is likely to facilitate access to, offensive content-service content (for example, by setting out the name of an Internet site, an IP address, a URL or a password).

***exempt document*** means:

- (a) a document which, by virtue of a provision of Part IV, is an exempt document;
- (b) a document in respect of which, by virtue of section 7, an agency is exempt from the operation of this Act; or
- (c) an official document of a Minister that contains some matter that does not relate to the affairs of an agency or of a Department of State.

***exempt Internet-content document*** means:

- (a) a document containing information (within the meaning of Schedule 5 to the *Broadcasting Services Act 1992*) that:
  - (i) has been copied from the Internet; and
  - (ii) was offensive Internet content when it was accessible on the Internet; or
- (b) a document that sets out how to access, or that is likely to facilitate access to, offensive Internet content (for example: by setting out the name of an Internet site, an IP address, a URL, a password, or the name of a newsgroup).

***exempt matter*** means matter the inclusion of which in a document causes the document to be an exempt document.

***offensive content-service content*** means content (within the meaning of Schedule 7 to the *Broadcasting Services Act 1992*) that is:

- (a) delivered by, or accessed using, a content service (within the meaning of that Schedule); and
- (b) either:
  - (i) prohibited content (within the meaning of that Schedule); or
  - (ii) potential prohibited content (within the meaning of that Schedule).

***offensive Internet content*** means Internet content (within the meaning of Schedule 5 to the *Broadcasting Services Act 1992*) that is:

- (a) prohibited content (within the meaning of Schedule 5 to that Act as in force before the commencement of Schedule 7 to that Act); or
- (b) potential prohibited content (within the meaning of Schedule 5 to that Act as in force before the commencement of Schedule 7 to that Act).

***officer***, in relation to an agency, includes a member of the agency or a member of the staff of the agency.

***official document of a Minister or official document of the Minister*** means a document that is in the possession of a Minister, or that is in the possession of the Minister concerned, as the case requires, in his or her capacity as a Minister, being a document that relates to the affairs of an agency or of a Department of State and, for the purposes of this definition, a Minister shall be deemed to be in possession of a document that has passed from his or her possession if he or she is entitled to access to the document and the document is not a document of an agency.

***Ombudsman*** means the Commonwealth Ombudsman.

***Ordinance***, in relation to the Australian Capital Territory, includes a law of a State that applies, or the provisions of a law of a State that apply, in the Territory by virtue of an enactment (other than a law that is, or provisions that are an ACT enactment).

***personal information*** means information or an opinion (including information forming part of a database), whether true or not, and

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whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion.

***prescribed authority*** means:

- (a) a body corporate, or an unincorporated body, established for a public purpose by, or in accordance with the provisions of, an enactment or an Order-in-Council, other than:
  - (i) an incorporated company or association; or
  - (ii) a body that, under subsection (2), is not to be taken to be a prescribed authority for the purposes of this Act; or
  - (iii) the Australian Capital Territory House of Assembly; or
  - (iv) the Legislative Assembly of the Northern Territory or the Executive Council of the Northern Territory; or
  - (v) the Legislative Assembly of the Territory of Norfolk Island; or
  - (vi) a Royal Commission; or
  - (vii) the Commission of inquiry;
- (b) any other body, whether incorporated or unincorporated, declared by the regulations to be a prescribed authority for the purposes of this Act, being:
  - (i) a body established by the Governor-General or by a Minister; or
  - (ii) an incorporated company or association over which the Commonwealth is in a position to exercise control;
- (c) subject to subsection (3), the person holding, or performing the duties of, an office established by an enactment or an Order-in-Council; or
- (d) the person holding, or performing the duties of, an appointment declared by the regulations to be an appointment the holder of which is a prescribed authority for the purposes of this Act, being an appointment made by the Governor-General, or by a Minister, otherwise than under an enactment or an Order-in-Council.

***principal officer*** means:

- (a) in relation to a Department—the person holding, or performing the duties of, the office of Secretary of the Department; or
- (b) in relation to a prescribed authority:

- (i) if the regulations declare an office to be the principal office in respect of the authority—the person holding, or performing the duties of, that office; or
  - (ii) in any other case—the person who constitutes that authority or, if the authority is constituted by 2 or more persons, the person who is entitled to preside at any meeting of the authority at which he or she is present; or
- (c) in relation to an eligible case manager:
- (i) if the eligible case manager is an individual—the individual; or
  - (ii) in any other case—the individual who has primary responsibility for the management of the eligible case manager.

***request*** means an application made under subsection 15(1).

***responsible Minister*** means:

- (a) in relation to a Department—the Minister administering the relevant Department of State; or
  - (b) in relation to a prescribed authority referred to in paragraph (a) of the definition of ***prescribed authority***—the Minister administering the part of the enactment by which, or in accordance with the provisions of which, the prescribed authority is established; or
  - (c) in relation to a prescribed authority referred to in paragraph (c) of that definition—the Minister administering the part of the enactment by which the office is established; or
  - (d) in relation to any other prescribed authority—the Minister declared by the regulations to be the responsible Minister in respect of that authority; or
  - (e) in relation to an eligible case manager—the Minister administering the *Employment Services Act 1994*;
- or another Minister acting for and on behalf of that Minister.

***State*** includes the Australian Capital Territory and the Northern Territory.

***Tribunal*** means the Administrative Appeals Tribunal.

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- (2) An unincorporated body, being a board, council, committee, sub-committee or other body established by, or in accordance with the provisions of, an enactment for the purpose of assisting, or performing functions connected with, a prescribed authority shall not be taken to be a prescribed authority for the purposes of this Act, but shall be deemed to be comprised within that prescribed authority.
- (3) A person shall not be taken to be a prescribed authority:
- (a) by virtue of his or her holding:
    - (i) an office of member of the Legislative Assembly for the Australian Capital Territory;
    - (ii) an office of member of the Legislative Assembly of the Northern Territory or of Administrator or of Minister of the Northern Territory; or
    - (iii) an office of member of the Legislative Assembly of the Territory of Norfolk Island or of Administrator or Deputy Administrator of that Territory or an executive office created pursuant to section 12 of the *Norfolk Island Act 1979*; or
  - (b) by virtue of his or her holding, or performing the duties of:
    - (i) a prescribed office;
    - (ii) an office the duties of which he or she performs as duties of his or her employment as an officer of a Department or as an officer of or under a prescribed authority;
    - (iii) an office of member of a body; or
    - (iv) an office established by an enactment for the purposes of a prescribed authority.
- (4) For the purposes of this Act, the Department of Defence shall be deemed to include:
- (a) the Defence Force;
  - (b) the Australian Army Cadets;
  - (c) the Australian Navy Cadets; and
  - (d) the Australian Air Force Cadets.
- (5) Without limiting the generality of the expression *security of the Commonwealth*, that expression shall be taken to extend to:
- (a) matters relating to the detection, prevention or suppression of activities, whether within Australia or outside Australia,

- subversive of, or hostile to, the interests of the Commonwealth or of any country allied or associated with the Commonwealth; and
- (b) the security of any communications system or cryptographic system of the Commonwealth or of another country used for:
- (i) the defence of the Commonwealth or of any country allied or associated with the Commonwealth; or
  - (ii) the conduct of the international relations of the Commonwealth.
- (6) Where an agency is abolished, then, for the purposes of this Act:
- (a) if the functions of the agency are acquired by another agency—any request made to the first-mentioned agency shall be deemed to have been made to, and any decision made by the first-mentioned agency in respect of a request made to it shall be deemed to have been made by, the other agency;
  - (b) if the functions of the agency are acquired by more than one other agency—any request made to the first-mentioned agency shall be deemed to have been made to, and any decision made by the first-mentioned agency in respect of a request made to it shall be deemed to have been made by, whichever of those other agencies has acquired the functions of the first-mentioned agency to which the document the subject of the request most closely relates; and
  - (c) if the documents of the agency are deposited with the Australian Archives—any request made to the agency shall be deemed to have been made to, and any decision made by the agency in respect of a request made by it shall be deemed to have been made by, the agency to the functions of which the document the subject of the request most closely relates.
- (7) If the agency to which a request is so deemed to have been made, or by which a decision upon a request is so deemed to have been made, was not itself in existence at the time when the request or decision was deemed so to have been made, then, for the purposes only of dealing with that request or decision under this Act, that agency shall be deemed to have been in existence at that time.
- (8) For the purposes of this Act, where regulations for the purposes of this subsection declare that an application fee is applicable in
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respect of an application under subsection 15(1) or 54(1), there shall be taken to be an application fee in respect of the application.

- (9) For the purposes of the application of the definition of *responsible Minister* in subsection (1) of this Act (other than sections 8 and 93), the reference in that definition to the Minister administering a Department is a reference to the Minister to whom the Department is responsible in respect of the matter in respect of which this Act is being applied.

**4A Certain legislation relating to Australian Capital Territory not to be enactment**

- (1) ACT enactments are not enactments.
- (2) The *Australian Capital Territory (Self-Government) Act 1988* and the *Canberra Water Supply (Googong Dam) Act 1974* are not enactments.
- (3) Part IV, sections 29 and 30, subsection 63(2), section 66 and Division 5 of Part X of the *Australian Capital Territory Planning and Land Management Act 1988* are not enactments.
- (4) Where the whole of an Act or Ordinance is not an enactment, an instrument made under it is not an enactment.
- (5) Where part of an Act or Ordinance is not an enactment, an instrument made under the Act or Ordinance, as the case may be, is not an enactment unless made for the purposes of the other part of the Act or Ordinance, as the case may be.

**5 Act to apply to courts in respect of administrative matters**

For the purposes of this Act:

- (a) a court shall be deemed to be a prescribed authority;
- (b) the holder of a judicial office or other office pertaining to a court in his or her capacity as the holder of that office, being an office established by the legislation establishing the court, shall be deemed not to be a prescribed authority and shall not be included in a Department; and

- (c) a registry or other office of a court, and the staff of such a registry or other office when acting in a capacity as members of that staff, shall be taken as a part of the court;
- but this Act does not apply to any request for access to a document of the court unless the document relates to matters of an administrative nature.

## **6 Act to apply to certain tribunals in respect of administrative matters**

For the purposes of this Act:

- (a) each tribunal, authority or body specified in Schedule 1 is deemed to be a prescribed authority;
  - (b) the holder of an office pertaining to a tribunal, authority or body specified in Schedule 1, being an office established by the legislation establishing the tribunal, authority or body so specified in his or her capacity as the holder of that office, is not to be taken to be a prescribed authority or to be included in a Department; and
  - (c) a registry or other office of or under the charge of a tribunal, authority or body specified in Schedule 1, and the staff of such a registry or other office when acting in a capacity as members of that staff, shall be taken as a part of the tribunal, authority or body so specified as a prescribed authority;
- but this Act does not apply to any request for access to a document of a tribunal, authority or body so specified unless the document relates to matters of an administrative nature.

## **6A Official Secretary to the Governor-General**

- (1) This Act does not apply to any request for access to a document of the Official Secretary to the Governor-General unless the document relates to matters of an administrative nature.
- (2) For the purposes of this Act, a document in the possession of a person employed under section 13 of the *Governor-General Act 1974* that is in his or her possession by reason of his or her employment under that section shall be taken to be in the possession of the Official Secretary to the Governor-General.

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**6B Eligible case managers**

This Act only applies to a request for access to a document of an eligible case manager if the document is in respect of:

- (a) the provision of case management services (within the meaning of the *Employment Services Act 1994*) to a person referred to the eligible case manager under Part 4.3 of that Act; or
- (b) the performance of a function conferred on the eligible case manager under that Act.

**7 Exemption of certain persons and bodies**

- (1) The bodies specified in Division 1 of Part I of Schedule 2, and a person holding and performing the duties of an office specified in that Division, are to be deemed not to be prescribed authorities for the purposes of this Act.
- (1A) For the purposes of the definition of *agency*, a part of the Department of Defence specified in Division 2 of Part I of Schedule 2:
  - (a) is taken not to be included in the Department of Defence (or in any other Department) for the purposes of this Act; and
  - (b) to avoid doubt, is not an agency in its own right for the purposes of this Act.
- (2) The persons, bodies and Departments specified in Part II of Schedule 2 are exempt from the operation of this Act in relation to the documents referred to in that Schedule in relation to them.
- (2AA) A body corporate established by or under an Act specified in Part III of Schedule 2 is exempt from the operation of this Act in relation to documents in respect of the commercial activities of the body corporate.
- (2A) An agency is exempt from the operation of this Act in relation to a document that has originated with, or has been received from, the Australian Secret Intelligence Service, the Australian Security Intelligence Organisation, the Inspector-General of Intelligence and Security or the Office of National Assessments, or the Defence Imagery and Geospatial Organisation, the Defence Intelligence Organisation or the Defence Signals Directorate of the Department of Defence.

- (3) In subsection (2AA) and Part II of Schedule 2, *commercial activities* means:
- (a) activities carried on by an agency on a commercial basis in competition with persons other than governments or authorities of governments; or
  - (b) activities, carried on by an agency, that may reasonably be expected in the foreseeable future to be carried on by the agency on a commercial basis in competition with persons other than governments or authorities of governments.
- (4) In subsection (2AA) and Part II of Schedule 2, a reference to documents in respect of particular activities shall be read as a reference to documents received or brought into existence in the course of, or for the purposes of, the carrying on of those activities.

## **Part II—Publication of certain documents and information**

### **8 Publication of information concerning functions and documents of agencies**

- (1) The responsible Minister of an agency shall:
  - (a) cause to be published, as soon as practicable after the commencement of this Part but not later than 12 months after that commencement, in a form approved by the Minister administering this Act:
    - (i) a statement setting out particulars of the organization and functions of the agency, indicating, as far as practicable, the decision-making powers and other powers affecting members of the public that are involved in those functions;
    - (ii) a statement setting out particulars of any arrangements that exist for bodies or persons outside the Commonwealth administration to participate, either through consultative procedures, the making of representations or otherwise, in the formulation of policy by the agency, or in the administration by the agency, of any enactment or scheme;
    - (iii) a statement of the categories of documents that are maintained in the possession of the agency, being categories that comply with subsection (6);
    - (iv) a statement of particulars of the facilities, if any, provided by the agency for enabling members of the public to obtain physical access to the documents of the agency; and
    - (v) a statement of any information that needs to be available to the public concerning particular procedures of the agency in relation to Part III, and particulars of the officer or officers to whom, and the place or places at which, initial inquiries concerning access to documents may be directed; and
  - (b) during the year commencing on 1 January next following the publication, in respect of the agency, of the statement under

subparagraph (a)(i), (ii), (iii), (iv) or (v) that is the first statement published under that subparagraph, and during each succeeding year, cause to be published statements bringing up to date the information contained in the previous statement or statements published under that subparagraph.

- (2) In approving a form under subsection (1), the Minister shall have regard, amongst other things, to the need to assist members of the public to exercise effectively their rights under this Act.
- (3) The information to be published in accordance with this section shall be published by including it:
  - (a) in the annual report of the agency to the responsible Minister of the agency relating to the activities, operations, business or affairs of the agency; or
  - (b) if there is no such report—in the annual report of the Department, or a Department, administered by the responsible Minister of the agency relating to the activities, operations, business or affairs of the Department.
- (4) Nothing in this section requires the publication of information that is of such a nature that its inclusion in a document of an agency would cause that document to be an exempt document.
- (5) Subsection (1) applies in relation to an agency that comes into existence after the commencement of this Part as if the references in that subsection to the commencement of this Part were references to the day on which the agency comes into existence.
- (6) The categories referred to in subparagraph (1)(a)(iii) include, but are not limited to, the following categories:
  - (a) any documents referred to in paragraph 12(1)(b);
  - (b) any documents referred to in paragraph 12(1)(c);
  - (c) any other documents, if the documents are customarily made available to the public:
    - (i) otherwise than under this Act; and
    - (ii) free of charge upon request.

## **9 Certain documents to be available for inspection and purchase**

- (1) This section applies, in respect of an agency, to documents that are provided by the agency for the use of, or are used by, the agency or

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its officers in making decisions or recommendations, under or for the purposes of an enactment or scheme administered by the agency, with respect to rights, privileges or benefits, or to obligations, penalties or other detriments, to which persons are or may be entitled or subject, being:

- (a) manuals or other documents containing interpretations, rules, guidelines, practices or precedents including, but without limiting the generality of the foregoing, precedents in the nature of letters of advice providing information to bodies or persons outside the Commonwealth administration;
- (b) documents containing particulars of such a scheme, not being particulars contained in an enactment as published apart from this Act;
- (c) documents containing statements of the manner, or intended manner, of administration or enforcement of such an enactment or scheme; or
- (d) documents describing the procedures to be followed in investigating breaches or evasions or possible breaches or evasions of such an enactment or of the law relating to such a scheme;

but not including documents that are available to the public as published otherwise than by an agency or as published by another agency.

- (2) The principal officer of an agency shall:
  - (a) cause copies of all documents to which this section applies in respect of the agency that are in use from time to time to be made available for inspection and for purchase by members of the public;
  - (b) cause to be prepared by a day not later than the relevant day in relation to the agency, and as soon as practicable after preparation to be made available, for inspection and for purchase by members of the public, at each Information Access Office, a statement (which may take the form of an index) specifying the documents of which copies are, at the time of preparation of the statement, available in accordance with paragraph (a) and the place or places where copies may be inspected and may be purchased; and
  - (c) cause to be prepared within 3 months, if practicable, and in any case not later than 12 months, after the preparation of the last preceding statement prepared in accordance with

paragraph (b) or this paragraph, and as soon as practicable after preparation to be made available, for inspection and for purchase by members of the public, at each Information Access Office, a statement bringing up to date the information contained in that last preceding statement.

- (2A) For the purposes of subsection (2):
- (a) the relevant day in relation to an agency is:
    - (i) in the case of an agency that was in existence before the commencement of the *Freedom of Information Laws Amendment Act 1986*—the first day after the commencement of that Act by which the agency, if the amendments made by that Act to subsection (2) of this section had not been made, would have been required under that subsection to publish a statement in the *Gazette*; and
    - (ii) in the case of an agency that comes into existence on or after the commencement of the *Freedom of Information Laws Amendment Act 1986*—the day that occurs 12 months after the day on which the agency comes into existence; and
  - (b) **Information Access Office** means a place that is an Information Access Office for the purposes of section 28.
- (3) The principal officer is not required to comply fully with paragraph (2)(a) before the expiration of 12 months after the commencement of this Part, but shall, before that time, comply with that paragraph so far as is practicable.
- (4) This section does not require a document of the kind referred to in subsection (1) containing exempt matter to be made available in accordance with subsection (2), but, if such a document is not so made available, the principal officer of the agency, or an officer of the agency acting within the scope of authority exercisable by him or her in accordance with arrangements approved by the responsible Minister or principal officer of the agency, shall, if practicable, cause to be prepared a corresponding document, altered only to the extent necessary to exclude the exempt matter, and cause the document so prepared to be dealt with in accordance with subsection (2).

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- (5) The Minister may, by writing under his or her hand, extend, in respect of the Commissioner of Taxation, the time specified in paragraph (2)(b) or subsection (3) where he or she is satisfied, after consulting the Minister who is the responsible Minister in relation to the Commissioner of Taxation, that it is reasonable to extend the time by reason of special circumstances applicable to the Commissioner of Taxation.
- (6) Where the Minister is satisfied, after consulting the Minister who is the responsible Minister in relation to the Commissioner of Taxation, that the form or nature of the documents to which this section applies in respect of the Commissioner of Taxation that are in existence at the commencement of this Part, or of some of those documents, is such that complete compliance with this section in respect of those documents would impose on the Commissioner of Taxation such a workload as would unreasonably divert his or her resources from his or her other operations, the first-mentioned Minister may, by writing under his or her hand, direct that the application of this section in respect of the Commissioner of Taxation is to be subject to such modifications as he or she specifies, being modifications that, in his or her opinion, are reasonably required by reason of the circumstances referred to in this subsection.
- (7) The report of the Minister under section 93 in respect of a year shall include:
  - (a) particulars of any extensions of time made, or directions given, under this section by the Minister during that year; and
  - (b) a statement concerning compliance by agencies with the requirements of this section during that year.
- (8) Where a person makes a request to inspect or to purchase a document of an agency concerning a particular enactment or scheme, being a document of a kind to which this section applies, the principal officer of the agency shall take all reasonable steps to ensure that the attention of that person is drawn to any document of the agency concerning that enactment or scheme that is relevant to the request and has become a document to which this section applies since the last occasion on which a statement in respect of documents of the agency was prepared and made available in accordance with subsection (2).

- (9) Subsection (3) applies in relation to an agency that comes into existence after the commencement of this Part as if the reference in that subsection to the commencement of this Part were a reference to the day on which the agency comes into existence.

### **10 Unpublished documents not to prejudice public**

- (1) If a document required to be made available in accordance with section 9, being a document containing a rule, guideline or practice relating to a function of an agency, was not made available, or was not included in a statement made available at each Information Access Office, as referred to in that section, before the time at which a person did, or omitted to do, any act or thing relevant to the performance of that function in relation to him or her (whether or not the time allowed for publication of a statement in respect of the document had expired before that time), that person, if he or she was not aware of that rule, guideline or practice at that time, shall not be subjected to any prejudice by reason only of the application of that rule, guideline or practice in relation to the thing done or omitted to be done by him or her if he or she could lawfully have avoided that prejudice had he or she been aware of that rule, guideline or practice.
- (2) The reference in subsection (1) to the time at which a person did, or omitted to do, any act or thing relevant to the performance in relation to him or her of a function of an agency does not include a reference to a time earlier than:
- (a) the expiration of the period of 12 months referred to in paragraph 9(2)(b) or, if the agency is the Commissioner of Taxation and that period has been extended in respect of the agency under subsection 9(5), the expiration of the period as extended; or
  - (b) the expiration of the period of 12 months after the day on which the agency came into existence;
- whichever is the later.
- (3) In subsection (1):

**Information Access Office** means a place that is an Information Access Office for the purposes of section 28.

## Part III—Access to documents

### 11 Right of access

- (1) Subject to this Act, every person has a legally enforceable right to obtain access in accordance with this Act to:
  - (a) a document of an agency, other than an exempt document; or
  - (b) an official document of a Minister, other than an exempt document.
- (2) Subject to this Act, a person's right of access is not affected by:
  - (a) any reasons the person gives for seeking access; or
  - (b) the agency's or Minister's belief as to what are his or her reasons for seeking access.

### 12 Part not to apply to certain documents

- (1) A person is not entitled to obtain access under this Part to:
  - (a) a document, or a copy of a document, which is, under the *Archives Act 1983*, within the open access period within the meaning of that Act unless the document contains personal information (including personal information about a deceased person); or
  - (b) a document that is open to public access, as part of a public register or otherwise, in accordance with another enactment, where that access is subject to a fee or other charge; or
  - (ba) a document that is open to public access, as part of a land title register, in accordance with a law of a State or Territory where that access is subject to a fee or other charge; or
  - (c) a document that is available for purchase by the public in accordance with arrangements made by an agency.
- (2) A person is not entitled to obtain access under this Part to a document or a part of a document that became a document of an agency or an official document of a Minister more than 5 years before the date of commencement of this part unless:
  - (a) the document or that part of the document contains information that is:

- (i) personal information about that person; or
  - (ii) information relating to that person's business, commercial or financial affairs; or
- (b) the document or that part of the document is a document or a part of a document access to which is reasonably necessary to enable a proper understanding of a document of an agency or an official document of a Minister to which that person has lawfully had access.
- (3) Regulations may be made for the modification of subsection (2) so as to enable a person to obtain access under this Part to documents to which, but for the making of those regulations, he or she would not be entitled to access under this part by reason of that subsection.
- (4) References in subsection (3) to subsection (2) shall be construed as including references to subsection (2) as previously modified in pursuance of regulations made under subsection (3).

### **13 Documents in certain institutions**

- (1) A document shall not be deemed to be a document of an agency for the purposes of this Act by reason of its being:
- (a) in the memorial collection within the meaning of the *Australian War Memorial Act 1980*;
  - (b) in the collection of library material maintained by the National Library of Australia;
  - (c) material included in the historical material in the possession of the Museum of Australia; or
  - (d) in the custody of the Australian Archives (otherwise than as a document relating to the administration of the Australian Archives);
- if the document was placed in that collection, or in that custody, by or on behalf of a person (including a Minister or former Minister) other than an agency.
- (2) For the purposes of this Act, a document that has been placed in the custody of the Australian Archives, or in a collection referred to in subsection (1), by an agency shall be deemed to be in the possession of that agency or, if that agency no longer exists, the agency to the functions of which the document is most closely related.

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- (3) Despite subsections (1) and (2):
  - (a) records of a Royal Commission that are in the custody of the Australian Archives are, for the purposes of this Act, taken to be documents of an agency and to be in the possession of the Department administered by the Minister administering the *Royal Commissions Act 1902*; and
  - (b) records of the Commission of inquiry that are in the custody of the Australian Archives are, for the purposes of this Act, taken to be documents of an agency and to be in the possession of the Department administered by the Minister administering the *Quarantine Act 1908*.
- (4) Nothing in this Act affects the provision of access to documents by the Australian Archives in accordance with the *Archives Act 1983*.

#### 14 Access to documents apart from Act

Nothing in this Act is intended to prevent or discourage Ministers and agencies from publishing or giving access to documents (including exempt documents), otherwise than as required by this Act, where they can properly do so or are required by law to do so.

#### 15 Requests for access

- (1) Subject to section 15A, a person who wishes to obtain access to a document of an agency or an official document of a Minister may request access to the document.
- (2) The request must:
  - (a) be in writing; and
  - (b) provide such information concerning the document as is reasonably necessary to enable a responsible officer of the agency, or the Minister, to identify it; and
  - (c) specify an address in Australia at which notices under this Act may be sent to the applicant; and
  - (d) be sent by post to the agency or Minister, or delivered to an officer of the agency or a member of the staff of the Minister, at the address of any central or regional office of the agency or Minister specified in a current telephone directory; and
  - (e) be accompanied by the fee payable under the regulations in respect of the request.

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- (3) Where a person:
- (a) wishes to make a request to an agency; or
  - (b) has made to an agency a request that does not comply with this section;
- it is the duty of the agency to take reasonable steps to assist the person to make the request in a manner that complies with this section.
- (4) Where a person has directed to an agency a request that should have been directed to another agency or to a Minister, it is the duty of the first-mentioned agency to take reasonable steps to assist the person to direct the request to the appropriate agency or Minister.
- (5) On receiving a request, the agency or Minister must:
- (a) as soon as practicable but in any case not later than 14 days after the day on which the request is received by or on behalf of the agency or Minister, take all reasonable steps to enable the applicant to be notified that the request has been received; and
  - (b) as soon as practicable but in any case not later than the end of the period of 30 days after the day on which the request is received by or on behalf of the agency or Minister, take all reasonable steps to enable the applicant to be notified of a decision on the request (including a decision under section 21 to defer the provision of access to a document).
- (6) Where, in relation to a request, the agency or Minister determines in writing that the requirements of section 26A, 27 or 27A make it appropriate to extend the period referred to in paragraph (5)(b):
- (a) the period is to be taken to be extended by a further period of 30 days; and
  - (b) the agency or Minister must, as soon as practicable, inform the applicant that the period has been so extended.

**15A Request for access to personnel records**

- (1) In this section:

*personnel records*, in relation to an employee or former employee of an agency, means those documents containing personal information about him or her that are, or have been, kept by the agency for personnel management purposes.

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- (2) Where:
- (a) there are established procedures in an agency (apart from those provided for by this Act) in accordance with which a request may be made by an employee of the agency for access to his or her personnel records; and
  - (b) a person who is or was an employee of the agency wishes to obtain access to his or her personnel records;
- the person must not apply under section 15 for access to such records unless the person:
- (c) has made a request for access to the records in accordance with the procedures referred to in paragraph (a); and
  - (d) either:
    - (i) is not satisfied with the outcome of the request; or
    - (ii) has not been notified of the outcome within 30 days after the request was made.

**16 Transfer of requests**

- (1) Where a request is made to an agency for access to a document and:
- (a) the document is not in the possession of that agency but is, to the knowledge of that agency, in the possession of another agency; or
  - (b) the subject-matter of the document is more closely connected with the functions of another agency than with those of the agency to which the request is made;
- the agency to which the request is made may, with the agreement of the other agency, transfer the request to the other agency.
- (2) Where a request is made to an agency for access to a document that:
- (a) originated with, or has been received from, a body which, or person who, is specified in Part I of Schedule 2; and
  - (b) is more closely connected with the functions of that body or person than with those of the agency to which the request is made;
- the request shall be transferred:
- (c) to the Department corresponding to the Department of State administered by the Minister who administers the enactment

by or under which the body or person is established, continued in existence or appointed; or

- (d) if the request relates to a document that originated with, or has been received from, a part of the Department of Defence specified in Division 2 of Part I of Schedule 2—to that Department.

- (3) Where a request is made to an agency for access to a document that:

- (a) originated in, or has been received from, another agency, being an agency specified in Part II of Schedule 2 or an agency that is a body corporate established by or under an Act specified in Part III of Schedule 2; and
- (b) is more closely connected with the functions of the other agency in relation to documents in respect of which the other agency is exempt from the operation of this Act than with the functions of the agency to which the request is made;

the agency to which the request is made shall transfer the request to the other agency.

- (3A) Where:

- (a) a request is made to an agency for access to more than one document; and
- (b) one or more of those documents is a document to which subsection (1), (2) or (3) applies;

this section applies to each of those documents as if separate requests for access had been made to the agency in respect of each of those documents.

- (4) Where a request is transferred to an agency in accordance with this section, the agency making the transfer shall inform the person making the request accordingly and, if it is necessary to do so in order to enable the other agency to deal with the request, send the document to the other agency.
- (5) Where a request is transferred to an agency in accordance with this section, the request is to be taken to be a request:
- (a) made to the agency for access to the document that is the subject of the transfer; and
- (b) received by the agency at the time at which it was first received by an agency.

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- (6) In this section, *agency* includes a Minister.

**17 Requests involving use of computers etc.**

- (1) Where:
- (a) a request (including a request of the kind described in subsection 24(1)) is made in accordance with the requirements of subsection 15(2) to an agency;
  - (b) it appears from the request that the desire of the applicant is for information that is not available in discrete form in written documents of the agency; and
  - (ba) it does not appear from the request that the applicant wishes to be provided with a computer tape or computer disk on which the information is recorded; and
  - (c) the agency could produce a written document containing the information in discrete form by:
    - (i) the use of a computer or other equipment that is ordinarily available to the agency for retrieving or collating stored information; or
    - (ii) the making of a transcript from a sound recording held in the agency;
- the agency shall deal with the request as if it were a request for access to a written document so produced and containing that information and, for that purpose, this Act applies as if the agency had such a document in its possession.
- (2) An agency is not required to comply with subsection (1) if compliance would substantially and unreasonably divert the resources of the agency from its other operations.

**18 Access to documents to be given on request**

- (1) Subject to this Act, where:
- (a) a request is made in accordance with the requirements of subsection 15(2) by a person to an agency or Minister for access to a document of the agency or an official document of the Minister; and
  - (b) any charge that, under the regulations, is required to be paid before access is granted has been paid;
- the person shall be given access to the document in accordance with this Act.

- (2) An agency or Minister is not required by this Act to give access to a document at a time when the document is an exempt document.

## **20 Forms of access**

- (1) Access to a document may be given to a person in one or more of the following forms:
- (a) a reasonable opportunity to inspect the document;
  - (b) provision by the agency or Minister of a copy of the document;
  - (c) in the case of a document that is an article or thing from which sounds or visual images are capable of being reproduced, the making of arrangements for the person to hear or view those sounds or visual images;
  - (d) in the case of a document by which words are recorded in a manner in which they are capable of being reproduced in the form of sound or in which words are contained in the form of shorthand writing or in codified form, provision by the agency or Minister of a written transcript of the words recorded or contained in the document.
- (2) Subject to subsection (3) and to section 22, where the applicant has requested access in a particular form, access shall be given in that form.
- (3) If the giving of access in the form requested by the applicant:
- (a) would interfere unreasonably with the operations of the agency, or the performance by the Minister of his or her functions, as the case may be;
  - (b) would be detrimental to the preservation of the document or, having regard to the physical nature of the document, would not be appropriate; or
  - (c) would, but for this Act, involve an infringement of copyright (other than copyright owned by the Commonwealth, an agency or a State) subsisting in matter contained in the document, being matter that does not relate to the affairs of an agency or of a Department of State;
- access in that form may be refused and access given in another form.
- (4) Subject to subsection 17(1), where a person requests access to a document in a particular form and, for a reason specified in
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subsection (3), access in that form is refused but access is given in another form, the applicant shall not be required to pay a charge in respect of the provision of access to the document that is greater than the charge that he or she would have been required to pay if access had been given in the form requested.

**21 Deferment of access**

- (1) An agency which, or a Minister who, receives a request may defer the provision of access to the document concerned:
  - (a) if the publication of the document concerned is required by law—until the expiration of the period within which the document is required to be published;
  - (b) if the document concerned has been prepared for presentation to Parliament or for the purpose of being made available to a particular person or body or with the intention that it should be so made available—until the expiration of a reasonable period after its preparation for it to be so presented or made available;
  - (c) if the premature release of the document concerned would be contrary to the public interest—until the occurrence of any event after which or the expiration of any period of time beyond which the release of the document would not be contrary to the public interest; or
  - (d) if a Minister considers that the document concerned is of such general public interest that the Parliament should be informed of the contents of the document before the document is otherwise made public—until the expiration of 5 sitting days of either House of the Parliament.
- (2) Where the provision of access to a document is deferred in accordance with subsection (1), the agency or Minister shall, in informing the applicant of the reasons for the decision, indicate, as far as practicable, the period for which the deferment will operate.
- (3) Subsection 55(1) does not apply in relation to a deferment under paragraph (1)(d) of this section.

**22 Deletion of exempt matter or irrelevant material**

- (1) Where:
  - (a) an agency or Minister decides:

- (i) not to grant a request for access to a document on the ground that it is an exempt document; or
  - (ii) that to grant a request for access to a document would disclose information that would reasonably be regarded as irrelevant to that request; and
- (b) it is possible for the agency or Minister to make a copy of the document with such deletions that the copy:
- (i) would not be an exempt document; and
  - (ii) would not disclose such information; and
- (c) it is reasonably practicable for the agency or Minister, having regard to the nature and extent of the work involved in deciding on and making those deletions and the resources available for that work, to make such a copy;
- the agency or Minister shall, unless it is apparent from the request or as a result of consultation by the agency or Minister with the applicant, that the applicant would not wish to have access to such a copy, make, and grant access to, such a copy.
- (2) Where access is granted to a copy of a document in accordance with subsection (1):
- (a) the applicant must be informed:
    - (i) that it is such a copy; and
    - (ii) of the ground for the deletions; and
    - (iii) if any matter deleted is exempt matter because of a provision of this Act—that the matter deleted is exempt matter because of that provision; and
  - (b) section 26 does not apply to the decision that the applicant is not entitled to access to the whole of the document unless the applicant requests the agency or Minister to furnish to him or her a notice in writing in accordance with that section.

### **23 Decisions to be made by authorised persons**

- (1) Subject to subsection (2), a decision in respect of a request made to an agency may be made, on behalf of the agency, by the responsible Minister or the principal officer of the agency or, subject to the regulations, by an officer of the agency acting within the scope of authority exercisable by him or her in accordance with arrangements approved by the responsible Minister or the principal officer of the agency.

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- (2) A decision in respect of a request made to a court, or made to a tribunal, authority or body that is specified in Schedule 1, may be made on behalf of that court, tribunal, authority or body by the principal officer of that court, tribunal, authority or body or, subject to the regulations, by an officer of that court, tribunal, authority or body acting within the scope of authority exercisable by him or her in accordance with arrangements approved by the principal officer of that court, tribunal, authority or body.

**24 Requests may be refused in certain cases**

- (1) The agency or Minister dealing with a request may refuse to grant access to documents in accordance with the request, without having caused the processing of the request to have been undertaken, if the agency or Minister is satisfied that the work involved in processing the request:
- (a) in the case of an agency—would substantially and unreasonably divert the resources of the agency from its other operations; or
  - (b) in the case of a Minister—would substantially and unreasonably interfere with the performance of the Minister's functions.
- (2) Subject to subsection (3) but without limiting the matters to which the agency or Minister may have regard in deciding whether to refuse under subsection (1) to grant access to the documents to which the request relates, the agency or Minister is to have regard to the resources that would have to be used:
- (a) in identifying, locating or collating the documents within the filing system of the agency, or the office of the Minister; or
  - (b) in deciding whether to grant, refuse or defer access to documents to which the request relates, or to grant access to edited copies of such documents, including resources that would have to be used:
    - (i) in examining the documents; or
    - (ii) in consulting with any person or body in relation to the request; or
  - (c) in making a copy, or an edited copy, of the documents; or
  - (d) in notifying any interim or final decision on the request.

- (3) The agency or Minister is not to have regard to any maximum amount, specified in regulations, payable as a charge for processing a request of that kind.
- (4) In deciding whether to refuse, under subsection (1), to grant access to documents, an agency or Minister must not have regard to:
  - (a) any reasons that the person who requests access gives for requesting access; or
  - (b) the agency's or Minister's belief as to what are his or her reasons for requesting access.
- (5) An agency or Minister may refuse to grant access to the documents in accordance with the request without having identified any or all of the documents to which the request relates and without specifying, in respect of each document, the provision or provisions of this Act under which that document is claimed to be an exempt document if:
  - (a) it is apparent from the nature of the documents as described in the request that all of the documents to which the request is expressed to relate are exempt documents; and
  - (b) either:
    - (i) it is apparent from the nature of the documents as so described that no obligation would arise under section 22 in relation to any of those documents to grant access to an edited copy of the document; or
    - (ii) it is apparent, from the request or as a result of consultation by the agency or Minister with the person making the request, that the person would not wish to have access to an edited copy of the document.
- (6) An agency or Minister must not refuse to grant access to a document:
  - (a) on the ground that the request for the document does not comply with paragraph 15(2)(b); or
  - (b) under subsection (1);unless the agency or Minister has:
  - (c) given the applicant a written notice:
    - (i) stating an intention to refuse access; and
    - (ii) identifying an officer of the agency or a member of staff of the Minister with whom the applicant may consult

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with a view to making the request in a form that would remove the ground for refusal; and

- (d) given the applicant a reasonable opportunity so to consult; and
  - (e) as far as is reasonably practicable, provided the applicant with any information that would assist the making of the request in such a form.
- (7) For the purposes of section 15, the period commencing on the day an applicant is given a notice under paragraph (6)(c) and ending on the day the applicant confirms or alters the request following the consultation referred to in subsection (6) is to be disregarded in the computation of the 30 day period referred to in section 15.

**24A Requests may be refused if documents cannot be found or do not exist**

An agency or Minister may refuse a request for access to a document if:

- (a) all reasonable steps have been taken to find the document; and
- (b) the agency or Minister is satisfied that the document:
  - (i) is in the agency's or Minister's possession but cannot be found; or
  - (ii) does not exist.

**25 Information as to existence of certain documents**

- (1) Nothing in this Act shall be taken to require an agency or Minister to give information as to the existence or non-existence of a document where information as to the existence or non-existence of that document, if included in a document of an agency, would cause the last-mentioned document to be an exempt document by virtue of section 33 or 33A or subsection 37(1).
- (2) Where a request relates to a document that is, or if it existed would be, of a kind referred to in subsection (1), the agency or Minister dealing with the request may give notice in writing to the applicant that the agency or the Minister, as the case may be, neither confirms nor denies the existence, as a document of the agency or an official document of the Minister, of such a document but that, assuming the existence of such a document, it would be an exempt

document under section 33 or 33A or subsection 37(1) and, where such a notice is given:

- (a) section 26 applies as if the decision to give such a notice were a decision referred to in that section; and
- (b) the decision shall, for the purposes of Part VI, be deemed to be a decision refusing to grant access to the document in accordance with the request for the reason that the document would, if it existed, be an exempt document under section 33 or 33A or subsection 37(1), as the case may be.

## **26 Reasons and other particulars of decisions to be given**

- (1) Where, in relation to a request, a decision is made relating to a refusal to grant access to a document in accordance with the request or deferring provision of access to a document, the decision-maker shall cause the applicant to be given notice in writing of the decision, and the notice shall:
  - (a) state the findings on any material questions of fact, referring to the material on which those findings were based, and state the reasons for the decision;
  - (b) where the decision relates to a document of an agency, state the name and designation of the person giving the decision; and
  - (c) give to the applicant appropriate information concerning:
    - (i) his or her rights with respect to review of the decision;
    - (ii) his or her rights to make a complaint to the Ombudsman in relation to the decision; and
    - (iii) the procedure for the exercise of the rights referred to in subparagraphs (i) and (ii);including (where applicable) particulars of the manner in which an application for review under section 54 may be made.
- (1A) Section 13 of the *Administrative Decisions (Judicial Review) Act 1977* does not apply to a decision referred to in subsection (1).
- (2) A notice under this section is not required to contain any matter that is of such a nature that its inclusion in a document of an agency would cause that document to be an exempt document.

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**26A Procedure on request in respect of documents likely to affect Commonwealth-State relations**

- (1) Where arrangements have been entered into between the Commonwealth and a State with regard to consultation under this section, and it appears that:
  - (a) a document that is the subject of a request originated with, or was received from, or contains information that originated with, or was received from, the State or an authority of the State; and
  - (b) the State may reasonably wish to contend that the document is an exempt document under section 33A;a decision to grant access to the document or an edited copy of the document shall not be made by the agency or Minister concerned unless consultation has taken place between the Commonwealth and the State in accordance with those arrangements.
- (2) Where, after consultation between the Commonwealth and a State in pursuance of subsection (1) has taken place in relation to a document or an edited copy of the document, a decision is made that the document or edited copy is not an exempt document under section 33A or under any other provision of this Act:
  - (a) the agency or Minister making the decision shall, in accordance with the arrangements, cause notice in writing of the decision to be given to the State as well as to the person who made the request; and
  - (b) access shall not be given to the document or edited copy or, in the case of a document or edited copy that contains information that originated with or was received from the State or an authority of the State, to the document or edited copy so far as it contains that information, unless:
    - (i) the time for an application to the Tribunal by the State in accordance with section 58F for review of the decision that the document or edited copy is not an exempt document under section 33A has expired and such an application (other than an application that has subsequently been withdrawn) has not been made; or
    - (ia) such an application has been made but the Tribunal has dismissed the application under section 42A of the *Administrative Appeals Tribunal Act 1975*; or

- (ii) such an application has been made and the Tribunal has confirmed the decision that the document or edited copy is not an exempt document under that section.
- (3) Nothing in paragraph (2)(b) prevents access being given to a document of a kind mentioned in that paragraph if a further request has been made for access to the document and there is no failure to comply with this section in dealing with the further request.

## **27 Procedure on request in respect of documents relating to business affairs etc.**

- (1) Where a request is received by an agency or Minister in respect of a document containing information concerning:
  - (a) a person's business or professional affairs; or
  - (b) the business, commercial or financial affairs of an organisation or undertaking;a decision to grant access under this Act to the document or an edited copy of the document, so far as it contains that information, must not be made unless, where it is reasonably practicable to do so having regard to all the circumstances (including the application of subsections 15(5) and (6)):
  - (c) the agency or Minister has given to the person or organisation or the proprietor of the undertaking a reasonable opportunity of making submissions in support of a contention that the document or edited copy is an exempt document under section 43; and
  - (d) the person making the decision has had regard to any submissions so made.
- (2) Where, after any submissions have been made in accordance with subsection (1), a decision is made that the document or edited copy, so far as it contains the information referred to in subsection (1), is not an exempt document under section 43:
  - (a) the agency or Minister shall cause notice in writing of the decision to be given to the person who made the submissions, as well as to the person who made the request; and
  - (b) access shall not be given to the document or edited copy, so far as it contains the information referred to in subsection (1), unless:

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- (i) the time for an application to the Tribunal by that person in accordance with section 59 has expired and such an application (other than an application that has subsequently been withdrawn) has not been made; or
  - (ia) such an application has been made but the Tribunal has dismissed the application under section 42A of the *Administrative Appeals Tribunal Act 1975*; or
  - (ii) such an application has been made and the Tribunal has confirmed the decision.
- (3) Nothing in paragraph (2)(b) prevents access being given to a document of a kind referred to in that paragraph if a further request has been made for access to the document and there is no failure to comply with this section in dealing with the further request.

**27A Procedure on request in respect of documents containing personal information**

(1AA) This section applies if:

- (a) a request is received by an agency or Minister in respect of a document containing personal information about a person (including a person who has died); and
- (b) it appears to:
  - (i) the officer or Minister dealing with the request; or
  - (ii) a person (the *reviewer*) reviewing under section 54 a decision refusing the request;

that the person referred to in paragraph (a) or, if that person has died, the legal personal representative of that person, might reasonably wish to contend that the document, so far as it contains that information, is an exempt document under section 41.

- (1) A decision to grant access under this Act to the document or an edited copy of the document, so far as it contains that information, must not be made unless, where it is reasonably practicable to do so having regard to all the circumstances (including the application of subsections 15(5) and (6)):
- (a) the agency or Minister has given to the person or the legal personal representative of the person, as the case may be, a reasonable opportunity of making submissions in support of a contention that the document or edited copy, so far as it

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- contains that information, is an exempt document under section 41; and
- (b) the person making the decision has had regard to any submissions so made.
- (1A) In determining, for the purposes of subsection (1AA), whether a person might reasonably wish to contend that a document, so far as it contains personal information, is an exempt document under section 41, the officer, Minister or reviewer, as the case requires, must have regard to the following matters:
- (a) the extent to which the personal information is well known;
  - (b) whether the person to whom the personal information relates is known to be associated with the matters dealt with in the document;
  - (c) the availability of the personal information from publicly accessible sources;
  - (d) such other matters as the officer, Minister or reviewer, as the case requires, considers relevant.
- (2) Where, after any submissions have been made in accordance with subsection (1), a decision is made that the document or edited copy, so far as it contains the information referred to in paragraph (1)(a), is not an exempt document under section 41:
- (a) the agency or Minister shall cause notice in writing of the decision to be given to the person who made the submissions, as well as to the person who made the request; and
  - (b) access shall not be given to the document or edited copy, so far as it contains the information referred to in paragraph (1)(a), unless:
    - (i) the time for an application to the Tribunal in accordance with section 59A by the person who made the submissions has expired and such an application (other than an application that has subsequently been withdrawn) has not been made; or
    - (ia) such an application has been made but the Tribunal has dismissed the application under section 42A of the *Administrative Appeals Tribunal Act 1975*; or
    - (ii) such an application has been made and the Tribunal has confirmed the decision.

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- (3) Nothing in paragraph (2)(b) prevents access being given to a document of a kind referred to in that paragraph if a further request has been made for access to the document and there is no failure to comply with this section in dealing with the further request.

**28 Information Access Offices**

- (1) The Minister administering this Act shall cause to be published, as soon as practicable after the date of commencement of this Part, but not later than 12 months after that date, a statement setting out the addresses of such offices of the Government of the Commonwealth, throughout Australia, as are to be Information Access Offices for the purposes of this section.
- (2) A person who is entitled to obtain access to a document of an agency or to an official document of a Minister shall have that access provided, if the person so requests, at the Information Access Office having appropriate facilities to provide access in the form requested that is closest to his or her normal place of residence.
- (3) Nothing in this section shall be taken to prevent an agency to which, or a Minister to whom, a request has been made for access to a document in a particular form from giving access to that document, in accordance with subsection 20(3), in a form other than the form requested.
- (4) A person who is provided with access to a document at an Information Access Office shall not, by reason of the fact that the provision of access at that office has necessitated the incurring of costs by an agency or a Minister that would not have been incurred had access been provided at another place, be required to pay any charge additional to the charge that he or she would have been required to pay had he or she been provided with access at that other place.

**29 Charges**

- (1) Where, under the regulations, an agency or Minister decides that an applicant is liable to pay a charge (not being an application fee) in respect of a request for access to a document, or the provision of access to a document, the agency or Minister must give to the applicant a written notice stating:

- (a) that the applicant is liable to pay a charge; and
  - (b) the agency's or Minister's preliminary assessment of the amount of the charge, and the basis on which the assessment is made; and
  - (c) that the applicant may contend that the charge has been wrongly assessed, or should be reduced or not imposed; and
  - (d) the matters that the agency or Minister must take into account under subsection (5) in deciding whether or not to reduce, or not impose, the charge; and
  - (e) the amount of any deposit that the agency or Minister has determined, under the regulations, that the applicant will be required to pay if the charge is imposed; and
  - (f) that the applicant must, within the period of 30 days, or such further period as the agency or Minister allows, after the notice was given, notify the agency or Minister in writing:
    - (i) of the applicant's agreement to pay the charge; or
    - (ii) if the applicant contends that the charge has been wrongly assessed, or should be reduced or not imposed, or both—that the applicant so contends, giving the applicant's reasons for so contending; or
    - (iii) that the applicant withdraws the request for access to the document concerned; and
  - (g) that if the applicant fails to give the agency or Minister such a notice within that period or further period, the request for access to the document will be taken to have been withdrawn.
- (2) If the applicant fails to notify the agency or Minister in a manner mentioned in paragraph (1)(f) within the period or further period mentioned in that paragraph, the applicant is to be taken to have withdrawn the request for access to the document concerned.
- (3) An agency or Minister must not impose a charge in respect of a request for access to a document, or the provision of access to a document, until:
- (a) the applicant has notified the agency or Minister in a manner mentioned in paragraph (1)(f); or
  - (b) the end of the period or further period mentioned in that paragraph.

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- (4) Where the applicant has notified the agency or Minister, in a manner mentioned in subparagraph (1)(f)(ii), that the applicant contends that the charge should be reduced or not imposed, the agency or Minister may decide that the charge is to be reduced or not to be imposed.
- (5) Without limiting the matters the agency or Minister may take into account in determining whether or not to reduce or not to impose the charge, the agency or Minister must take into account:
- (a) whether the payment of the charge, or part of it, would cause financial hardship to the applicant, or to a person on whose behalf the application was made; and
  - (b) whether the giving of access to the document in question is in the general public interest or in the interest of a substantial section of the public.
- (6) If the applicant has notified the agency or Minister in the manner mentioned in subparagraph (1)(f)(ii), the agency or Minister must take all reasonable steps to enable the applicant to be notified of the decision on the amount of charge payable as soon as practicable but in any case no later than 30 days after the day on which the applicant so notified the agency or Minister.
- (7) If:
- (a) that period of 30 days has elapsed since the day on which the agency or Minister was so notified; and
  - (b) the applicant has not received notice of a decision on the amount of charge payable;
- the principal officer of the agency, or the Minister, as the case requires, is, for all purposes of this Act, taken to have made, on the last day of the period, a decision to the effect that the amount of charge payable is the amount equal to the agency's or Minister's preliminary assessment of the amount of the charge mentioned in paragraph (1)(b).
- (8) If:
- (a) the applicant makes a contention about a charge as mentioned in subsection (4); and

(b) the agency or Minister makes a decision to reject the contention, in whole or in part;

the agency or Minister, as the case requires, must give the applicant written notice of the decision and of the reasons for the decision.

Note: Section 25D of the *Acts Interpretation Act 1901* sets out rules about the contents of a statement of reasons.

- (9) A notice under subsection (8) must also state the name and designation of the person making the decision and give the applicant appropriate information about:
- (a) his or her rights with respect to review of the decision; and
  - (b) his or her rights to make a complaint to the Ombudsman in relation to the decision; and
  - (c) the procedure for the exercise of those rights;
- including (where applicable) particulars of the manner in which an application for review under section 54 may be made.
- (10) Section 13 of the *Administrative Decisions (Judicial Review) Act 1977* does not apply to a decision referred to in subsection (8).
- (11) A notice under subsection (8) is not required to contain any matter that is of such a nature that its inclusion in a document of an agency would cause that document to be an exempt document.

### **30A Remission of application fees**

- (1) Where:
- (a) there is, in respect of an application to an agency or Minister under subsection 15(1) requesting access to a document or under subsection 54(1) requesting a review of a decision relating to a document, an application fee (whether or not the fee has been paid); and
  - (b) the agency or Minister considers that the fee or a part of the fee should be remitted for any reason, including either of the following reasons:
    - (i) the payment of the fee or of the part of the fee would cause or caused financial hardship to the applicant or a person on whose behalf the application was made;

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(iii) the giving of access is in the general public interest or in the interest of a substantial section of the public;  
the agency or Minister may remit the fee or the part of the fee.

(1A) The applicant may make a written request for the application fee to be wholly or partly remitted under subsection (1). The agency or Minister must take all reasonable steps to enable the applicant to be notified of the decision on the request as soon as practicable, but in any case no later than 30 days after the day on which the request was made.

(1B) If:

- (a) that period of 30 days has ended; and
- (b) the applicant has not received notice of a decision on the request;

the agency or the Minister, as the case requires, is taken, for all purposes of this Act, to have made, on the last day of the period, a decision to the effect that no part of the application fee is to be remitted.

(2) Where the whole or a part of an application fee is remitted under subsection (1), then, to the extent of the remission, there shall not, for the purposes of subsection 15(2) or 54(1), as the case may be, be taken to be an application fee in respect of the application.

(3) If:

- (a) a person makes a written request for an application fee to be remitted, in whole or in part; and
- (b) the agency or Minister makes a decision to refuse the request, in whole or in part;

the agency or Minister, as the case requires, must give the applicant written notice of the reasons for the decision.

Note: Section 25D of the *Acts Interpretation Act 1901* sets out rules about the contents of a statement of reasons.

(4) A notice under subsection (3) must also state the name and designation of the person making the decision and give the applicant appropriate information about:

- (a) his or her rights with respect to review of the decision; and
- (b) his or her rights to make a complaint to the Ombudsman in relation to the decision; and

- (c) the procedure for the exercise of those rights; including (where applicable) particulars of the manner in which an application for review under section 54 may be made.
- (5) Section 13 of the *Administrative Decisions (Judicial Review) Act 1977* does not apply to a decision referred to in subsection (3).
- (6) A notice under subsection (3) is not required to contain any matter that is of such a nature that its inclusion in a document of an agency would cause that document to be an exempt document.

### **31 Certain periods to be disregarded for the purposes of processing requests**

- (1) Where an applicant receives a notification under subsection 29(1) or (6) before the day on which the period of 30 days mentioned in paragraph 15(5)(b), or that period as extended under subsection 15(6), in relation to that request expires or, but for the operation of this subsection, would expire, being a notification to the effect that the applicant is liable to pay a specified charge in respect of that request, there shall be disregarded, in the computation of that period, each day occurring during the period commencing on the day on which that notification is received by the applicant and ending on the day that is, under subsection (3), the relevant day in relation to that request.
- (3) For the purposes of subsection (1), *relevant day*, in relation to a request made by an applicant to whom a notification has been given under section 29 setting out the applicant's liability to pay a specified charge, is:
  - (a) in a case where the applicant pays the charge or such deposit on account of the charge as the applicant is required to pay under the regulations (whether or not the applicant seeks to have the charge reduced or not imposed under section 29 or seeks a review of the decision in respect of the charge under section 55)—the day on which that charge or that deposit is so paid; or
  - (b) in a case where the applicant, having not paid the charge or deposit referred to in paragraph (a), seeks to have the charge reduced or not imposed under section 29:
    - (i) if a decision is made by the agency or Minister to reduce the charge—the day on which the applicant pays

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- the charge as so reduced, or such deposit on account of the charge as so reduced as the applicant is required to pay under the regulations; or
- (ii) if a decision is made by the agency or Minister not to impose the charge—the day on which the applicant is notified of the decision; or
- (ba) in a case where the request concerned was made to an agency and the applicant, having not paid the charge or deposit referred to in paragraph (a), makes application to the agency under section 54 for a review of the decision to impose the payment of the charge:
- (i) if a decision is made by the agency setting aside the decision—the day on which the applicant is notified by the agency of that decision; or
  - (ii) if a decision is made by the agency setting aside the decision and making another decision in substitution for that decision—the day on which the applicant pays the charge specified in the substituted decision, or such deposit on account of that charge as the applicant is required to pay under the regulations; or
- (c) in a case where the applicant, having not paid the charge or deposit referred to in paragraph (a), makes application to the Tribunal under section 55 for a review of the decision to impose the payment of a charge:
- (i) if a decision is made by the Tribunal setting aside that decision—the day on which the applicant is notified by the Tribunal of that decision; or
  - (ii) if a decision is made by the Tribunal setting aside that decision and making another decision in substitution for that decision—the day on which the applicant pays the charge specified in the substituted decision or such deposit on account of that charge as he or she is required to pay under the regulations;
- whichever day first occurs.

## **Part IV—Exempt documents**

### **32 Interpretation**

A provision of this Part by virtue of which documents referred to in the provision are exempt documents:

- (a) shall not be construed as limited in its scope or operation in any way by any other provision of this Part by virtue of which documents are exempt documents; and
- (b) shall not be construed as not applying to a particular document by reason that another provision of this Part of a kind mentioned in paragraph (a) also applies to that document.

### **33 Documents affecting national security, defence or international relations**

- (1) A document is an exempt document if disclosure of the document under this Act:
  - (a) would, or could reasonably be expected to, cause damage to:
    - (i) the security of the Commonwealth;
    - (ii) the defence of the Commonwealth; or
    - (iii) the international relations of the Commonwealth; or
  - (b) would divulge any information or matter communicated in confidence by or on behalf of a foreign government, an authority of a foreign government or an international organization to the Government of the Commonwealth, to an authority of the Commonwealth or to a person receiving the communication on behalf of the Commonwealth or of an authority of the Commonwealth.
- (2) Where a Minister is satisfied that a document is an exempt document for a reason referred to in subsection (1), he or she may sign a certificate to that effect (specifying that reason) and, subject to the operation of Part VI, such a certificate, so long as it remains in force, establishes conclusively that the document is an exempt document referred to in subsection (1).

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- (3) Where a Minister is satisfied as mentioned in subsection (2) by reason only of matter contained in a particular part or particular parts of a document, a certificate under that subsection in respect of the document shall identify that part or those parts of the document as containing the matter by reason of which the certificate is given.
- (4) Where a Minister is satisfied that information as to the existence or non-existence of a document as described in a request would, if contained in a document of an agency, cause the last-mentioned document to be an exempt document under this section for a reason referred to in subsection (1), he or she may sign a certificate to that effect (specifying that reason).
- (5) The responsible Minister of an agency may, either generally or as otherwise provided by the instrument of delegation, by writing signed by him or her, delegate to the principal officer of the agency his or her powers under this section in respect of documents of the agency.
- (6) A power delegated under subsection (5), when exercised by the delegate, shall, for the purposes of this Act, be deemed to have been exercised by the responsible Minister.
- (7) A delegation under subsection (5) does not prevent the exercise of a power by the responsible Minister.

**33A Documents affecting relations with States**

- (1) Subject to subsection (5), a document is an exempt document if disclosure of the document under this Act:
  - (a) would, or could reasonably be expected to, cause damage to relations between the Commonwealth and a State; or
  - (b) would divulge information or matter communicated in confidence by or on behalf of the Government of a State or an authority of a State, to the Government of the Commonwealth, to an authority of the Commonwealth or to a person receiving the communication on behalf of the Commonwealth or of an authority of the Commonwealth.
- (2) Where a Minister is satisfied that a document:
  - (a) is an exempt document for a reason referred to in subsection (1); and

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- (b) is not a document containing matter the disclosure of which under this Act would be, on balance, in the public interest; the Minister may sign a certificate to that effect, specifying that reason.
- (2A) Subject to the operation of Part VI, such a certificate, so long as it remains in force, establishes conclusively that the document:
- (a) is an exempt document referred to in subsection (1); and
  - (b) does not contain matter the disclosure of which under this Act would, on balance, be in the public interest.
- (3) Where a Minister is satisfied as mentioned in subsection (2) by reason only of matter contained in a particular part or particular parts of a document, a certificate under that subsection in respect of the document shall identify that part or those parts of the document as containing the matter by reason of which the certificate is given.
- (4) Where a Minister is satisfied that information as to the existence or non-existence of a document as described in a request would, if contained in a document:
- (a) cause the last-mentioned document to be an exempt document for a reason referred to in subsection (1); and
  - (b) not cause the last-mentioned document to be a document containing matter the disclosure of which under this Act would be, on balance, in the public interest;
- the Minister may sign a certificate to that effect, specifying that reason.
- (4A) Subject to the operation of Part VI, such a certificate, so long as it remains in force, establishes conclusively that the document:
- (a) would be an exempt document referred to in subsection (1); and
  - (b) would not contain matter the disclosure of which under this Act would, on balance, be in the public interest.
- (5) This section does not apply to a document in respect of matter in the document the disclosure of which under this Act would, on balance, be in the public interest.
- (6) The responsible Minister of an agency may, either generally or as otherwise provided by the instrument of delegation, by writing signed by him or her, delegate to the principal officer of the agency

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his or her powers under this section in respect of documents of the agency.

- (7) A power delegated under subsection (6), when exercised by the delegate, shall, for the purposes of this Act, be deemed to have been exercised by the responsible Minister.
- (8) A delegation under subsection (6) does not prevent the exercise of a power by the responsible Minister.

**34 Cabinet documents**

- (1) A document is an exempt document if it is:
  - (a) a document that has been submitted to the Cabinet for its consideration or is proposed by a Minister to be so submitted, being a document that was brought into existence for the purpose of submission for consideration by the Cabinet;
  - (b) an official record of the Cabinet;
  - (c) a document that is a copy of, or of a part of, or contains an extract from, a document referred to in paragraph (a) or (b);  
or
  - (d) a document the disclosure of which would involve the disclosure of any deliberation or decision of the Cabinet, other than a document by which a decision of the Cabinet was officially published.
- (1A) This section does not apply to a document (in this subsection referred to as a *relevant document*) that is referred to in paragraph (1)(a), or that is referred to in paragraph (1)(b) or (c) and is a copy of, or of part of, or contains an extract from, a document that is referred to in paragraph (1)(a), to the extent that the relevant document contains purely factual material unless:
  - (a) the disclosure under this Act of that document would involve the disclosure of any deliberation or decision of the Cabinet;  
and
  - (b) the fact of that deliberation or decision has not been officially published.
- (2) For the purposes of this Act, a certificate signed by the Secretary to the Department of the Prime Minister and Cabinet certifying that a document:

- (a) is one of a kind referred to in a paragraph of subsection (1);  
and
  - (b) is not a document containing purely factual material that is excluded from the application of this section under subsection (1A);
- establishes conclusively, subject to the operation of Part VI, that it:
- (c) is an exempt document of that kind; and
  - (d) is not a document containing such material.
- (3) Where a document is a document referred to in paragraph (1)(c) or (d) by reason only of matter contained in a particular part or particular parts of the document, a certificate under subsection (2) in respect of the document shall identify that part or those parts of the document as containing the matter by reason of which the certificate is given.
- (4) For the purposes of this Act, a certificate signed by the Secretary to the Department of the Prime Minister and Cabinet certifying that a document as described in a request would, if it existed:
- (a) be one of a kind referred to in a paragraph of subsection (1);  
and
  - (b) not be a document containing purely factual material that is excluded from the application of this section under subsection (1A);
- establishes conclusively, subject to the operation of Part VI, that, if such a document exists, it:
- (c) is an exempt document of that kind; and
  - (d) is not a document containing such material.
- (5) Where a certificate in accordance with subsection (4) has been signed in respect of a document as described in a request, the decision on the request may be a decision that access to a document as described in the request is refused on the ground that, if such a document existed, it would be an exempt document referred to in the paragraph of subsection (1) that is specified in the certificate.
- (6) A reference in this section to the Cabinet shall be read as including a reference to a committee of the Cabinet.

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**35 Executive Council documents**

- (1) A document is an exempt document if it is:
- (a) a document that has been submitted to the Executive Council for its consideration or is proposed by a Minister to be so submitted, being a document that was brought into existence for the purpose of submission for consideration by the Executive Council;
  - (b) an official record of the Executive Council;
  - (c) a document that is a copy of, or of a part of, or contains an extract from, a document referred to in paragraph (a) or (b);  
or
  - (d) a document the disclosure of which would involve the disclosure of any deliberation or advice of the Executive Council, other than a document by which an act of the Governor-General, acting with the advice of the Executive Council, was officially published.

(1A) This section does not apply to a document (in this subsection referred to as a *relevant document*) that is referred to in paragraph (1)(a), or that is referred to in paragraph (1)(b) or (c) and is a copy of, or of part of, or contains an extract from, a document that is referred to in paragraph (1)(a), to the extent that the relevant document contains purely factual material unless:

- (a) the disclosure under this Act of that document would involve the disclosure of any deliberation or advice of the Executive Council; and
- (b) the fact of that deliberation or advice has not been officially published.

(2) For the purposes of this Act, a certificate signed by a person who is, or is performing the duties of, the Secretary to the Executive Council, certifying that a document:

- (a) is one of a kind referred to in a paragraph of subsection (1);  
and
- (b) is not a document containing purely factual material that is excluded from the application of this section under subsection (1A);

establishes conclusively, subject to the operation of Part VI, that it:

- (c) is an exempt document of that kind; and
- (d) is not a document containing such material.

- (3) Where a document is a document referred to in paragraph (1)(c) or (d) by reason only of matter contained in a particular part or particular parts of the document, a certificate under subsection (2) in respect of the document shall identify that part or those parts of the document as containing the matter by reason of which the certificate is given.
- (4) For the purposes of this Act, a certificate signed by a person who is, or is performing the duties of, the Secretary to the Executive Council, certifying that a document as described in a request would, if it existed:
- (a) be one of a kind referred to in a paragraph of subsection (1); and
  - (b) not be a document containing purely factual material that is excluded from the application of this section under subsection (1A);
- establishes conclusively, subject to the operation of Part VI, that, if such a document exists, it:
- (c) is an exempt document of that kind; and
  - (d) is not a document containing such material.
- (5) Where a certificate in accordance with subsection (4) has been signed in respect of a document as described in a request, the decision on the request may be a decision that access to a document as described in the request is refused on the ground that, if such a document existed, it would be an exempt document referred to in the paragraph of subsection (1) that is specified in the certificate.

### **36 Internal working documents**

- (1) Subject to this section, a document is an exempt document if it is a document the disclosure of which under this Act:
- (a) would disclose matter in the nature of, or relating to, opinion, advice or recommendation obtained, prepared or recorded, or consultation or deliberation that has taken place, in the course of, or for the purposes of, the deliberative processes involved in the functions of an agency or Minister or of the Government of the Commonwealth; and
  - (b) would be contrary to the public interest.

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- (2) In the case of a document of the kind referred to in subsection 9(1), the matter referred to in paragraph (1)(a) of this section does not include matter that is used or to be used for the purpose of the making of decisions or recommendations referred to in subsection 9(1).
- (3) Where a Minister is satisfied, in relation to a document to which paragraph (1)(a) applies, that the disclosure of the document would be contrary to the public interest, he or she may sign a certificate to that effect (specifying the ground of public interest in relation to which the certificate is given) and, subject to the operation of Part VI, such a certificate, so long as it remains in force, establishes conclusively that the disclosure of that document would be contrary to the public interest.
- (4) Where a Minister is satisfied as mentioned in subsection (3) by reason only of matter contained in a particular part or particular parts of a document, a certificate under that subsection in respect of the document shall identify that part or those parts of the document as containing the matter by reason of which the certificate is given.
- (5) This section does not apply to a document by reason only of purely factual material contained in the document.
- (6) This section does not apply to:
  - (a) reports (including reports concerning the results of studies, surveys or tests) of scientific or technical experts, whether employed within an agency or not, including reports expressing the opinions of such experts on scientific or technical matters;
  - (b) reports of a prescribed body or organization established within an agency; or
  - (c) the record of, or a formal statement of the reasons for, a final decision given in the exercise of a power or of an adjudicative function.
- (7) Where a decision is made under Part III that an applicant is not entitled to access to a document by reason of the application of this section, the notice under section 26 shall state the ground of public interest on which the decision is based.

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- (8) The responsible Minister of an agency may, either generally or as otherwise provided by the instrument of delegation, by writing signed by him or her, delegate to the principal officer of the agency his or her powers under this section in respect of documents of the agency.
- (9) A power delegated under subsection (8), when exercised by the delegate, shall, for the purposes of this Act, be deemed to have been exercised by the responsible Minister.
- (10) A delegation under subsection (8) does not prevent the exercise of a power by the responsible Minister.

**36A Periods for which certain certificates remain in force**

- (1) The regulations may, in respect of certificates under subsections 33(2), 33(4), 33A(2), 33A(4), 34(2), 34(4), 35(2), 35(4) and 36(3), prescribe:
  - (a) periods as the maximum periods during which such certificates may remain in force; and
  - (b) the manner in which such certificates may be revoked before the end of such periods.
- (2) Where a regulation made for the purposes of subsection (1) provides a maximum period during which certificates of a particular kind may remain in force, a certificate of that kind (whether made before or after the regulation came into force) remains in force for that period unless it is revoked, in accordance with the regulations, before the end of that period.

**37 Documents affecting enforcement of law and protection of public safety**

- (1) A document is an exempt document if its disclosure under this Act would, or could reasonably be expected to:
  - (a) prejudice the conduct of an investigation of a breach, or possible breach, of the law, or a failure, or possible failure, to comply with a law relating to taxation or prejudice the enforcement or proper administration of the law in a particular instance;
  - (b) disclose, or enable a person to ascertain, the existence or identity of a confidential source of information, or the

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- non-existence of a confidential source of information, in relation to the enforcement or administration of the law; or
- (c) endanger the life or physical safety of any person.
- (2) A document is an exempt document if its disclosure under this Act would, or could reasonably be expected to:
- (a) prejudice the fair trial of a person or the impartial adjudication of a particular case;
- (b) disclose lawful methods or procedures for preventing, detecting, investigating, or dealing with matters arising out of, breaches or evasions of the law the disclosure of which would, or would be reasonably likely to, prejudice the effectiveness of those methods or procedures; or
- (c) prejudice the maintenance or enforcement of lawful methods for the protection of public safety.
- (2A) For the purposes of paragraph (1)(b), a person is taken to be a confidential source of information in relation to the enforcement or administration of the law if the person is receiving, or has received, protection under a program conducted under the auspices of the Australian Federal Police, or the police force of a State or Territory, for the protection of:
- (a) witnesses; or
- (b) people who, because of their relationship to, or association with, a witness need, or may need, such protection; or
- (c) any other people who, for any other reason, need or may need, such protection.
- (3) In this section, *law* means law of the Commonwealth or of a State or Territory.

**38 Documents to which secrecy provisions of enactments apply**

- (1) Subject to subsection (1A), a document is an exempt document if:
- (a) disclosure of the document, or information contained in the document, is prohibited under a provision of an enactment; and
- (b) either:
- (i) that provision is specified in Schedule 3; or

- (ii) this section is expressly applied to the document, or information, by that provision, or by another provision of that or any other enactment.
- (1A) A person's right of access to a document under section 11 or 22 is not affected merely because the document is an exempt document under subsection (1) of this section if disclosure of the document, or information contained in the document, to that person is not prohibited by the enactment concerned or any other enactment.
- (2) Subject to subsection (3), if a person requests access to a document, this section does not apply in relation to the document so far as it contains personal information about the person.
- (3) This section applies in relation to a document so far as it contains personal information about a person if:
- (a) the person requests access to the document; and
  - (b) disclosure of the document, or information contained in the document, is prohibited under section 503A of the *Migration Act 1958* as affected by section 503D of that Act.

### **39 Documents affecting financial or property interests of the Commonwealth**

- (1) Subject to subsection (2), a document is an exempt document if its disclosure under this Act would have a substantial adverse effect on the financial or property interests of the Commonwealth or of an agency.
- (2) This section does not apply to a document in respect of matter in the document the disclosure of which under this Act would, on balance, be in the public interest.

### **40 Documents concerning certain operations of agencies**

- (1) Subject to subsection (2), a document is an exempt document if its disclosure under this Act would, or could reasonably be expected to:
- (a) prejudice the effectiveness of procedures or methods for the conduct of tests, examinations or audits by an agency;
  - (b) prejudice the attainment of the objects of particular tests, examinations or audits conducted or to be conducted by an agency;

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- (c) have a substantial adverse effect on the management or assessment of personnel by the Commonwealth or by an agency;
  - (d) have a substantial adverse effect on the proper and efficient conduct of the operations of an agency; or
  - (e) have a substantial adverse effect on the conduct by or on behalf of the Commonwealth or an agency of industrial relations.
- (2) This section does not apply to a document in respect of matter in the document the disclosure of which under this Act would, on balance, be in the public interest.

**41 Documents affecting personal privacy**

- (1) A document is an exempt document if its disclosure under this Act would involve the unreasonable disclosure of personal information about any person (including a deceased person).
- (2) Subject to subsection (3), the provisions of subsection (1) do not have effect in relation to a request by a person for access to a document by reason only of the inclusion in the document of matter relating to that person.
- (3) Where:
- (a) a request is made to an agency or Minister for access to a document of the agency, or an official document of the Minister, that contains information concerning the applicant, being information that was provided by a qualified person acting in his or her capacity as a qualified person; and
  - (b) it appears to the principal officer of the agency or to the Minister (as the case may be) that the disclosure of the information to the applicant might be detrimental to the applicant's physical or mental health, or well-being;
- the principal officer or Minister may, if access to the document would otherwise be given to the applicant, direct that access to the document, so far as it contains that information, is not to be given to the applicant but is to be given instead to a qualified person who:
- (c) carries on the same occupation, of a kind mentioned in the definition of *qualified person* in subsection (8), as the first-mentioned qualified person; and

- (d) is to be nominated by the applicant.
- (4) Subject to subsection (5), where:
- (a) access to a document has been given to a person; and
  - (b) the document contains personal information of a medical or psychiatric nature, about the person that has been provided by, or has originated from, a qualified person acting in his or her capacity as a qualified person; and
  - (c) access was not given with the qualified person's knowledge; the principal officer or Minister (as the case may be) must notify the qualified person that access to the document has been so given.
- (5) Subsection (4) does not apply if it is not reasonably practicable to notify the qualified person.
- (6) Without limiting the matters that may be considered in deciding whether it is not reasonably practicable to notify the qualified person, consideration is to be given to:
- (a) the length of time since the information was provided by, or originated from, the qualified person; and
  - (b) the likelihood that the qualified person is still carrying on the same occupation; and
  - (c) the frequency with which, but for subsection (5), the principal officer or Minister would be required to make notifications under subsection (4); and
  - (d) the resources available to make such notifications.
- (7) The powers and functions of the principal officer of an agency under this section may be exercised by an officer of the agency acting within his or her scope of authority in accordance with arrangements referred to in section 23.
- (8) In this section:
- qualified person*** means a person who carries on, and is entitled to carry on, an occupation that involves the provision of care for the physical or mental health of people or for their well-being, and, without limiting the generality of the foregoing, includes any of the following:
- (a) a medical practitioner;
  - (b) a psychiatrist;
  - (c) a psychologist;

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- (d) a marriage guidance counsellor;
- (e) a social worker.

**42 Documents subject to legal professional privilege**

- (1) A document is an exempt document if it is of such a nature that it would be privileged from production in legal proceedings on the ground of legal professional privilege.
- (2) A document of the kind referred to in subsection 9(1) is not an exempt document by virtue of subsection (1) of this section by reason only of the inclusion in the document of matter that is used or to be used for the purpose of the making of decisions or recommendations referred to in subsection 9(1).

**43 Documents relating to business affairs etc.**

- (1) A document is an exempt document if its disclosure under this Act would disclose:
  - (a) trade secrets;
  - (b) any other information having a commercial value that would be, or could reasonably be expected to be, destroyed or diminished if the information were disclosed; or
  - (c) information (other than trade secrets or information to which paragraph (b) applies) concerning a person in respect of his or her business or professional affairs or concerning the business, commercial or financial affairs of an organization or undertaking, being information:
    - (i) the disclosure of which would, or could reasonably be expected to, unreasonably affect that person adversely in respect of his or her lawful business or professional affairs or that organization or undertaking in respect of its lawful business, commercial or financial affairs; or
    - (ii) the disclosure of which under this Act could reasonably be expected to prejudice the future supply of information to the Commonwealth or an agency for the purpose of the administration of a law of the Commonwealth or of a Territory or the administration of matters administered by an agency.

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- (2) The provisions of subsection (1) do not have effect in relation to a request by a person for access to a document:
  - (a) by reason only of the inclusion in the document of information concerning that person in respect of his or her business or professional affairs;
  - (b) by reason only of the inclusion in the document of information concerning the business, commercial or financial affairs of an undertaking where the person making the request is the proprietor of the undertaking or a person acting on behalf of the proprietor; or
  - (c) by reason only of the inclusion in the document of information concerning the business, commercial or financial affairs of an organization where the person making the request is the organization or a person acting on behalf of the organization.
- (3) A reference in this section to an undertaking includes a reference to an undertaking that is carried on by, or by an authority of, the Commonwealth or a State or by a local government authority.
- (4) For the purposes of paragraph (1)(c), information is not taken to concern a person in respect of the person's professional affairs merely because it is information concerning the person's status as a member of a profession.

**43A Documents relating to research**

- (1) A document is an exempt document if:
  - (a) it contains information relating to research that is being, or is to be, undertaken by an officer of an agency specified in Schedule 4; and
  - (b) disclosure of the information before the completion of the research would be likely unreasonably to expose the agency or officer to disadvantage.
- (2) This section does not apply to a document that, so far as it contains information relating to research, only contains information relating to research that has been completed.

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**44 Documents affecting national economy**

- (1) A document is an exempt document if its disclosure under this Act would be contrary to the public interest by reason that it:
  - (a) would, or could reasonably be expected to, have a substantial adverse effect on the ability of the Government of the Commonwealth to manage the economy of Australia; or
  - (b) could reasonably be expected to result in an undue disturbance of the ordinary course of business in the community, or an undue benefit or detriment to any person or class of persons, by reason of giving premature knowledge of or concerning proposed or possible action or inaction of the Government or Parliament of the Commonwealth.
- (2) The kinds of documents to which subsection (1) may apply include, but are not limited to, documents containing matter relating to:
  - (a) currency or exchange rates;
  - (b) interest rates;
  - (c) taxes, including duties of customs or of excise;
  - (d) the regulation or supervision of banking, insurance and other financial institutions;
  - (e) proposals for expenditure;
  - (f) foreign investment in Australia; or
  - (g) borrowings by the Commonwealth, a State or an authority of the Commonwealth or of a State.

**45 Documents containing material obtained in confidence**

- (1) A document is an exempt document if its disclosure under this Act would found an action, by a person (other than an agency or the Commonwealth), for breach of confidence.
- (2) Subsection (1) does not apply to any document to the disclosure of which paragraph 36(1)(a) applies or would apply, but for the operation of subsection 36(2), (5) or (6), being a document prepared by a Minister, a member of the staff of a Minister, or an officer or employee of an agency, in the course of his or her duties, or by a prescribed authority in the performance of its functions, for purposes relating to the affairs of an agency or a Department of

State unless the disclosure would constitute a breach of confidence owed to a person or body other than:

- (a) a person in the capacity of Minister, member of the staff of a Minister or officer of an agency; or
- (b) an agency or the Commonwealth.

#### **46 Documents disclosure of which would be contempt of Parliament or contempt of court**

A document is an exempt document if public disclosure of the document would, apart from this Act and any immunity of the Crown:

- (a) be in contempt of court;
- (b) be contrary to an order made or direction given by a Royal Commission or by a tribunal or other person or body having power to take evidence on oath; or
- (c) infringe the privileges of the Parliament of the Commonwealth or of a State or of a House of such a Parliament or of the Legislative Assembly of the Northern Territory or of Norfolk Island.

#### **47 Certain documents arising out of companies and securities legislation**

- (1) A document is an exempt document if it is, or is a copy of or of a part of, or contains an extract from:
  - (a) a document for the purposes of the Ministerial Council for Companies and Securities prepared by, or received by an agency or Minister from, a State or an authority of a State;
  - (b) a document the disclosure of which would disclose the deliberations or decisions of the Ministerial Council for Companies and Securities, other than a document by which a decision of that Council was officially published;
  - (c) a document furnished to the National Companies and Securities Commission by a State or an authority of a State and relating solely to the functions of the Commission in relation to the law of a State or the laws of 2 or more States; or

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- (d) a document, other than a document referred to in paragraph (c), that is in the possession of the National Companies and Securities Commission and relates solely to the exercise of the functions of that Commission under a law of a State or the laws of 2 or more States.
- (2) On and after the abolition of the National Companies and Securities Commission:
  - (a) subsection (1) is taken to have effect as if paragraphs (1)(c) and (d) were omitted; and
  - (b) a document that:
    - (i) was an exempt document because of paragraph (1)(c) or (d) immediately before that day; or
    - (ii) is a copy of or a part of, or contains an extract from, such an exempt document;is an exempt document if it is in the possession of a Minister or an agency.

Note: The National Companies and Securities Commission was abolished on 31 July 1992, being a day fixed by Proclamation in accordance with subsection 2(10) of the *Corporations Legislation Amendment Act 1991*.

**47A Electoral rolls and related documents**

- (1) In this section:

*Electoral Act* means the *Commonwealth Electoral Act 1918*.

*electoral roll* means:

- (a) a Roll of the electors of:
    - (i) a State or Territory; or
    - (ii) a Division (within the meaning of the Electoral Act); or
    - (iii) a Subdivision (within the meaning of the Electoral Act); prepared under the Electoral Act; or
  - (b) any part of a Roll referred to in paragraph (a).
- (2) Subject to this section, a document is an exempt document if it is:
    - (a) an electoral roll; or
    - (b) a print, or a copy of a print, of an electoral roll; or
    - (c) a microfiche of an electoral roll; or
    - (d) a copy on tape or disk of an electoral roll; or

- (e) a document that:
    - (i) sets out particulars of only one elector; and
    - (ii) was used to prepare an electoral roll; or
  - (f) a document that:
    - (i) is a copy of a document referred to in paragraph (e); or
    - (ii) contains only copies of documents referred to in paragraph (e); or
  - (g) a document (including a habitation index within the meaning of the Electoral Act) that:
    - (i) sets out particulars of electors; and
    - (ii) was derived from an electoral roll.
- (3) The part of an electoral roll that sets out the particulars of an elector is not an exempt document in relation to the elector.
- (4) Any print, copy of a print, microfiche, tape or disk that sets out or reproduces only the particulars entered on an electoral roll in respect of an elector is not an exempt document in relation to the elector.
- (5) A document that sets out only the particulars of one elector and:
  - (a) is a copy of a document referred to in paragraph (2)(e); or
  - (b) is a copy, with deletions, of a document referred to in paragraph (2)(e), (f) or (g);is not an exempt document in relation to the elector.

## **Part V—Amendment and annotation of personal records**

### **48 Application for amendment or annotation of personal records**

Where a person claims that a document of an agency or an official document of a Minister to which access has been lawfully provided to the person, whether under this Act or otherwise, contains personal information about that person:

- (a) that is incomplete, incorrect, out of date or misleading; and
- (b) that has been used, is being used or is available for use by the agency or Minister for an administrative purpose;

the person may apply to the agency or Minister for:

- (c) an amendment; or
- (d) an annotation;

of the record of that information kept by the agency or Minister.

### **49 Requirements of an application for amendment**

An application for amendment must:

- (a) be in writing; and
- (b) as far as practicable, specify:
  - (i) the document or official document containing the record of personal information that is claimed to require amendment; and
  - (ii) the information that is claimed to be incomplete, incorrect, out of date or misleading; and
  - (iii) whether the information is claimed to be incomplete, incorrect, out of date or misleading; and
  - (iv) the applicant's reasons for so claiming; and
  - (v) the amendment requested by the applicant; and
- (c) specify an address in Australia to which a notice under this Part may be sent to the applicant; and

- (d) be sent by post to the agency or Minister, or delivered to an officer of the agency or a member of the staff of the Minister, at the address of the office of the agency or Minister (as the case may be) determined in accordance with paragraph 15(2)(d).

## **50 Amendment of records**

- (1) Subject to section 51C, where the agency or Minister to whom such an application is made is satisfied that:
  - (a) the record of personal information to which the request relates is contained in a document of the agency or an official document of the Minister, as the case may be; and
  - (b) the information is incomplete, incorrect, out of date or misleading; and
  - (c) the information has been used, is being used or is available for use by the agency or Minister for an administrative purpose;the agency or Minister may amend the record of information.
- (2) The agency or Minister may make the amendment:
  - (a) by altering the document or official document concerned to make the information complete, correct, up to date or not misleading; or
  - (b) by adding to that document or official document a note:
    - (i) specifying the respects in which the agency or Minister is satisfied that the information is incomplete, incorrect, out of date or misleading; and
    - (ii) in a case where the agency or Minister is satisfied that the information is out of date—setting out such information as is required to bring the information up to date.
- (3) To the extent that it is practicable to do so, the agency or Minister must, when making an amendment under paragraph (2)(a), ensure that the record of information is amended in a way that does not obliterate the text of the record as it existed prior to the amendment.

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**51 Annotations of records etc. following unsuccessful applications for amendments of records**

- (1) Where an agency or Minister decides not to amend a document or official documents wholly or partly in accordance with an application under section 48, the agency or Minister must:
  - (a) take such steps as are reasonable in the circumstances to enable the applicant to provide a statement of the kind mentioned in paragraph 51A(c); and
  - (b) subject to subsection (2), annotate the document or official document concerned by adding to it the statement so provided.
- (2) Paragraph (1)(b) does not apply if the agency or Minister considers the statement to be irrelevant, defamatory or unnecessarily voluminous.
- (3) For the purposes of this Act, the provision by the applicant of a statement under subsection (1) is taken to be an application made under section 51A on the day the statement is so provided.

**51A Requirements of an application for annotation**

An application for annotation must:

- (a) be in writing; and
- (b) as far as practicable, specify the document or official document containing the record of personal information that is claimed to require annotation; and
- (c) be accompanied by a statement by the applicant that specifies:
  - (i) the information that is claimed to be incomplete, incorrect, out of date or misleading; and
  - (ii) whether the information is claimed to be incomplete, incorrect, out of date or misleading; and
  - (iii) the applicant's reasons for so claiming; and
  - (iv) such other information as would make the information complete, correct, up to date or not misleading; and
- (d) specify an address in Australia to which a notice under this Part may be sent to the applicant; and
- (e) be sent by post to the agency or Minister, or delivered to an officer of the agency or a member of the staff of the Minister,

at the address of the office of the agency or Minister (as the case may be) determined in accordance with paragraph 15(2)(d).

**51B Annotation of records**

- (1) Subject to section 51C, where the agency or Minister to whom such an application is made is satisfied that the record of personal information to which the request relates is contained in a document of the agency or an official document of the Minister (as the case may be), the agency or Minister must annotate the document or official document by adding to it the statement provided by the applicant under paragraph 51A(c).
- (2) Subsection (1) does not apply if the agency or Minister considers the statement to be irrelevant, defamatory or unnecessarily voluminous.

**51C Transfer of requests**

- (1) Where an application is made under section 48 to an agency or a Minister and:
  - (a) the document containing the record of personal information to which the request relates is not in the possession of that agency or Minister, but is, to the knowledge of the agency or Minister, in the possession of another agency or Minister; or
  - (b) the subject matter of that document is more closely connected with the functions of another agency or Minister than with those of the agency or Minister to whom the application is made;the agency or Minister to whom the application is made may, with the agreement of the other agency or Minister, transfer the application to the other agency or Minister.
- (2) Where an application is made under section 48 to an agency or Minister and the document containing the record of personal information to which the application relates:
  - (a) originated with, or has been received from, a body or person specified in Part I of Schedule 2; and

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(b) is more closely connected with the functions of that body or person than with those of the agency or Minister to whom the application is made;

the agency or Minister to whom the application is made must transfer the application:

(c) to the Department corresponding to the Department of State administered by the Minister who administers the enactment by or under which the body or person is established, continued in existence or appointed; or

(d) if the application relates to a document that originated with, or has been received from, a part of the Department of Defence specified in Division 2 of Part I of Schedule 2—to that Department.

(3) Where an application is made under section 48 to an agency or a Minister and the document containing the record of personal information to which the application relates:

(a) originated in, or has been received from, another agency, being an agency specified in Part II of Schedule 2 or an agency that is a body corporate established by or under an Act specified in Part III of Schedule 2; and

(b) is more closely connected with the functions of the other agency in relation to documents in respect of which the other agency is exempt from the operation of this Act than with the functions of the agency or Minister to whom the application is made;

the agency or Minister to whom the application is made must transfer the application to the other agency.

(4) Where:

(a) an application made under section 48 to an agency or a Minister concerns records of personal information contained in more than one document; and

(b) one or more of those documents is a document to which subsection (1), (2) or (3) applies;

this section applies to each of those documents as if separate applications had been made to the agency or Minister in respect of records of personal information contained in each of those documents.

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- (5) Where an application is transferred to an agency or Minister under this section, the agency or Minister making the transfer must:
  - (a) inform the person making the application of the transfer; and
  - (b) if it is necessary to do so in order to enable the other agency or Minister to deal with the application, send the document concerned to the other agency or Minister.
- (6) Where an application is transferred to an agency or a Minister under this section, the application is to be taken to be an application:
  - (a) made to that agency or Minister under section 48; and
  - (b) received by the agency or Minister at the time at which it was first received by an agency or Minister.
- (7) Where:
  - (a) an application has been transferred to an agency or Minister in accordance with this section; and
  - (b) the agency or Minister to whom the application has been transferred decides to amend or annotate, under this Part, a record of personal information to which the application relates;the agency or Minister must, by written notice, notify the agency or Minister who made the transfer:
  - (c) of that decision; and
  - (d) of any amendment or annotation made by the first-mentioned agency or Minister in relation to that record.
- (8) Where the agency or Minister receiving a notice under subsection (7) is in possession of a document containing the record of personal information to which the application relates, the agency or Minister must, upon receiving the notice, amend or annotate the record in the same manner as the record was amended or annotated by the agency or Minister to whom the application was transferred.

**51D Notification etc. of a decision under this Part**

- (1) Where an application is made to an agency or Minister under this Part, the agency or Minister must take all reasonable steps to enable the applicant to be notified of a decision on the application as soon as practicable but in any case not later than 30 days after

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the day on which the request is received by or on behalf of the agency or Minister.

- (2) Section 23 applies in relation to a decision on an application made under section 48.
- (3) Section 26 applies in relation to a decision made under this Part refusing to amend or annotate a record as if that decision were a decision made under Part III refusing to grant access to a document in accordance with a request made under subsection 15(1).

**51E Comments on annotations**

Nothing in this Part prevents an agency or Minister adding the agency's or Minister's comments to an annotation made to a record of information under section 51 or 51B.

## **Part VI—Review of decisions**

### **53 Interpretation**

For the purposes of this Part, unless the contrary intention appears:

- (a) a certificate given under subsection 33(4), 33A(4), 34(4) or 35(4) in respect of a document as described in a request shall be deemed to be a certificate given in respect of the document so described notwithstanding that the certificate does not acknowledge the existence or non-existence of the document so described; and
- (b) a claim that a document would, if it exists, be an exempt document under section 33, 33A, 34 or 35 shall be deemed to be a claim that the document is an exempt document under that section notwithstanding that the existence or non-existence of the document is not acknowledged.

### **54 Internal review**

- (1) Subject to subsection (1A), where a decision has been made, in relation to a request to an agency, otherwise than by the responsible Minister or principal officer of the agency, being:
  - (a) a decision refusing to grant access to a document in accordance with a request; or
  - (b) a decision granting access to a document but not granting, in accordance with the request, access to all documents to which the request relates; or
  - (ba) a decision purporting to grant, in accordance with a request, access to all documents to which the request relates, but not actually granting that access; or
  - (c) a decision to defer the provision of access to a document; or
  - (d) a decision under section 29 relating to imposition of a charge or the amount of a charge; or
  - (e) a decision under section 30A relating to remission of an application fee; or
  - (f) a decision to grant access to a document only to a qualified person under subsection 41(3); or

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- (g) a decision refusing to amend a record of personal information in accordance with an application made under section 48; or
- (h) a decision refusing to annotate a record of personal information in accordance with an application made under section 48;

the applicant may, by application in writing to the agency accompanied by any application fee in respect of the application, request a review of the decision.

(1A) The application must be made:

- (a) in the case of a decision of a kind mentioned in paragraphs (1)(a), (c), (d), (e), (g) and (h)—within 30 days, or such further period as the agency allows, after the day on which the decision is notified to the applicant; or
- (b) in the case of a decision of a kind mentioned in paragraph (1)(b), (ba) or (f):
  - (i) within 30 days, or such further period as the agency allows, after the day on which the decision is notified to the applicant; or
  - (ii) within 15 days after the day on which the access referred to in that paragraph was granted;

whichever period is longer.

(1B) A decision by an agency to allow a further period for making an application may be made whether or not the time for making such an application has already expired.

(1C) Subject to subsection (1F), where:

- (a) arrangements of the kind mentioned in section 26A have been entered into between the Commonwealth and a State; and
- (b) an agency has decided, in relation to a request to the agency for access to a document that relates to the State in a way mentioned in paragraph 26A(1)(a), that the document, or an edited copy of the document, is not an exempt document under section 33A; and
- (c) the decision was not made by the responsible Minister or principal officer of the agency;

the State may, by application in writing to the agency, request a review of the decision.

- (1D) Subject to subsection (1F), where:
- (a) on a request of a kind mentioned in subsection 27(1) being made to an agency, the agency has decided that the document to which the request relates, or an edited copy of the document, being a document or edited copy that contains information concerning a person, organisation or proprietor of an undertaking, is not an exempt document under section 43 by virtue of containing that information; and
  - (b) the decision was not made by the responsible Minister or principal officer of the agency;
- the person, organisation or proprietor may, by application in writing to the agency, request a review of the decision.
- (1E) Subject to subsection (1F), where:
- (a) on a request of a kind mentioned in subsection 27A(1AA) being made to an agency, the agency has decided that the document to which the request relates, or an edited copy of the document, being a document or edited copy that contains personal information about a person, is not an exempt document under section 41 by virtue of containing that information; and
  - (b) the decision was not made by the responsible Minister or principal officer of the agency;
- the person may, by application in writing to the agency, request a review of the decision.
- (1F) An application under subsection (1C), (1D) or (1E) must be made within 30 days, or such further period as the agency allows, after the day on which notice of the decision was given to the applicant.
- (1G) An agency's power under subsection (1A) or (1F) to allow a further period for making an application may be exercised by an officer of the agency acting within the scope of authority exercisable by him or her in accordance with the arrangements approved by the responsible Minister or principal officer of the agency.
- (2) Subject to subsection (3), where an application for a review of a decision is made to the agency under this section, it must as soon as practicable arrange for a person (not being the person who made the decision) to conduct such reviews to review the decision and make a fresh decision.
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- (3) Subsections (1), (1C), (1D) and (1E) do not apply in relation to:
  - (a) a decision made on a review under this section; or
  - (b) a decision in relation to the provision of access to a document upon a request that is, under subsection 56(1) or (3), to be deemed to have been given.
- (4) The provisions of section 26 extend to a decision made under this section.

**55 Applications to Administrative Appeals Tribunal**

- (1) Subject to this section, an application may be made to the Administrative Appeals Tribunal for review of:
  - (a) a decision refusing to grant access to a document in accordance with a request; or
  - (aa) a decision granting access to a document but not granting, in accordance with a request, access to all documents to which the request relates; or
  - (ab) a decision purporting to grant, in accordance with a request, access to all documents to which the request relates, but not actually granting that access; or
  - (b) a decision to defer the provision of access to a document; or
  - (c) a decision refusing to allow a further period for making an application under subsection 54(1) for a review of a decision; or
  - (d) a decision under section 29 relating to imposition of a charge or the amount of a charge; or
  - (e) a decision under section 30A relating to remission of an application fee; or
  - (f) a decision to grant access to a document only to a qualified person under subsection 41(3); or
  - (g) a decision refusing to amend a record of personal information in accordance with an application made under section 48; or
  - (h) a decision refusing to annotate a record of personal information in accordance with an application made under section 48.
- (2) Subject to subsection (3), where, in relation to a decision referred to in subsection (1), a person is or has been entitled to apply under section 54 for a review of the decision, that person is not entitled to make an application under subsection (1) in relation to that

decision, but may make such an application in respect of the decision made on such a review.

- (3) Subsection (2) does not prevent an application to the Tribunal in respect of a decision where:
- (a) the person concerned has applied under section 54 for a review of the decision;
  - (b) a period of 30 days has elapsed since the day on which that application was received by or on behalf of the agency concerned; and
  - (c) he or she has not been informed of the result of the review;
- and such an application to the Tribunal may be treated by the Tribunal as having been made within the time allowed by subsection (4) if it appears to the Tribunal that there was no unreasonable delay in making the application to the Tribunal.
- (4) Notwithstanding section 29 of the *Administrative Appeals Tribunal Act 1975*, the period within which (subject to any extension granted by the Tribunal) an application under subsection (1) of this section is to be made in respect of a decision is:
- (a) except where paragraph (b) or (c) applies—the period commencing on the day on which notice of the decision was given to the applicant in accordance with section 26 and ending on the sixtieth day after that day;
  - (b) where the decision is a decision that is to be deemed by subsection 56(1) or (3) to have been made—the period commencing on the day on which the decision is to be deemed to have been made and ending on the sixtieth day after that day; or
  - (c) where subsection 57(3) is applicable—the period commencing on the day on which the Ombudsman has informed the applicant as referred to in that subsection and ending on the sixtieth day after that day.
- (5) The Tribunal's power to make a decision on a review of a decision refusing to grant access to a document on a ground mentioned in section 24A includes a power to require the agency or Minister concerned to conduct further searches for the document.
- (5A) The Tribunal's power to make a decision on a review of a decision of a kind mentioned in paragraph (1)(ab) includes a power to

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require the agency or Minister concerned to conduct further searches for the document.

- (6) The Tribunal must not, on a review of a decision of a kind mentioned in paragraph (1)(g), make a decision that requires, or has the effect of requiring, an amendment to be made to a record if it is satisfied that:
- (a) the record is a record of a decision, under an enactment, by a court, tribunal, authority or person; or
  - (b) the decision whether to amend the document involves a determination of a question that the applicant concerned is, or has been, entitled to have determined by a court or tribunal (other than the Tribunal); or
  - (c) the amendment relates to a record of an opinion to which neither of the following applies;
    - (i) the opinion was based on a mistake of fact;
    - (ii) the author of the opinion was biased, unqualified to form the opinion or acted improperly in conducting the factual inquiries that led to the formation of the opinion.

**56 Application to Tribunal where decision delayed**

- (1) Subject to this section, where:
- (a) a request has been made to an agency or Minister in accordance with section 15; and
  - (b) the period of 30 days, in relation to the request, mentioned in paragraph 15(5)(b), or that period as extended under subsection 15(6), has expired since the day on which the request was received by or on behalf of the agency or Minister; and
  - (c) notice of a decision on the request has not been received by the applicant;

the principal officer of the agency or the Minister shall, for the purpose of enabling an application to be made to the Tribunal under section 55, be deemed to have made, on the last day of that period, a decision refusing to grant access to the document.

- (1A) Subject to this section, where:
- (a) an application has been made to an agency or Minister under section 48; and

- (b) a period of 30 days, in relation to the application, mentioned in section 51D has expired since the day on which the application was received by or on behalf of the agency or Minister; and
  - (c) notice of a decision on the request has not been received by the applicant;
- the principal officer of the agency or the Minister is, for the purpose of enabling an application to be made to the Tribunal under section 55, taken to have made, on the last day of that period, a decision refusing to amend or annotate the record of personal information to which the application relates.
- (2) Where a complaint is made to the Ombudsman under the *Ombudsman Act 1976* concerning failure to make and notify to the applicant a decision on a request (whether the complaint was made before or after the expiration of the period referred to in subsection (1) or (1A), as the case may be), an application to the Tribunal under section 55 of this Act by virtue of this section shall not be made before the Ombudsman has informed the applicant of the result of the complaint in accordance with section 12 of the *Ombudsman Act 1976*.
  - (3) Where such a complaint is made before the expiration of the period referred to in subsection (1) or (1A), as the case may be, the Ombudsman, after having investigated the complaint, may, if he or she is of the opinion that there has been unreasonable delay by an agency in connection with the request, grant to the applicant a certificate certifying that he or she is of that opinion, and, if the Ombudsman does so, the principal officer of the agency or the Minister, as the case requires, shall, for the purpose of enabling application to be made to the Tribunal under section 55, be deemed to have made, on the day on which the certificate is granted, a decision refusing to grant access to the document.
  - (4) The Ombudsman shall not grant a certificate under subsection (3) where the request to which the complaint relates was made to, or has been referred to, a Minister and is awaiting decision by him or her.
  - (5) Where, after an application has been made to the Tribunal by virtue of this section but before the Tribunal has finally dealt with the application, a decision is given, other than a decision:

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- (a) to grant, without deferment, access to the document in accordance with the request; or
  - (b) to amend or annotate the record of personal information to which the application relates;
- the Tribunal may treat the proceedings as extending to a review of that decision in accordance with this Part.
- (6) Before dealing further with an application made by virtue of this section, the Tribunal may, on the application of the agency or Minister concerned, allow further time to the agency or Minister to deal with the request.

**57 Complaints to Ombudsman**

- (1) Subject to this Act, a person may complain to the Ombudsman concerning action taken by an agency to which this section applies in the exercise of powers or the performance of functions under this Act.
- (2) In spite of anything contained in this Act, but subject to subsection 6(2) of the Ombudsman Act, the exercise of the powers of the Ombudsman under the Ombudsman Act in respect of matters arising under this Act is not precluded or restricted because of the rights conferred on persons by this Act to make applications to the Tribunal.
- (3) Where a complaint is made to the Ombudsman under the Ombudsman Act concerning a decision under this Act, an application to the Tribunal for a review of the decision must not be made before the Ombudsman has informed the applicant of the result of the complaint under section 12 of the Ombudsman Act.
- (4) In spite of anything contained in the Ombudsman Act, a report under that Act to a complainant in respect of a complaint arising out of a request under this Act must not contain information of the kind referred in subsection 25(1) of this Act.
- (5) Where:
  - (a) the Ombudsman has commenced an investigation of a decision made under this Act not to grant a request for access to a document; and

- (b) a certificate is furnished to the Ombudsman under paragraph 9(3)(a), (c) or (d) of the Ombudsman Act in relation to that investigation;

the certificate is not regarded as affecting the Ombudsman's right to seek from any person the reasons for any decision made under this Act that the document is an exempt document or to require any person to furnish any information or to answer any questions concerning the decision.

- (6) The Ombudsman must not, in a report under section 15 of the Ombudsman Act, recommend that an amendment be made to a record if he or she is satisfied that:
- (a) the record is a record of a decision, under an enactment, by a court, tribunal, authority or person; or
  - (b) the decision whether to amend the document involves determination of a question that the person seeking amendment of the record is, or has been, entitled to have determined by a court or tribunal; or
  - (c) the amendment relates to a record of an opinion to which neither of the following applies:
    - (i) the opinion was based on a mistake of fact;
    - (ii) the author of the opinion was biased, unqualified to form the opinion or acted improperly in conducting the factual inquiries that led to the formation of the opinion.
- (7) In this section:
- (a) a reference to the taking of action has the same meaning as it has for the purposes of the Ombudsman Act; and
  - (b) action is regarded as having been taken by an agency to which this section applies in the circumstances in which it would be regarded as having been taken for the purposes of the Ombudsman Act.

- (8) In this section:

***agency to which this section applies*** means an agency that is a prescribed authority within the meaning of the Ombudsman Act.

***Ombudsman Act*** means the *Ombudsman Act 1976*.

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**58 Powers of Tribunal**

- (1) Subject to this section, in proceedings under this Part, the Tribunal has power, in addition to any other power, to review any decision that has been made by an agency or Minister in respect of the request and to decide any matter in relation to the request that, under this Act, could have been or could be decided by an agency or Minister, and any decision of the Tribunal under this section has the same effect as a decision of the agency or Minister.
- (2) Where, in proceedings under this Act, it is established that a document is an exempt document, the Tribunal does not have power to decide that access to the document, so far as it contains exempt matter, is to be granted.
- (3) Where there is in force in respect of a document a certificate under section 33, 33A, 34, 35 or 36, the powers of the Tribunal do not extend to reviewing the decision to give the certificate, but the Tribunal, constituted in accordance with section 58B, may determine such question in relation to that certificate as is provided for in whichever of subsections (4), (5) and (5A) applies in relation to that certificate.
- (4) Where application is or has been made to the Tribunal for the review of a decision refusing to grant access to a document in accordance with a request, being a document that is claimed to be an exempt document under section 33, 33A, 34 or 35 and in respect of which a certificate (other than a certificate of a kind referred to in subsection (5A)) is in force under that section, the Tribunal shall, if the applicant so requests, determine the question whether there exist reasonable grounds for that claim.
- (5) Where application is or has been made to the Tribunal for the review of a decision refusing to grant access to a document in accordance with a request, being a document that is claimed to be an exempt document under section 36 and in respect of which a certificate is in force under that section, the Tribunal shall, in a case where it is satisfied that the document is a document to which paragraph 36(1)(a) applies, if the applicant so requests, determine the question whether there exist reasonable grounds for the claim that the disclosure of the document would be contrary to the public interest.

- (5A) Where application is or has been made to the Tribunal for the review of a decision refusing to grant access to a document in accordance with a request, being a document as described in the request in respect of which a certificate is in force under subsection 33(4) or 33A(4), the Tribunal shall, if the applicant so requests, determine the question whether there exist reasonable grounds for the claim that information as to the existence or non-existence of the document as so described would, if contained in a document of an agency:
- (a) in a case where the certificate was given under subsection 33(4)—cause that document of an agency to be an exempt document for a reason referred to in subsection 33(1); or
  - (b) in a case where the certificate was given under subsection 33A(4):
    - (i) cause that document of an agency to be an exempt document for a reason referred to in subsection 33A(1); and
    - (ii) not cause that document of an agency to be a document containing matter the disclosure of which under this Act would be, on balance, in the public interest.
- (6) The powers of the Tribunal under this section extend to matters relating to charges payable under this Act in relation to a request.
- (7) Where:
- (a) application is or has been made to the Administrative Appeals Tribunal for review of a decision refusing to grant a person access to a document in accordance with a request; and
  - (b) the agency to which or the Minister to whom the request was made:
    - (i) has given to the applicant a notice under this Act of the decision, being a notice that does not include a statement (in whatever terms expressed) to the effect that access to the document is being refused for the reason that, by virtue of the operation of subsection 12(2) or of that subsection as modified by regulations in pursuance of subsection 12(3), the applicant is not entitled to access to that document; or
    - (ii) informs or has informed the Tribunal, either before or in the course of the proceeding for the review of the

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decision, that the agency or the Minister, as the case requires, does not intend, or does not any longer intend, to refuse access to the document for the reason referred to in subparagraph (i);

then, for the purposes of the review by the Tribunal of that decision, this Act has effect as if subsection 12(2), or that subsection as so modified, as the case requires, had not been enacted.

**58A Proceedings upon exercise of powers under subsection 58(4), (5) or (5A)**

- (1) Where, in considering a question referred to in subsection 58(4), (5) or (5A) in relation to a document in respect of which a certificate has been given, the Tribunal determines that there do not exist reasonable grounds for the claim to which the question relates, the appropriate Minister shall, not later than 28 days after the determination of the Tribunal is communicated to him or her, make a decision:
  - (a) to revoke the certificate; or
  - (b) not to revoke the certificate.
- (2) Where a Minister makes a decision under subsection (1) to revoke a certificate:
  - (a) any claim made in the certificate is to be taken, for the purposes of this Act, to have been withdrawn; and
  - (b) in a case where the certificate was given under subsection 33(4) or 33A(4)—the Minister shall, forthwith upon the revocation of the certificate, inform the applicant of the existence or non-existence of the document to which the certificate relates.
- (3) Where a Minister makes a decision under subsection (1) not to revoke a certificate, he or she shall:
  - (a) cause notice in writing of the decision to be furnished to the applicant forthwith; and
  - (b) cause a copy of the notice to be laid before each House of the Parliament within 5 sitting days of that House after the notice is so furnished; and
  - (c) on having caused a copy of the notice to be laid in the House in which the Minister sits, read the notice to the House.

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- (4) A notice under subsection (3) shall state the findings of the Minister giving the notice on any material question of fact, the material on which those findings were based, and the reasons for the decision.
- (5) A Minister is not required to include in a notice under subsection (3) matter that is of such a nature that its inclusion in a document of an agency would cause that document to be an exempt document under section 33, 33A, 34, 35 or 36.
- (6) A Minister is not required to include in a notice under subsection (3) information as to the existence or non-existence of a document or the existence or non-existence of a state of fact if that information would, if included in a document of an agency, cause that last-mentioned document to be an exempt document under section 33, 33A, 34 or 35.
- (7) Section 13 of the *Administrative Decisions (Judicial Review) Act 1977* does not apply to a decision of a Minister under this section.
- (8) Nothing in this section shall be taken to imply that a certificate under subsection 33, 33A, 34, 35 or 36 may not be revoked otherwise than in pursuance of a decision under subsection (1).
- (9) For the purposes of this section, **appropriate Minister** means:
  - (a) in relation to a document in respect of which there is a certificate in force under section 33, 33A or 36—the Minister who gave, or whose delegate gave, that certificate; or
  - (b) in relation to a document in respect of which there is a certificate in force under section 34 or 35—the Prime Minister.

**58B Constitution of Tribunal for purposes of proceedings under subsection 58(4), (5) or (5A)**

- (1) Where a request is made to the Tribunal in accordance with subsection 58(4), (5) or (5A), the Tribunal shall be constituted in accordance with subsection (2) for the purposes of any proceeding for the determination of the question to which the request relates.
- (2) For the purposes of a proceeding referred to in subsection (1), the Tribunal shall be constituted by:
  - (a) 3 presidential members; or

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- (b) a presidential member alone.
- (3) In its application to a proceeding referred to in subsection (1), section 21A of the *Administrative Appeals Tribunal Act 1975* applies as if:
  - (a) subsection (1) of that section were omitted and the following subsection substituted:

“(1) At any time during the hearing of a proceeding before the Tribunal constituted in accordance with subsection 58B(2) of the *Freedom of Information Act 1982* by a presidential member alone, a party to the proceeding may make an application to the Tribunal as constituted for the purposes of that proceeding requesting that the Tribunal be reconstituted for the purposes of that proceeding.”; and
  - (b) subsection (3) of that section were omitted and the following subsection substituted:

“(3) The President may, after taking the submissions into account, if he or she considers that the matters to which the proceeding relates are of such public importance as to justify him or her in so doing, give a direction varying the constitution of the Tribunal for the purposes of that proceeding so that the Tribunal is constituted by 3 presidential members.”.
- (4) In its application to a proceeding referred to in subsection (1), section 22 of the *Administrative Appeals Tribunal Act 1975* applies as if there were inserted after paragraph (1)(aa) of that section the following paragraphs:
  - “(ab) if the Tribunal is constituted by presidential members of whom at least 2 are Judges and none of whom is the President—the senior Judge shall preside;
  - (ac) if the Tribunal is constituted by presidential members none of whom is a Judge—one of those presidential members who is directed by the President to do so shall preside;”.

**58C Hearing of certain proceedings before the Tribunal**

- (1) This section has effect notwithstanding anything contained in the *Administrative Appeals Tribunal Act 1975*.

(2) At the hearing of a proceeding referred to in subsection 58B(1), the Tribunal:

(a) shall hold in private the hearing of any part of the proceeding during which evidence or information is given, or a document is produced, to the Tribunal by:

- (i) an agency or an officer of an agency;
- (ii) a Minister or a member of the staff of a Minister; or
- (iii) a member, an officer, or a member of the staff, of a body referred to in subsection 7(1) or the person referred to in that subsection;

or during which a submission is made to the Tribunal by or on behalf of an agency or Minister, being a submission in relation to the claim:

(iv) in the case of a document in respect of which there is in force a certificate under subsection 33(2) or 33A(2) or section 34 or 35—that the document is an exempt document;

(v) in the case of a document in respect of which there is in force a certificate under section 36—that the disclosure of the document would be contrary to the public interest; or

(vi) in the case where a certificate is in force under subsection 33(4) or 33A(4)—that information as to the existence or non-existence of a document as described in a request would, if contained in a document of an agency:

(A) in a case where the certificate was given under subsection 33(4)—cause that document of an agency to be an exempt document for a reason referred to in subsection 33(1); or

(B) in a case where the certificate was given under subsection 33A(4)—cause subsection (2A) to apply to that document of an agency; and

(b) subject to subsection (4), shall hold the hearing of any other part of the proceeding in public.

(2A) For the purpose of sub-subparagraph 58C(2)(a)(vi)(B), this subsection applies to a document of an agency if the information (as mentioned in subparagraph 58C(2)(a)(vi)) would:

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- (a) cause that document of an agency to be an exempt document for a reason referred to in subsection 33A(1); and
  - (b) not cause that document of an agency to be a document containing matter the disclosure of which under this Act would be, on balance, in the public interest.
- (3) Where the hearing of any part of a proceeding is held in private in accordance with subsection (2), the Tribunal:
  - (a) may, by order, give directions as to the persons who may be present at that hearing; and
  - (b) shall give directions prohibiting the publication of:
    - (i) any evidence or information given to the Tribunal;
    - (ii) the contents of any documents lodged with, or received in evidence by, the Tribunal; and
    - (iii) any submission made to the Tribunal; at that hearing.
- (4) Where, in relation to a proceeding referred to in subsection 58B(1), the Tribunal is satisfied that it is desirable to do so by reason of the confidential nature of any evidence, information or matter or for any other reason, the Tribunal may, by order:
  - (a) direct that the hearing of a part of the proceeding that, but for this subsection, would be held in public shall take place in private and give directions as to the persons who may be present at that hearing;
  - (b) give directions prohibiting or restricting the publication of:
    - (i) the contents of any document lodged with the Tribunal in relation to the proceeding; or
    - (ii) any evidence or information given to the Tribunal, the contents of any document received in evidence by the Tribunal, or any submission made to the Tribunal, in relation to the proceeding otherwise than at a hearing held in private in accordance with subsection (2); or
  - (c) give directions prohibiting or restricting the disclosure to some or all of the parties to the proceeding of evidence given before the Tribunal, or the contents of a document lodged with, or received in evidence by, the Tribunal, in relation to the proceeding.
- (5) A direction given by the Tribunal under paragraph (3)(b) or (4)(b), does not prevent a person referred to in subparagraph (2)(a)(i), (ii)

or (iii) from disclosing, in the course of the performance of his or her duties, any matter to any other person.

**58D Modification of section 42 of the *Administrative Appeals Tribunal Act 1975***

In its application to a proceeding referred to in subsection 58B(1) of this Act, section 42 of the *Administrative Appeals Tribunal Act 1975* applies as if subsection (3) of that section were omitted and the following subsection substituted:

“(3) A question of law arising in a proceeding before the Tribunal constituted in accordance with subsection 58B(2) of the *Freedom of Information Act 1982* by 3 presidential members shall:

- (a) in a case where one only of those members is a Judge—be decided according to the opinion of that member; and
- (b) in a case where 2 of those members are Judges—be decided according to the opinion of the majority.”.

**58E Production to the Tribunal of documents in relation to which a certificate has been issued**

- (1) In any proceedings before the Tribunal under this Act in relation to a document in respect of which there is in force a certificate under section 33, 33A, 34, 35 or 36, the Tribunal is entitled to require the production of the document in accordance with this section and not otherwise.
- (2) Where, in considering a question referred to in subsection 58(4), (5) or (5A) in relation to a document, the Tribunal is not satisfied, by evidence on affidavit or otherwise, that there exist reasonable grounds for the claim to which the question relates, the Tribunal may require the document to be produced for inspection by the Tribunal as constituted for the purposes of the proceeding.
- (3) After an inspection of a document under this section the Tribunal shall return the document to the person by whom it was produced without permitting any person who is not a member of the Tribunal as constituted for the purposes of the proceeding, or a member of the staff of the Tribunal in the course of the performance of his or her duties as a member of that staff, to have access to the document or disclosing the contents of the document to any such person.

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**58F Review of certain decisions in respect of documents relating to the Government of a State**

- (1) Where:
  - (a) arrangements of the kind referred to in section 26A have been entered into between the Commonwealth and a State; and
  - (b) on a request having been made for access to a document that relates to the State in a way mentioned in paragraph 26A(1)(a), an agency or Minister decides that the document to which the request relates, or an edited copy of the document, is not an exempt document under section 33A; the State may apply to the Tribunal for a review of the decision.
- (2) Where an application is made in accordance with subsection (1):
  - (a) the provisions of this Part (other than section 55) apply in like manner as they apply in relation to an application for review of a decision refusing to grant access to a document; and
  - (b) the agency or Minister concerned shall forthwith inform the person who made the request of the application.
- (2A) In spite of section 29 of the *Administrative Appeals Tribunal Act 1975*, an application under subsection (1) must be made within 30 days after the day on which notice of the decision was given to the State.
- (3) Where:
  - (a) arrangements of the kind referred to in section 26A have been entered into between the Commonwealth and a State; and
  - (b) on a request having been made for access to a document that relates to the State in a way mentioned in paragraph 26A(1)(a), an agency or Minister decides not to grant access to the document to which the request relates; and
  - (c) an application is made to the Tribunal for a review of the decision; the agency or Minister must, as soon as practicable, inform the State of the application.

**59 Review of certain decisions in respect of documents relating to business affairs etc.**

- (1) Where, on a request having been made for access to a document containing information concerning:
- (a) a person's business or professional affairs; or
  - (b) the business, commercial or financial affairs of an organisation or undertaking;
- an agency or Minister decides that the document to which the request relates, or an edited copy of the document, is not an exempt document under section 43, the person or organisation, or the proprietor of the undertaking, may apply to the Tribunal for a review of the decision.
- (2) Where an application is made in accordance with subsection (1):
- (a) the provisions of this Part (other than section 55) apply in like manner as they apply in relation to an application for review of a decision refusing to grant access to a document; and
  - (b) the agency or Minister concerned shall forthwith inform the person who made the request of the application.
- (2A) In spite of section 29 of the *Administrative Appeals Tribunal Act 1975*, an application by a person, organisation or proprietor under subsection (1) must be made within 30 days after the day on which notice of the decision was given to the person, organisation or proprietor, as the case may be.
- (3) Where:
- (a) on a request having been made for access to a document containing information concerning:
    - (i) a person's business or professional affairs; or
    - (ii) the business, commercial or financial affairs of an organisation or undertaking;an agency or Minister decides not to grant access to the document; and
  - (b) an application is made to the Tribunal for a review of the decision;
- the agency or Minister must, as soon as practicable, take all reasonable steps to inform the person or organisation, or the proprietor of the undertaking, of the application.

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**59A Review of certain decisions in respect of documents containing personal information**

- (1) Where, on a request having been made for access to a document containing personal information about a person (including a deceased person), an agency or Minister decides that the document to which the request relates, or an edited copy of the document, is not an exempt document under section 41, the person, or, if the person is deceased, the legal personal representative of the person, may apply to the Tribunal for a review of the decision.
- (2) Where an application is made in accordance with subsection (1):
  - (a) the provisions of this Part (other than section 55) apply in like manner as they apply in relation to an application for review of a decision refusing to grant access to a document; and
  - (b) the agency or Minister concerned shall forthwith inform the person who made the request of the application.
- (2A) In spite of section 29 of the *Administrative Appeals Tribunal Act 1975*, an application by a person under subsection (1) must be made within 30 days after the day on which notice of the decision was given to the person.
- (3) Where:
  - (a) on a request having been made for access to a document containing personal information about a person (including a deceased person), an agency or Minister decides not to grant access to the document; and
  - (b) an application is made to the Tribunal for a review of the decision;the agency or Minister must, as soon as practicable, take all reasonable steps to inform the person, or, if the person is deceased, the legal personal representative of the person, of the application.

**60 Parties**

For the purposes of this Part and of the application of the *Administrative Appeals Tribunal Act 1975* in respect of proceedings under this Part:

- (a) a decision given by a person on behalf of an agency shall be deemed to have been given by the agency;

- (b) in proceedings by virtue of section 56, the agency or Minister to which or to whom the request was made shall be a party to the proceedings; and
- (c) in proceedings for the determination of a question referred to in subsection 58(4), (5) or (5A) in relation to a document, the Minister who is the appropriate Minister for the purposes of section 58A in respect of that document shall, upon application to the Tribunal, be entitled to be a party to the proceedings.

## **61 Onus**

- (1) Subject to subsection (2), in proceedings under this Part, the agency or Minister to which or to whom the request was made has the onus of establishing that a decision given in respect of the request was justified or that the Tribunal should give a decision adverse to the applicant.
- (2) In proceedings under section 58F, 59 or 59A, the party to the proceedings that opposes access being given to a document in accordance with a request has the onus of establishing that a decision refusing the request is justified or that the Tribunal should give a decision adverse to the applicant.

## **62 Application of section 28 of Administrative Appeals Tribunal Act etc.**

- (1) Where, in relation to a decision in respect of a request, the applicant has been given a notice in writing under section 26, section 28 of the *Administrative Appeals Tribunal Act 1975* does not apply to that decision.
- (2) If the Tribunal, upon application for a declaration under this subsection made to it by a person to whom a notice has been furnished in pursuance of subsection 26(1), considers that the notice does not contain adequate particulars of findings on material questions of fact, an adequate reference to the evidence or other material on which those findings were based or adequate particulars of the reasons for the decision, the Tribunal may make a declaration accordingly, and, where the Tribunal makes such a declaration, the person responsible for furnishing the notice shall, as soon as practicable but in any case within 28 days after the

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Tribunal makes the declaration, furnish to the applicant an additional notice or additional notices containing further and better particulars in relation to matters specified in the declaration with respect to those findings, that evidence or other material or those reasons.

**63 Tribunal to ensure non-disclosure of certain matters**

- (1) In proceedings under this Part, the Tribunal shall make such order or orders under subsection 35(2) of the *Administrative Appeals Tribunal Act 1975* as it thinks necessary having regard to the nature of the proceedings and, in particular, to the necessity of avoiding the disclosure to the applicant of:
  - (a) exempt matter contained in a document to which the proceedings relate; or
  - (b) information of the kind referred to in subsection 25(1).
- (2) Notwithstanding anything contained in the *Administrative Appeals Tribunal Act 1975*:
  - (a) the Tribunal shall not, in its decision, or reasons for a decision, in a matter arising under this Act, include any matter or information of a kind referred to in subsection (1); and
  - (b) the Tribunal may receive evidence, or hear argument, in the absence of the applicant or his or her representative where it is necessary to do so in order to prevent the disclosure to the applicant of matter or information of a kind referred to in subsection (1).

**64 Production of exempt documents**

- (1) Where there are proceedings before the Tribunal under this Act in relation to a document that is claimed to be an exempt document, section 37 of the *Administrative Appeals Tribunal Act 1975* does not apply in relation to the document but the Tribunal, for the purpose of deciding whether the document is an exempt document, may require the document to be produced for inspection by members of the Tribunal only and if, upon the inspection, the Tribunal is satisfied that the document is an exempt document, the Tribunal shall return the document to the person by whom it was produced without permitting any person other than a member of the Tribunal as constituted for the purposes of the proceeding, or a

member of the staff of the Tribunal in the course of the performance of his or her duties as a member of that staff, to have access to the document or disclosing the contents of the document to any such person.

- (1A) If, for the purposes of proceedings before the Tribunal under this Act in relation to a document that is claimed to be an exempt document, the document is voluntarily produced to the Tribunal, then only:
- (a) the members of the Tribunal as constituted for the purposes of the review; or
  - (b) a member of the staff of the Tribunal in the course of the performance of his or her duties as a member of that staff; may inspect, or have access to, the document.
- (2) The Tribunal may require the production, for inspection by members of the Tribunal only, of an exempt document for the purpose of determining whether it is practicable for an agency or a Minister to grant access to a copy of the document with such deletions as to make the copy not an exempt document and, where an exempt document is produced by reason of such a requirement, the Tribunal shall, after inspection of the document by the members of the Tribunal as constituted for the purposes of the proceeding, return the document to the person by whom it was produced without permitting any person other than such a member of the Tribunal, or a member of the staff of the Tribunal in the course of the performance of his or her duties as a member of that staff, to have access to the document or disclosing the contents of the document to any such person.
- (3) Notwithstanding subsections (1) and (2), but subject to subsection (4), the Tribunal is not empowered, in any proceedings other than proceedings to determine a question referred to in subsection 58(4), (5) or (5A), to require:
- (a) the production of a document in respect of which there is in force a certificate under section 33, 33A, 34, 35 or 36; or
  - (b) the giving of information in respect of which a certificate is in force under subsection 33(4) or 33A(4).
- (4) Where a certificate of a kind referred to in paragraph (3)(a) identifies a part or parts of the document concerned in the manner provided in subsection 33(3), 34(3), 35(3) or 36(4), subsection (3)

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does not prevent the Tribunal from requiring the production, in any proceedings before the Tribunal under this Act in relation to the document, of a copy of so much of the document as is not included in the part or parts so identified.

- (4A) In making an order for the purposes of subsection (1), (2) or (4), the Tribunal may require the relevant document to be produced at any time later than 28 days after the decision-maker was given notice of the application, even if that time is before the Tribunal has begun to hear argument or otherwise deal with the matter.
- (5) Subsections (1), (1A) and (2) apply in relation to a document in the possession of a Minister that is claimed by the Minister not to be an official document of the Minister as if references in those subsections to an exempt document were references to a document in the possession of a Minister that is not an official document of the Minister.
- (6) Subsection (1), (1A) or (2) does not operate so as to prevent the Tribunal from causing a document produced in accordance with that subsection to be sent to the Federal Court of Australia in accordance with section 46 of the *Administrative Appeals Tribunal Act 1975*, but, where such a document is so sent to the Court, the Court shall do all things necessary to ensure that the contents of the document are not disclosed (otherwise than in accordance with this Act) to any person other than a member of the Court as constituted for the purpose of the proceeding before the Court or a member of the staff of the Court in the course of the performance of his or her duties as a member of that staff.
- (7) Subsection (6) does not prevent the Federal Court of Australia from causing the document concerned to be sent to the Federal Magistrates Court as mentioned in subparagraph 46(1)(c)(i) of the *Administrative Appeals Tribunal Act 1975*.
- (8) If a document produced in accordance with subsection (1), (1A) or (2) is sent to the Federal Magistrates Court as mentioned in subparagraph 46(1)(c)(i) of the *Administrative Appeals Tribunal Act 1975*, the Federal Magistrates Court must do all things necessary to ensure that the contents of the document are not disclosed (otherwise than in accordance with this Act) to any person other than:

- (a) the Federal Magistrate who constitutes the Federal Magistrates Court for the purposes of the proceeding before the Federal Magistrates Court; or
- (b) a member of the staff of the Federal Magistrates Court in the course of the performance of his or her duties as a member of that staff.

### **65 Evidence of certificates**

In proceedings before the Tribunal under this Part, evidence of a certificate under section 33, 33A, 34, 35 or 36, including evidence of the identity or nature of a document to which the certificate relates, may be given by affidavit or otherwise and such evidence is admissible without production of the certificate or of a document to which it relates.

### **66 Tribunal may make recommendation that costs be available in certain circumstances**

- (1) Where:
  - (a) a person makes application to the Tribunal under section 55 for review of a decision constituting the action to which the complaint relates; and
  - (b) the person is successful, or substantially successful, in his or her application for review;the Tribunal may, in its discretion, recommend to the Attorney-General that the costs of the applicant in relation to the proceedings be paid by the Commonwealth.
- (2) Without limiting the generality of the matters to which the Tribunal may have regard in deciding whether to make a recommendation under subsection (1), the Tribunal shall have regard to:
  - (a) the question whether payment of the costs or any part of the costs would cause financial hardship to the applicant;
  - (b) the question whether the decision of the Tribunal on review will be of benefit to the general public;
  - (c) the question whether the decision of the Tribunal on review will be of commercial benefit to the person making application to the Tribunal; and
  - (d) the reasonableness of the decision reviewed by the Tribunal.

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- (3) The Attorney-General may, pursuant to a recommendation of the Tribunal under subsection (1), authorize the payment of costs to an applicant.

**Part VIII—Miscellaneous****91 Protection against certain actions**

- (1) Where access has been given to a document and:
- (a) the access was required by this Act to be given or would, but for the operation of subsection 12(2) or of that subsection as modified by regulations made in pursuance of subsection 12(3), have been so required to be given; or
  - (b) the access was authorized by a Minister, or by an officer having authority, in accordance with section 23 or 54, to make decisions in respect of requests, in the *bona fide* belief that the access was required by this Act to be given;
- no action for defamation, breach of confidence or infringement of copyright lies against the Commonwealth, an agency, a Minister or an officer by reason of the authorizing or giving of the access, and no action for defamation or breach of confidence in respect of any publication involved in, or resulting from, the giving of the access lies against the author of the document or any other person by reason of that author or other person having supplied the document to an agency or Minister.
- (1A) Subsection (1) applies in relation to the giving of access to a document even if, in giving access, there has been a failure to comply with section 26A, 27 or 27A.
- (1B) No action lies against the Commonwealth, an agency, a Minister or an officer merely because of a failure to comply with section 26A, 27 or 27A in relation to giving access to a document.
- (1C) If a document has been shown to a person, organisation or proprietor for any of the following purposes:
- (a) consultation with a State under subsection 26A(1);
  - (b) enabling the person, organisation or proprietor to make a submission under subsection 27(1);
  - (c) enabling the person or the person's legal personal representative to make a submission under subsection 27A(1);
- then:

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- (d) no action for defamation, breach of confidence or infringement of copyright lies against the Commonwealth, an agency, a Minister or an officer because of the showing of the document; and
  - (e) no action for defamation or breach of confidence in respect of any publication involved in, or resulting from, the showing of the document lies against the author of the document or any other person because of that author or other person having shown the document.
- (2) The giving of access to a document (including an exempt document) in consequence of a request shall not be taken to constitute an authorization or approval:
- (a) for the purposes of the law relating to defamation or breach of confidence—of the publication of the document or its contents by the person to whom access is given;
  - (b) for the purposes of the law of copyright—of the doing, by the person to whom access is given, of any act comprised within the copyright in:
    - (i) any literary, dramatic, musical or artistic work;
    - (ii) any sound recording, cinematograph film, television broadcast or sound broadcast; or
    - (iii) a published edition of a literary, dramatic, musical or artistic work;contained in the document.
- (2A) If a document has been shown to a person, organisation or proprietor for any of the following purposes:
- (a) consultation with a State under subsection 26A(1);
  - (b) enabling the person, organisation or proprietor to make a submission under subsection 27(1);
  - (c) enabling the person or the person's legal personal representative to make a submission under subsection 27A(1);
- the showing of the document is not taken to constitute an authorisation or approval:
- (d) for the purposes of the law relating to defamation or breach of confidence—of the publication of the document or its contents by the person, organisation or proprietor to whom the document is shown; and

- (e) for the purposes of the law of copyright—of the doing, by the person, organisation or proprietor to whom the document is shown, of any act comprised within the copyright in:
  - (i) any literary, dramatic, musical or artistic work; or
  - (ii) any sound recording, cinematograph film, television broadcast or sound broadcast; or
  - (iii) a published edition of a literary, dramatic, musical or artistic work;contained in the document.
- (3) Expressions used in paragraph (2)(b) or (2A)(e) have the same meaning as in the *Copyright Act 1968*.

## **92 Protection in respect of offences**

- (1) Where access has been given to a document and:
  - (a) the access was required by this Act to be given or would, but for the operation of subsection 12(2) or of that subsection as modified by regulations made in pursuance of subsection 12(3), have been so required to be given; or
  - (b) the access was authorized by a Minister, or by an officer having authority, in accordance with section 23 or 54, to make decisions in respect of requests, in the *bona fide* belief that the access was required by this Act to be given;neither the person authorizing the access nor any person concerned in the giving of the access is guilty of a criminal offence by reason only of the authorizing or giving of the access.
- (2) If a document has been shown to a person, organisation or proprietor for any of the following purposes:
  - (a) consultation with a State under subsection 26A(1); or
  - (b) enabling the person, organisation or proprietor to make a submission under subsection 27(1); or
  - (c) enabling the person or the person's legal personal representative to make a submission under subsection 27A(1);neither the person showing the document nor any person concerned in showing it is guilty of a criminal offence only because of the showing of the document.

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**92A Notices etc. may be given by post**

- (1) This section applies if a notice or other document is required or permitted to be given to a person under this Act (whether the expression *give*, or any other expression, is used).
- (2) The notice or document may be given by post.

**93 Reports to Parliament**

- (1) The Minister shall:
  - (a) as soon as practicable after 30 June in each year (but, in respect of 30 June 1985 or any subsequent 30 June, not later than 31 October next following that 30 June) prepare a report on the operation of this Act during the year that ended on that 30 June; and
  - (b) cause that report to be laid before each House of the Parliament within 15 sitting days of that House after the preparation of that report is completed.
- (2) Each agency shall, in relation to the agency, and each Minister shall, in relation to his or her official documents, furnish to the Minister administering this Act such information as he or she requires for the purposes of the preparation of reports under this section and shall comply with any prescribed requirements concerning the furnishing of that information and the keeping of records for the purposes of this section.
- (3) Without limiting the generality of subsection (1) or the kinds of information which an agency or a Minister might be required, in pursuance of subsection (2), to furnish to the Minister administering this Act, a report of the Minister administering this Act shall set out:
  - (a) particulars of the operations of each agency and Minister under this Act during the year to which the report relates, including, in relation to each agency and Minister:
    - (i) the number of requests under section 15 for access to documents received during the year;
    - (ii) the number of requests received at any time in respect of which during the year:

- (A) access other than partial access was granted to the document or all of the documents to which the request related;
  - (B) access was refused to the document or all of the documents to which the request related; or
  - (C) partial access was granted;
- (iii) the number of applications made during the year for the review of decisions under section 54 and particulars of the results of such reviews;
  - (iv) the number of applications made during the year to the Tribunal for the review of decisions and particulars of the results of such reviews;
  - (v) particulars of the total charges and application fees collected during the year in dealing with requests and other applications whenever received; and
  - (vi) the number of requests received during the year to amend records under section 48 and particulars of the results of such requests;
- (b) an identification of the guidelines, if any, issued during the year to which the report relates by the Minister administering this Act, or by the Department administered by that Minister, in relation to the manner in which agencies should comply with their obligations under this Act; and
  - (c) a description of any other efforts by the Department referred to in paragraph (b) to assist agencies to comply with their obligations under this Act.
- (3A) For the purposes of subparagraph (3)(a)(ii), partial access shall be taken to have been granted in respect of a request if either or both of the following conditions are satisfied in relation to the request:
- (a) access was granted to a copy of the document or of any of the documents to which the request related with deletions;
  - (b) the request related to 2 or more documents and access was refused to any one or more of the documents.
- (4) The first report by the Minister under subsection (1) shall include particulars of the extent to which the responsible Minister of each agency, and each agency, has, respectively, complied with sections 8 and 9 of this Act.

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**94 Regulations**

- (1) The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters that are required or permitted by this Act to be prescribed, or are necessary or convenient to be prescribed for carrying out or giving effect to this Act, and, in particular, making provision for or in relation to:
  - (a) the making of charges of amounts, or at rates, fixed by or in accordance with the regulations in respect of requests for access to documents or in respect of the provision of access to documents (including the provision of copies or transcripts) in accordance with this Act, including requiring deposits on account of such charges; and
  - (b) the officers who may give decisions on behalf of an agency.
- (2) Without limiting the generality of subsection (1), regulations under that subsection making provision for or in relation to the making of charges:
  - (a) shall not be such that the amount or rate of charge varies according to whether the applicant is included in one class of applicant or another class of applicant or according to whether a document is a document of one agency or of an agency included in one class of agency or is a document of another agency or of an agency included in another class of agency;
  - (b) shall, if a charge is made for time that is spent by an agency or a Minister in undertaking any of the following activities:
    - (i) searching for or retrieving a document;
    - (ii) making, or doing things related to making, a decision on a request for access;provide for the charge in respect of that activity to be calculated at a single hourly rate that shall be applied by the agency or Minister in respect of any request, regardless of the classification or designation of the officer who undertakes the work involved; and
  - (d) may provide for a charge to be made that takes into account the direct costs incurred by an agency or a Minister in making available an officer to supervise the inspection by a person of any document for which a request for access has been made under this Act.

- (3) Where, as a result of a request, access is given to a document in respect of which the applicant would not be entitled to access under this Act, regulations under this Act relating to charges apply as if the applicant had been given access to that document in accordance with an entitlement under this Act.

**Schedule 1—Courts and tribunals exempt in  
respect of non-administrative matters**

Section 6

Australian Industrial Relations Commission

Australian Fair Pay Commission

Industrial Registrar and Deputy Industrial Registrars

## Schedule 2

Section 7

### Part I—Exempt agencies

#### Division 1

Aboriginal Land Councils and Land Trusts  
Auditor-General  
Australian Government Solicitor  
Australian Industry Development Corporation  
Australian Secret Intelligence Service  
Australian Security Intelligence Organisation  
Inspector-General of Intelligence and Security  
National Workplace Relations Consultative Council  
Office of National Assessments

**Division 2**

Defence Imagery and Geospatial Organisation  
Defence Intelligence Organisation  
Defence Signals Directorate

## Part II—Agencies exempt in respect of particular documents

### Division 1

Albury-Wodonga Development Corporation, in relation to documents in respect of its commercial activities

Attorney-General's Department, in relation to:

- (a) documents in respect of commercial activities it undertakes; and
- (b) documents in respect of commercial activities undertaken by the Australian Government Solicitor; and
- (c) exempt content-service documents concerning the performance of a function, or the exercise of a power, under Schedule 7 to the *Broadcasting Services Act 1992*; and
- (d) exempt Internet-content documents concerning the performance of a function, or the exercise of a power, under Schedule 5 to that Act.

Australian Communications and Media Authority, in relation to:

- (a) exempt content-service documents concerning the performance of a function, or the exercise of a power, under Schedule 7 to the *Broadcasting Services Act 1992*; and
- (b) exempt Internet-content documents concerning the performance of a function, or the exercise of a power, under Schedule 5 to that Act.

Australian Broadcasting Corporation, in relation to its program material and its datacasting content

Australian Postal Corporation, in relation to documents in respect of its commercial activities

Australian Trade Commission, in relation to documents concerning the carrying out, in whole or in part, of overseas development projects

Australian Transaction Reports and Analysis Centre, in relation to documents concerning information communicated to it under section 16 of the *Financial Transaction Reports Act 1988* or section 41 or 49 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*

**Schedule 2**

**Part II** Agencies exempt in respect of particular documents

**Division 1**

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Classification Board, in relation to:

- (a) exempt content-service documents concerning the performance of a function, or the exercise of a power, under Schedule 7 to the *Broadcasting Services Act 1992*; and
- (b) exempt Internet-content documents concerning the performance of a function, or the exercise of a power, under Schedule 5 to that Act.

Classification Review Board, in relation to:

- (a) exempt content-service documents concerning the performance of a function, or the exercise of a power, under Schedule 7 to the *Broadcasting Services Act 1992*; and
- (b) exempt Internet-content documents concerning the performance of a function, or the exercise of a power, under Schedule 5 to that Act.

Comcare, in relation to documents in respect of its commercial activities

Commonwealth Scientific and Industrial Research Organisation, in relation to documents in respect of its commercial activities

Department of the Treasury in relation to documents in respect of activities of the Australian Loan Council and in respect of the commercial activities of the Royal Australian Mint

Export Finance and Insurance Corporation, in relation to documents concerning anything done by it under Part 4 or 5 of the *Export Finance and Insurance Corporation Act 1991*

Federal Airports Corporation, in relation to documents in respect of its commercial activities and in respect of determinations of aeronautical charges under the *Federal Airports Corporation Act 1986*

Indigenous Business Australia, in relation to documents in respect of its commercial activities

Medicare Australia, in relation to documents in respect of its commercial activities

National Health and Medical Research Council, in relation to documents in the possession of members of the Council of the National Health and Medical Research Council who are not persons appointed or engaged under the *Public Service Act 1999*

Reserve Bank of Australia, in relation to documents in respect of its banking operations (including individual open market operations and foreign exchange dealings) and in respect of exchange control matters

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Special Broadcasting Service Corporation, in relation to its  
program material and its datacasting content

**Schedule 2**

**Part II** Agencies exempt in respect of particular documents

**Division 2**

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**Division 2**

Australian Statistician, in relation to documents containing  
information collected under the *Census and Statistics Act*  
*1905*

**Part III—Legislation relating to agencies exempt in  
respect of documents in relation to their  
commercial activities**

*Australian Wine and Brandy Corporation Act 1980*

*Dairy Produce Act 1986*

*Primary Industries and Energy Research and Development Act  
1989*

## Schedule 3—Secrecy provisions

Section 38

- Aged Care Act 1997*, subsection 86-2(1) and sections 86-5, 86-6 and 86-7.
- Australian Institute of Health Act 1987*, subsections 29(1) and (3)
- Australian Security Intelligence Organisation Act 1979*, subsections 92(1) and (1A)
- Broadcasting Act 1942*, paragraph 125(2)(a)
- Child Support (Registration and Collection) Act 1988*, paragraph 16(2)(b)
- Child Support (Assessment) Act 1989*, paragraph 150(2)(b)
- Civil Aviation Act 1988*, subsections 32AP(1) and (2)
- Crimes (Taxation Offences) Act 1980*, subsections 4(1A), (1) and (1AA)
- Designs Act 2003*, paragraph 61(1)(a) and sections 108 and 109
- Disability Services Act 1986*, subsections 28(2) and (6)
- Epidemiological Studies (Confidentiality) Act 1981*, sections 4 and 6
- Fringe Benefits Tax Assessment Act 1986*, subsection 5(3)
- Gene Technology Act 2000*, subsections 187(1) and (2)
- Health Insurance Act 1973*, subsections 130(1), (4) and (9)
- Income Tax Assessment Act 1936*, subsections 16(2), (4F), (4FA), (4JB) and (5C)
- Inspector-General of Taxation Act 2003*, section 37
- Inspector of Transport Security Act 2006*, subsections 35(7), 36(7), 37(8), 49(2), 56(1), 56(3), 60(5), 63(3), 63(4), 63(5) and 67(1), paragraph 67(7)(a), subsections 68(2), 69(2) and 75(2), paragraph 75(8)(a) and subsection 77(9)
- Intelligence Services Act 2001*, subsection 41(1)
- Migration Act 1958*, section 503A as affected by section 503D of that Act
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*National Health Act 1953*, subsections 135A(1), (4) and (9)  
*Patents Act 1990*, paragraph 56(1)(a) and subsection 173(2)  
*Petroleum Resource Rent Tax Assessment Act 1987*, subsection 17(3)  
*Private Health Insurance Act 2007*, sections 323-1 and 323-40  
*Taxation Administration Act 1953*, section 355-5 in Schedule 1.  
*Taxation Administration Act 1953*, subsections 3C(2), 3G(6) and (9) and 3H(5) and (8), paragraph 8WB(1)(c) and subsection 8XB(1)  
*Taxation (Interest on Overpayments and Early Payments) Act 1983*, subsection 8(2)  
*Telecommunications (Interception and Access) Act 1979*, sections 63 and 133  
*Transport Safety Investigation Act 2003*, subsections 53(1) and (2) and 60(1), (2) and (3)  
Defence (Inquiry) Regulations, subregulation 63(2).

## **Schedule 4—Research institutions**

Section 43A

Commonwealth Scientific and Industrial Research Organisation  
The Australian National University.

**Table of Acts****Notes to the *Freedom of Information Act 1982*****Note 1**

The *Freedom of Information Act 1982* as shown in this compilation comprises Act No. 3, 1982 amended as indicated in the Tables below.

The *Freedom of Information Act 1982* was amended by the *Workplace Relations Amendment (Work Choices) (Consequential Amendments) Regulations 2006 (No. 1)* (SLI 2006 No. 50). The amendment is incorporated in this compilation.

The *Freedom of Information Act 1982* was modified by the A.C.T. Self-Government (Consequential Provisions) Regulations (1989 No. 3 as amended) *see* Table B.

All other relevant information pertaining to application, saving or transitional provisions prior to 15 July 2003 is not included in this compilation. For subsequent information *see* Table A.

**Table of Acts**

| Act  | Number and year | Date of Assent | Date of commencement   | Application, saving or transitional provisions |
|--|-----------------|----------------|--|--|
| <i>Freedom of Information Act 1982</i>   | 3, 1982         | 9 Mar 1982     | 1 Dec 1982 ( <i>see Gazette</i> 1982, No. G48, p. 2)   |  |
| <i>Australian Broadcasting Corporation (Transitional Provisions and Consequential Amendments) Act 1983</i> | 7, 1983         | 1 June 1983    | Ss. 1, 2, 15(1) and 24: Royal Assent<br>Remainder: 1 July 1983 ( <i>see</i> s. 2(2) and <i>Gazette</i> 1983, No. S124)     | —  |
| <i>Freedom of Information Amendment Act 1983</i>   | 81, 1983        | 3 Nov 1983     | 1 Jan 1984 ( <i>see Gazette</i> 1983, No. S344)  | S. 46  |
| <i>Public Service Reform Act 1984</i>  | 63, 1984        | 25 June 1984   | S. 151(1): 1 July 1984 ( <i>see Gazette</i> 1984, No. S245)<br>S. 154: 1 Jan 1986 ( <i>see Gazette</i> 1985, No. S563) (a) | S. 151(9)                                      |

**Table of Acts**

| Act  | Number and year | Date of Assent | Date of commencement   | Application, saving or transitional provisions |
|--|-----------------|----------------|--|--|
| <i>Australian Trade Commission (Transitional Provisions and Consequential Amendments) Act 1985</i> | 187, 1985       | 16 Dec 1985    | Ss. 1–4, 12, 19, 32 and 61: Royal Assent<br>S. 34: 20 May 1985<br>Remainder: 6 Jan 1986 (see <i>Gazette</i> 1985, No. S551)  | —  |
| <i>Intelligence and Security (Consequential Amendments) Act 1986</i>                               | 102, 1986       | 17 Oct 1986    | 1 Feb 1987 (see s. 2 and <i>Gazette</i> 1987, No. S13)   | —  |
| <i>Freedom of Information Laws Amendment Act 1986</i>  | 111, 1986       | 4 Nov 1986     | 18 Nov 1986  | S. 20  |
| <i>Australian Airlines (Conversion to Public Company) Act 1988</i>                                 | 6, 1988         | 9 Mar 1988     | S. 69(2): 30 Apr 1988 (see <i>Gazette</i> 1988, No. S117) (b)  | —  |
| <i>Industrial Relations (Consequential Provisions) Act 1988</i>                                    | 87, 1988        | 8 Nov 1988     | Ss. 1 and 2: Royal Assent<br>Remainder: 1 Mar 1989 (see s. 2(2) and <i>Gazette</i> 1989, No. S53)  | —  |
| <i>A.C.T. Self-Government (Consequential Provisions) Act 1988</i>                                  | 109, 1988       | 6 Dec 1988     | S. 32 (in part): 11 May 1989 (see <i>Gazette</i> 1989, No. S164) (c)   | —  |
| <i>Privacy Act 1988</i>  | 119, 1988       | 14 Dec 1988    | 1 Jan 1989 (see <i>Gazette</i> 1988, No. S399)   | S. 101(2)                                      |
| <i>Telecommunications Amendment Act 1988</i>   | 121, 1988       | 14 Dec 1988    | Ss. 5, 6, 10, 12, 13, 23(2) and 26(1): 1 Jan 1989 (see <i>Gazette</i> 1988, No. S402)<br>Ss. 14, 23(3) and 26(2): 30 June 1989 (see <i>Gazette</i> 1989, No. S216)<br>Remainder: 14 Dec 1988 | —  |
| <i>Postal Services Amendment Act 1988</i>  | 126, 1988       | 14 Dec 1988    | Ss. 4, 5, 9–11, 21(2) and 22(1): 1 Jan 1989 (see <i>Gazette</i> 1988, No. S402)<br>Ss. 12, 21(3) and 22(2): 30 June 1989 (see <i>Gazette</i> 1989, No. S216)<br>Remainder: Royal Assent      | —  |

**Table of Acts**

| Act  | Number and year | Date of Assent | Date of commencement  | Application, saving or transitional provisions |
|--|-----------------|----------------|---|--|
| <i>ANL (Conversion into Public Company) Act 1988</i>                                     | 127, 1988       | 14 Dec 1988    | S. 11: 1 July 1989 (see <i>Gazette</i> 1989, No. S210) (d)  | —  |
| <i>OTC (Conversion into Public Company) Act 1988</i>                                     | 129, 1988       | 14 Dec 1988    | Ss. 7(2), 8(2), 9, 11–22 and 25: 1 Apr 1989 (see <i>Gazette</i> 1989, No. S92)<br>S. 8(1): 16 Mar 1989 (see <i>Gazette</i> 1989, No. S92)<br>S. 8(3): 1 Apr 1989<br>Remainder: Royal Assent                     | —  |
| <i>Snowy Mountains Engineering Corporation (Conversion into Public Company) Act 1989</i> | 66, 1989        | 19 June 1989   | Ss. 4, 6(1), 7(1), 8–10, 12, 14(2), 15 and 16: 1 July 1989 (see <i>Gazette</i> 1989, No. S223)<br>S. 7(2): 1 July 1989 (see <i>Gazette</i> 1989, No. S223)<br>S. 14(1): 30 June 1989<br>Remainder: Royal Assent | —  |
| <i>Aboriginal and Torres Strait Islander Commission Act 1989</i>                         | 150, 1989       | 27 Nov 1989    | 5 Mar 1990 (see <i>Gazette</i> 1990, No. S48)   | —  |
| <i>Federal Airports Corporation Amendment Act 1990</i>                                   | 26, 1990        | 24 May 1990    | Ss. 1–3: Royal Assent<br>S. 23(1)(a): 1 July 1990<br>S. 23(1)(b): 1 July 1991<br>S. 23(1)(c) and 23(2): 13 June 1986<br>Remainder: 1 July 1990 (see s. 2(6) and <i>Gazette</i> 1990, No. S154)                  | —  |
| <i>Defence Legislation Amendment Act 1990</i>  | 75, 1990        | 22 Oct 1990    | S. 5: Royal Assent (e)  | —  |
| <i>Commonwealth Serum Laboratories (Conversion into Public Company) Act 1990</i>         | 77, 1990        | 22 Oct 1990    | S. 17: 1 Apr 1991 (see <i>Gazette</i> 1991, No. S75) (f)  | —  |
| <i>Commonwealth Banks Restructuring Act 1990</i>   | 118, 1990       | 28 Dec 1990    | S. 62: (g)  | —  |

**Table of Acts**

| Act   | Number and year | Date of Assent | Date of commencement  | Application, saving or transitional provisions   |
|---|-----------------|----------------|---|--|
| <i>Telecommunications (Transitional Provisions and Consequential Amendments) Act 1991</i>                       | 99, 1991        | 27 June 1991   | Part 1 (ss. 1, 2): Royal Assent<br>Part 2 (ss. 3–22), s. 23 and Part 4 (s. 25): 1 July 1991<br>Remainder: 1 Feb 1992 (see s. 2(3) and <i>Gazette</i> 1992, No. S32) | —  |
| <i>Freedom of Information Amendment Act 1991</i>  | 137, 1991       | 27 Sept 1991   | 25 Oct 1991   | S. 29(2)   |
| <i>Export Finance and Insurance Corporation (Transitional Provisions and Consequential Amendments) Act 1991</i> | 149, 1991       | 21 Oct 1991    | 1 Nov 1991  | —  |
| <i>Special Broadcasting Service Act 1991</i>  | 180, 1991       | 25 Nov 1991    | S. 116: 23 Dec 1991 ( <i>h</i> )  | —  |
| <i>Sales Tax Amendment (Transitional) Act 1992</i>  | 118, 1992       | 30 Sept 1992   | 28 Oct 1992   | —  |
| <i>Law and Justice Legislation Amendment Act (No. 4) 1992</i>   | 143, 1992       | 7 Dec 1992     | S. 3: Royal Assent ( <i>i</i> )   | —  |
| <i>Law and Justice Legislation Amendment Act (No. 3) 1992</i>   | 165, 1992       | 11 Dec 1992    | S. 4: Royal Assent ( <i>j</i> )   | —  |
| <i>Qantas Sale Act 1992</i>   | 196, 1992       | 21 Dec 1992    | Schedule (Part 1): 10 Mar 1993 (see <i>Gazette</i> 1993, No. GN17) ( <i>k</i> )<br>Schedule (Part 5): 30 Aug 1995 (see <i>Gazette</i> 1995, No. S324) ( <i>k</i> )  | S. 2(6) (am. by 60, 1993, s. 4; 168, 1994, s. 3) |
| <b>as amended by</b>  |                 |                |   |  |
| <i>Qantas Sale Amendment Act 1993</i>   | 60, 1993        | 3 Nov 1993     | 10 Mar 1993   | —  |
| <i>Qantas Sale Amendment Act 1994</i>   | 168, 1994       | 16 Dec 1994    | Schedule (item 17): Royal Assent ( <i>l</i> )   | —  |
| <i>Electoral and Referendum Amendment Act 1992</i>  | 219, 1992       | 24 Dec 1992    | Part 4 (ss. 35, 36): Royal Assent ( <i>m</i> )  | —  |
| <i>Prime Minister and Cabinet (Miscellaneous Provisions) Act 1994</i>   | 33, 1994        | 15 Mar 1994    | Ss. 11–13: Royal Assent ( <i>n</i> )  | S. 13  |
| <i>Transport and Communications Legislation Amendment Act 1994</i>  | 64, 1994        | 30 May 1994    | S. 3(3): Royal Assent ( <i>o</i> )  | —  |

**Table of Acts**

| Act  | Number and year | Date of Assent | Date of commencement   | Application, saving or transitional provisions                        |
|--|-----------------|----------------|--|---|
| <i>Law and Justice Legislation Amendment Act 1994</i>                        | 84, 1994        | 23 June 1994   | Ss. 48–70 and 72–85: Royal Assent ( <i>p</i> )   | Ss. 49, 52, 53, 56, 59, 60, 66, 67, 72, 74, 75, 78, 79, 81, 82 and 84 |
| <i>Employment Services (Consequential Amendments) Act 1994</i>               | 177, 1994       | 19 Dec 1994    | Ss. 2(2) and 32–39: Royal Assent<br>Ss. 9–31: 1 Jan 1995 (see s. 2(1) and <i>Gazette</i> 1994, No. S472)<br>Remainder: 19 Dec 1994 (see s. 2(3)) | S. 9  |
| <i>Taxation Laws Amendment Act (No. 4) 1994</i>                              | 181, 1994       | 19 Dec 1994    | Schedule 1 (items 22–85): 13 Oct 1994<br>Remainder: Royal Assent   | Sch. 5 (item 1)   |
| <i>Commonwealth Bank Sale Act 1995</i>                                       | 161, 1995       | 16 Dec 1995    | Schedule (item 52): ( <i>q</i> )   | —   |
| <i>Transport Legislation Amendment Act (No. 3) 1995</i>                      | 174, 1995       | 16 Dec 1995    | S. 4 and Schedule 2: 1 July 1995<br>Remainder: Royal Assent  | —   |
| <i>Statute Law Revision Act 1996</i>   | 43, 1996        | 25 Oct 1996    | Schedule 5 (items 62–64): Royal Assent ( <i>r</i> )  | —   |
| <i>AIDC Sale Act 1997</i>  | 67, 1997        | 5 June 1997    | Schedule 2 (item 5): [see ( <i>s</i> ) and Note 2]   | —   |
| <i>Australian National Railways Commission Sale Act 1997</i>                 | 96, 1997        | 30 June 1997   | Schedule 4 (item 3): 1 Nov 2000 (see <i>Gazette</i> 2000, No. S562) ( <i>t</i> )   | —   |
| <i>Aged Care (Consequential Provisions) Act 1997</i>                         | 114, 1997       | 7 July 1997    | Schedule 5 (item 3): 1 Oct 1997 (see <i>Gazette</i> 1997, No. GN36) ( <i>u</i> )   | —   |
| <i>Judiciary Amendment Act 1999</i>  | 7, 1999         | 31 Mar 1999    | Schedules 1–3: 1 Sept 1999 (see <i>Gazette</i> 1999, No. S395)<br>Remainder: Royal Assent  | —   |
| <i>Statute Stocktake Act 1999</i>  | 118, 1999       | 22 Sept 1999   | 22 Sept 1999   | —   |
| <i>Public Employment (Consequential and Transitional) Amendment Act 1999</i> | 146, 1999       | 11 Nov 1999    | Schedule 1 (item 493): 5 Dec 1999 (see <i>Gazette</i> 1999, No. S584) ( <i>v</i> )   | —   |

**Table of Acts**

| Act   | Number and year | Date of Assent | Date of commencement  | Application, saving or transitional provisions |
|---|-----------------|----------------|---|--|
| <i>Australian Security Intelligence Organisation Legislation Amendment Act 1999</i>                                 | 161, 1999       | 10 Dec 1999    | Schedule 3 (items 1, 26–28): (w)  | —  |
| <i>A New Tax System (Indirect Tax and Consequential Amendments) Act 1999</i>  | 176, 1999       | 22 Dec 1999    | Schedule 8 (item 15): (x)   | —  |
| <i>Federal Magistrates (Consequential Amendments) Act 1999</i>  | 194, 1999       | 23 Dec 1999    | Schedule 15: 23 Dec 1999 (y)  | —  |
| <i>Ministers of State and Other Legislation Amendment Act 2000</i>  | 1, 2000         | 29 Feb 2000    | Schedule 4: 10 Mar 2000 (see <i>Gazette</i> 2000, No. S112)                             | —  |
| <i>Broadcasting Services Amendment (Digital Television and Datacasting) Act 2000</i>                                | 108, 2000       | 3 Aug 2000     | Schedule 3 (item 2): 1 Jan 2001 (see <i>Gazette</i> 2000, No. GN50) (z)                 | —  |
| <i>Horticulture Marketing and Research and Development Services (Repeals and Consequential Provisions) Act 2000</i> | 163, 2000       | 21 Dec 2000    | Schedule 2 (items 1, 2): (za)   | —  |
| <i>Gene Technology (Consequential Amendments) Act 2000</i>  | 170, 2000       | 21 Dec 2000    | 22 June 2001 (see s. 2)   | —  |
| <i>Pig Industry Act 2001</i>  | 30, 2001        | 28 Apr 2001    | Schedule 1 (item 1): (zb)   | —  |
| <i>Intelligence Services (Consequential Provisions) Act 2001</i>  | 153, 2001       | 1 Oct 2001     | 29 Oct 2001 (see s. 2)  | —  |
| <i>Workplace Relations Legislation Amendment Act 2002</i>   | 127, 2002       | 11 Dec 2002    | Schedule 2 (item 18): Royal Assent  | —  |
| <i>Transport Safety Investigation (Consequential Amendments) Act 2003</i>   | 19, 2003        | 11 Apr 2003    | Schedule 1 (items 6, 6A, 7): (zc)   | —  |
| <i>Inspector-General of Taxation Act 2003</i>   | 28, 2003        | 15 Apr 2003    | 16 Apr 2003   | —  |
| <i>Migration Legislation Amendment (Protected Information) Act 2003</i>   | 75, 2003        | 15 July 2003   | Schedule 1 (items 5A–5D, 6A, 8) and Schedule 2: 16 July 2003<br>Remainder: Royal Assent | Sch. 2 (item 4) [see Table A]                  |
| <i>Communications Legislation Amendment Act (No. 1) 2003</i>  | 114, 2003       | 27 Nov 2003    | Schedule 2: 27 Mar 2003<br>Remainder: 28 Nov 2003                                       | —  |

**Table of Acts**

| Act   | Number and year | Date of Assent | Date of commencement   | Application, saving or transitional provisions |
|---|-----------------|----------------|--|--|
| <i>Defence Legislation Amendment Act 2003</i>   | 135, 2003       | 17 Dec 2003    | Schedule 2 (items 30–32): 17 June 2004                                       | —  |
| <i>Designs (Consequential Amendments) Act 2003</i>  | 148, 2003       | 17 Dec 2003    | Schedules 1 and 2: (zd)<br>Remainder: Royal Assent                           | —  |
| <i>Law and Justice Legislation Amendment Act 2004</i>   | 62, 2004        | 26 May 2004    | Schedule 1 (items 23–37): 27 May 2004  | —  |
| <i>Administrative Appeals Tribunal Amendment Act 2005</i>   | 38, 2005        | 1 Apr 2005     | Schedule 1 (items 210–217): 16 May 2005                                      | Sch. 1 (item 212) [see Table A]                |
| <i>Australian Communications and Media Authority (Consequential and Transitional Provisions) Act 2005</i> | 45, 2005        | 1 Apr 2005     | Schedule 1 (item 65): 1 July 2005 (see s. 2(1))                              | —  |
| <i>Human Services Legislation Amendment Act 2005</i>  | 111, 2005       | 6 Sept 2005    | Schedule 2 (items 90, 91, 729): 1 Oct 2005                                   | Sch. 2 (item 729) [see Table A]                |
| <i>Telstra (Transition to Full Private Ownership) Act 2005</i>  | 118, 2005       | 23 Sept 2005   | Schedule 1 (item 47): 24 Nov 2006 (see s. 3(1) and F2006L03997)              | —  |
| <i>Intelligence Services Legislation Amendment Act 2005</i>   | 128, 2005       | 4 Nov 2005     | Schedules 1–8: 2 Dec 2005<br>Remainder: Royal Assent                         | —  |
| <i>Law and Justice Legislation Amendment (Serious Drug Offences and Other Measures) Act 2005</i>          | 129, 2005       | 8 Nov 2005     | Schedule 9 (items 1, 2): Royal Assent<br>Schedule 9 (items 3, 4): 9 Nov 2005 | Sch. 9 (item 2) [see Table A]                  |
| <i>Telecommunications (Interception) Amendment Act 2006</i>   | 40, 2006        | 3 May 2006     | Schedule 1 (item 20): 13 June 2006 (see F2006L01623)                         | —  |
| <i>National Health and Medical Research Council Amendment Act 2006</i>                                    | 50, 2006        | 9 June 2006    | Schedule 1: 1 July 2006<br>Remainder: Royal Assent                           | —  |
| <i>Fuel Tax (Consequential and Transitional Provisions) Act 2006</i>                                      | 73, 2006        | 26 June 2006   | Schedule 5 (item 153): 1 July 2006 (see s. 2(1))                             | —  |
| <i>Tax Laws Amendment (Repeal of Inoperative Provisions) Act 2006</i>                                     | 101, 2006       | 14 Sept 2006   | Schedule 5 (items 113–118) and Schedule 6 (items 5–11): Royal Assent         | Sch. 6 (items 5–11) [see Table A]              |

**Table of Acts**

| Act  | Number and year | Date of Assent | Date of commencement   | Application, saving or transitional provisions |
|--|-----------------|----------------|--|--|
| <i>Inspector of Transport Security (Consequential Provisions) Act 2006</i>   | 150, 2006       | 7 Dec 2006     | Schedule 1: 7 June 2007 (see s. 2(1))<br>Remainder: Royal Assent | —  |
| <i>Anti-Money Laundering and Counter-Terrorism Financing (Transitional Provisions and Consequential Amendments) Act 2006</i> | 170, 2006       | 12 Dec 2006    | Schedule 1 (item 148): 13 Dec 2006 (see s. 2(1))                 | —  |
| <i>Statute Law Revision Act 2007</i>   | 8, 2007         | 15 Mar 2007    | Schedule 3 (items 23, 24): Royal Assent                          | —  |
| <i>Classification (Publications, Films and Computer Games) Amendment Act 2007</i>  | 27, 2007        | 15 Mar 2007    | Schedule 1 (items 14, 15, 22): 1 July 2007 (see F2007L01781)     | Sch. 1 (item 22) [see Table A]                 |
| <i>Private Health Insurance (Transitional Provisions and Consequential Amendments) Act 2007</i>                              | 32, 2007        | 30 Mar 2007    | Schedule 2 (item 12): 1 Apr 2007 (see s. 2(1))                   | —  |
| <i>Tax Laws Amendment (2007 Measures No. 1) Act 2007</i>   | 56, 2007        | 12 Apr 2007    | 12 Apr 2007  | Sch. 1 (item 5) [see Table A]                  |
| <i>Communications Legislation Amendment (Content Services) Act 2007</i>  | 124, 2007       | 20 July 2007   | Schedule 1 (items 89–94): 20 Jan 2008                            | —  |
| <i>Quarantine Amendment (Commission of Inquiry) Act 2007</i>   | 158, 2007       | 24 Sept 2007   | 24 Sept 2007   | —  |
| <i>Wheat Export Marketing (Repeal and Consequential Amendments) Act 2008</i>   | 66, 2008        | 30 June 2008   | Schedule 2 (item 11): 1 July 2008 (see s. 2(1))                  | —  |

**Act Notes**

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- (a) The *Freedom of Information Act 1982* was amended by subsection 151(1) and section 154 only of the *Public Service Reform Act 1984*, subsection 2(4) of which provides as follows:
- (4) The remaining provisions of this Act shall come into operation on such day as is, or on such days as are, fixed by Proclamation.
- (b) The *Freedom of Information Act 1982* was amended by subsection 69(2) only of the *Australian Airlines (Conversion to Public Company) Act 1988*, subsection 2(2) of which provides as follows:
- (2) Sections 15 and 16, subsection 52(2), sections 55, 57 and 60 and subsection 69(2) shall come into operation on a day to be fixed by Proclamation.
- (c) The *Freedom of Information Act 1982* was amended by section 32 (in part) only of the *A.C.T. Self-Government (Consequential Provisions) Act 1988*, subsection 2(3) of which provides as follows:
- (3) The remaining provisions of this Act (including the amendments made by Schedule 5) commence on a day or days to be fixed by Proclamation.
- (d) The *Freedom of Information Act 1982* was amended by section 11 only of the *ANL (Conversion into Public Company) Act 1988*, subsection 2(3) of which provides as follows:
- (3) Section 6, subsection 7(2) and sections 9 and 11 commence on a day to be fixed by Proclamation.
- (e) The *Freedom of Information Act 1982* was amended by section 5 only of the *Defence Legislation Amendment Act 1990*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
- (f) The *Freedom of Information Act 1982* was amended by section 17 only of the *Commonwealth Serum Laboratories (Conversion into Public Company) Act 1990*, subsection 2(5) of which provides as follows:
- (5) Subject to subsection (6), sections 6, 10, 13 and 17 commence on a day to be fixed by Proclamation for the purposes of this subsection.
- (g) The *Freedom of Information Act 1982* was amended by section 62 only of the *Commonwealth Banks Restructuring Act 1990*, subsection 2(3) of which provides as follows:
- (3) Each of the remaining provisions of this Act commences on a day, or at a time, fixed by Proclamation in relation to the provision concerned.
- In pursuance of section 62 (in so far as it relates to the *Freedom of Information Act 1982*), the date fixed for commencement was immediately after 17 April 1991 (see *Gazette* 1991, No. S72).
- (h) The *Freedom of Information Act 1982* was amended by section 116 only of the *Special Broadcasting Service Act 1991*, subsection 2(1) of which provides as follows:
- (1) Subject to subsection (2), this Act commences 28 days after the day on which it receives the Royal Assent.
- (i) The *Freedom of Information Act 1982* was amended by section 3 only of the *Law and Justice Legislation Amendment Act (No. 4) 1992*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
- (j) The *Freedom of Information Act 1982* was amended by section 4 only of the *Law and Justice Legislation Amendment Act (No. 3) 1992*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
- (k) The *Freedom of Information Act 1982* was amended by the Schedule (Parts 1 and 5) of the *Qantas Sale Act 1992*, subsections 2(2), (3)(a) and (c) of which provide as follows:
- (2) Subject to subsection (3), the remaining provisions of this Act commence on a day or days to be fixed by Proclamation.
- (3) A Proclamation may fix a day that is earlier than the day on which the Proclamation is published in the *Gazette* but only if:
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## Act Notes

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- (a) in the case of sections 30, 31, 35, 37, 39, 43 and 50 and Parts 1 and 2 of the Schedule—the day is not earlier than the substantial minority sale day; and
  - (c) in the case of sections 25, 36, 38, 44 and 51 and Parts 5, 6 and 7 of the Schedule—the day is not earlier than the 100% sale day.
- (l) The *Qantas Sale Act 1992* was amended by the Schedule (item 17) only of the *Qantas Sale Amendment Act 1994*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
- (m) The *Freedom of Information Act 1982* was amended by Part 4 (sections 35 and 36) only of the *Electoral and Referendum Amendment Act 1992*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
- (n) The *Freedom of Information Act 1982* was amended by sections 11–13 only of the *Prime Minister and Cabinet (Miscellaneous Provisions) Act 1994*, subsection 2(1) of which provides as follows:
- (1) Except for subsection 15(1), this Act commences on the day on which it receives the Royal Assent.
- (o) The *Freedom of Information Act 1982* was amended by subsection 3(3) only of the *Transport and Communications Legislation Amendment Act 1994*, subsection 2(1) of which provides as follows:
- (1) Subject to subsections (2) and (3), this Act commences on the day on which it receives the Royal Assent.
- (p) The *Freedom of Information Act 1982* was amended by sections 48–70 and 72–85 only of the *Law and Justice Legislation Amendment Act 1994*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
- (q) The *Freedom of Information Act 1982* was amended by the Schedule (item 52) only of the *Commonwealth Bank Sale Act 1995*, subsection 2(2) of which provides as follows:
- (2) Part 3, and all the items of the Schedule (except items 1, 12, 16, 17, 21, 22, 23, 26, 27, 31, 37 and 48), commence at the transfer time.
- The transfer time occurred on 19 July 1996.
- (r) The *Freedom of Information Act 1982* was amended by Schedule 5 (items 62–64) only of the *Statute Law Revision Act 1996*, subsection 2(1) of which provides as follows:
- (1) Subject to subsections (2) and (3), this Act commences on the day on which it receives the Royal Assent.
- (s) The *Freedom of Information Act 1982* was amended by Schedule 2 (item 5) only of the *AIDC Sale Act 1997*, subsection 2(2) of which provides as follows:
- (2) Schedule 2 commences on a day to be fixed by Proclamation. The day must not be earlier than the day on which the Minister gives the Governor-General a written certificate stating that the Minister is satisfied that the Australian Industry Development Corporation has no assets and no liabilities. [see Note 2]
- (t) The *Freedom of Information Act 1982* was amended by Schedule 4 (item 3) only of the *Australian National Railways Commission Sale Act 1997*, subsection 2(5) of which provides as follows:
- (5) The remaining items of Schedule 3 and Schedule 4 commence on a day to be fixed by Proclamation. The day must not be earlier than the later of the day proclaimed for the purposes of subsection (2) and the day proclaimed for the purposes of subsection (3).

**Act Notes**

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- (u) The *Freedom of Information Act 1982* was amended by Schedule 5 (item 3) only of the *Aged Care (Consequential Provisions) Act 1997*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act commences immediately after the commencement of the *Aged Care Act 1997* (other than Division 1 of that Act).
- The *Aged Care Act 1997* (other than Division 1) commenced on 1 October 1997.
- (v) The *Freedom of Information Act 1982* was amended by Schedule 1 (item 493) only of the *Public Employment (Consequential and Transitional) Amendment Act 1999*, subsections 2(1) and (2) of which provide as follows:
- (1) In this Act, **commencing time** means the time when the *Public Service Act 1999* commences.
  - (2) Subject to this section, this Act commences at the commencing time.
- (w) The *Freedom of Information Act 1982* was amended by Schedule 3 (items 26–28) only of the *Australian Security Intelligence Organisation Legislation Amendment Act 1999*, subsections 2(1) and (2) of which provide as follows:
- (1) This Act (other than Schedule 3) commences on the day on which it receives the Royal Assent.
  - (2) Subject to subsections (3) to (6), Schedule 3 commences immediately after the commencement of the other Schedules to this Act.
- (x) The *Freedom of Information Act 1982* was amended by Schedule 8 (item 15) only of the *A New Tax System (Indirect Tax and Consequential Amendments) Act 1999*, subsection 2(17) of which provides as follows:
- (17) Schedule 8 commences immediately after the commencement of the *A New Tax System (Goods and Services Tax) Act 1999*.
- The *A New Tax System (Goods and Services Tax) Act 1999* came into operation on 1 July 2000.
- (y) The *Freedom of Information Act 1982* was amended by Schedule 15 only of the *Federal Magistrates (Consequential Amendments) Act 1999*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act commences on the commencement of the *Federal Magistrates Act 1999*.
- (z) The *Freedom of Information Act 1982* was amended by Schedule 3 (item 2) only of the *Broadcasting Services Amendment (Digital Television and Datacasting) Act 2000*, subsection 2(2) of which provides as follows:
- (2) Subject to subsection (3), the remaining provisions of this Act commence on a day to be fixed by Proclamation.
- (za) The *Freedom of Information Act 1982* was amended by Schedule 2 (items 1 and 2) only of the *Horticulture Marketing and Research and Development Services (Repeals and Consequential Provisions) Act 2000*, subsection 2(2) of which provides as follows:
- (2) Schedules 1 (repeals) and 2 (consequential amendments) commence on the transfer day, immediately after the transfer of assets, liabilities and staff under Part 2.
- Note: See sections 12 and 13 for the transfer day, and the time at which the transfer occurs.
- The transfer day was 1 February 2001 (see *Gazette* 2001, No. GN6).
- (zb) The *Freedom of Information Act 1982* was amended by Schedule 1 (item 1) only of the *Pig Industry Act 2001*, subsection 2(2) of which provides as follows:
- (2) Schedule 1 (other than item 3) commences immediately after the transfer time.
- Note: **Transfer time** is defined in section 7.
- The transfer time was the beginning of 1 July 2001 (see *Gazette* 2001, No. S269).
-

**Act Notes**

(zc) Subsection 2(1) (item 2) of the *Transport Safety Investigation (Consequential Amendments) Act 2003* provides as follows:

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, on the day or at the time specified in column 2 of the table.

| <b>Commencement information</b> |   |   |
|---------------------------------|---|---|
| <b>Column 1</b>                 | <b>Column 2</b>   | <b>Column 3</b>                                 |
| <b>Provision(s)</b>             | <b>Commencement</b>   | <b>Date/Details</b>                             |
| 2. Schedule 1                   | Immediately after the commencement of section 3 of the <i>Transport Safety Investigation Act 2003</i> | 1 July 2003 (see <i>Gazette</i> 2003, No. S229) |

(zd) Subsection 2(1) (item 2) of the *Designs (Consequential Amendments) Act 2003* provides as follows:

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, on the day or at the time specified in column 2 of the table.

| <b>Provision(s)</b>  | <b>Commencement</b>  | <b>Date/Details</b> |
|----------------------|--|---------------------|
| 2. Schedules 1 and 2 | Immediately after the commencement of section 4 of the <i>Designs Act 2003</i> . | 17 June 2004        |

**Table of Amendments****Table of Amendments**

ad. = added or inserted   am. = amended   rep. = repealed   rs. = repealed and substituted

| Provision affected | How affected   |
|--------------------|--|
| <b>Part I</b>      |  |
| S. 3.....          | am. No. 137, 1991  |
| S. 4.....          | am. No. 81, 1983; No. 63, 1984; No. 111, 1986; No. 109, 1988;<br>No. 137, 1991; No. 196, 1992; Nos. 33, 84 and 177, 1994;<br>No. 43, 1996; No. 1, 2000; Nos. 114 and 135, 2003; No. 62,<br>2004; No. 128, 2005; Nos. 124 and 158, 2007 |
| S. 4A .....        | ad. No. 109, 1988  |
| Ss. 5, 6.....      | am. No. 43, 1996   |
| S. 6A .....        | ad. No. 63, 1984<br>am. No. 43, 1996   |
| S. 6B .....        | ad. No. 177, 1994  |
| S. 7.....          | am. No. 81, 1983; No. 102, 1986; No. 75, 1990; No. 137, 1991;<br>No. 165, 1992; No. 84, 1994; No. 161, 1999; No. 128, 2005   |
| <b>Part II</b>     |  |
| S. 8.....          | am. No. 111, 1986; No. 84, 1994  |
| S. 9.....          | am. No. 81, 1983; No. 111, 1986; No. 137, 1991; No. 43, 1996   |
| S. 10.....         | am. No. 81, 1983; No. 137, 1991; No. 43, 1996  |
| <b>Part III</b>    |  |
| S. 11.....         | am. No. 137, 1991  |
| S. 12.....         | am. No. 81, 1983; No. 137, 1991; No. 165, 1992; No. 43, 1996   |
| S. 13.....         | am. No. 81, 1983; No. 158, 2007  |
| S. 15.....         | am. No. 111, 1986; No. 137, 1991   |
| S. 15A .....       | ad. No. 137, 1991  |
| S. 16.....         | am. No. 81, 1983; No. 137, 1991; No. 165, 1992; No. 128,<br>2005   |
| S. 17.....         | am. No. 111, 1986; No. 137, 1991   |
| S. 18.....         | am. No. 111, 1986  |
| S. 19.....         | am. No. 81, 1983; No. 111, 1986; No. 119, 1988<br>rep. No. 137, 1991   |
| S. 20.....         | am. No. 43, 1996   |
| S. 22.....         | am. No. 137, 1991; No. 43, 1996  |
| S. 23.....         | am. No. 81, 1983; No. 43, 1996   |
| S. 24.....         | rs. No. 137, 1991  |
| S. 24A .....       | ad. No. 137, 1991  |
| S. 25.....         | am. No. 81, 1983   |
| S. 26.....         | am. No. 81, 1983; No. 43, 1996   |
| S. 26A .....       | ad. No. 81, 1983<br>am. No. 137, 1991  |
| S. 27.....         | am. No. 137, 1991  |
| S. 27A .....       | ad. No. 119, 1988<br>am. No. 137, 1991; No. 84, 1994   |

**Table of Amendments**

ad. = added or inserted   am. = amended   rep. = repealed   rs. = repealed and substituted

| Provision affected | How affected  |
|--------------------|---|
| S. 28.....         | am. No. 43, 1996  |
| S. 29.....         | am. No. 111, 1986<br>rs. No. 137, 1991<br>am. No. 84, 1994                    |
| S. 30.....         | am. No. 111, 1986<br>rep. No. 137, 1991                                       |
| S. 30A.....        | ad. No. 111, 1986<br>am. No. 137, 1991; No. 84, 1994                          |
| S. 31.....         | am. No. 81, 1983; No. 137, 1991; No. 43, 1996                                 |
| <b>Part IV</b>     |   |
| S. 33.....         | am. No. 81, 1983; No. 137, 1991; No. 43, 1996                                 |
| S. 33A.....        | ad. No. 81, 1983<br>am. No. 137, 1991; No. 43, 1996                           |
| Ss. 34, 35.....    | am. No. 81, 1983; No. 137, 1991   |
| S. 36.....         | am. No. 43, 1996  |
| S. 36A.....        | ad. No. 137, 1991   |
| S. 37.....         | am. No. 81, 1983; No. 137, 1991; No. 84, 1994                                 |
| S. 38.....         | am. No. 119, 1988; No. 137, 1991; No. 75, 2003                                |
| Ss. 39, 40.....    | rs. No. 81, 1983  |
| S. 41.....         | am. No. 137, 1991   |
| S. 43.....         | am. No. 81, 1983; No. 137, 1991; No. 43, 1996                                 |
| S. 43A.....        | ad. No. 137, 1991   |
| S. 45.....         | am. No. 81, 1983; No. 111, 1986; No. 137, 1991; No. 43, 1996;<br>No. 62, 2004 |
| S. 47.....         | am. No. 81, 1983; No. 143, 1992   |
| S. 47A.....        | ad. No. 219, 1992   |
| <b>Part V</b>      |   |
| Part V.....        | rs. No. 137, 1991   |
| S. 48.....         | am. No. 119, 1988<br>rs. No. 137, 1991  |
| S. 49.....         | am. No. 81, 1983<br>rs. No. 137, 1991   |
| S. 50.....         | rs. No. 137, 1991   |
| S. 51.....         | am. No. 81, 1983<br>rs. No. 137, 1991   |
| Ss. 51A, 51B.....  | ad. No. 137, 1991   |
| S. 51C.....        | ad. No. 137, 1991<br>am. No. 165, 1992; No. 128, 2005                         |
| Ss. 51D, 51E.....  | ad. No. 137, 1991   |
| S. 52.....         | rep. No. 137, 1991  |
| Part VA.....       | ad. No. 81, 1983<br>rep. No. 137, 1991  |
| Ss. 52A–52F.....   | ad. No. 81, 1983<br>rep. No. 137, 1991  |

**Table of Amendments**

ad. = added or inserted   am. = amended   rep. = repealed   rs. = repealed and substituted

| Provision affected | How affected  |
|--------------------|---|
| <b>Part VI</b>     |   |
| S. 53.....         | am. No. 81, 1983  |
| S. 54.....         | am. No. 81, 1983; No. 111, 1986; No. 137, 1991; No. 84, 1994                  |
| S. 55.....         | am. No. 81, 1983; No. 111, 1986; No. 137, 1991; No. 84, 1994;<br>No. 43, 1996 |
| S. 56.....         | am. No. 81, 1983; No. 137, 1991; No. 143, 1992; No. 43, 1996                  |
| S. 57.....         | rep. No. 81, 1983<br>ad. No. 137, 1991  |
| S. 58.....         | am. No. 81, 1983; No. 143, 1992   |
| S. 58A .....       | ad. No. 81, 1983<br>am. No. 137, 1991; No. 165, 1992; No. 43, 1996            |
| S. 58B .....       | ad. No. 81, 1983<br>am. No. 43, 1996  |
| S. 58C .....       | ad. No. 81, 1983<br>am. No. 143, 1992; No. 43, 1996                           |
| S. 58D .....       | ad. No. 81, 1983<br>am. No. 38, 2005  |
| S. 58E .....       | ad. No. 81, 1983<br>am. No. 43, 1996  |
| S. 58F.....        | ad. No. 81, 1983<br>am. No. 137, 1991; No. 84, 1994                           |
| S. 59.....         | am. No. 137, 1991; No. 84, 1994   |
| S. 59A .....       | ad. No. 119, 1988<br>am. No. 137, 1991; No. 84, 1994                          |
| S. 60.....         | am. No. 81, 1983  |
| S. 61.....         | am. No. 137, 1991   |
| S. 62.....         | am. No. 81, 1983  |
| S. 63.....         | am. No. 81, 1983; No. 43, 1996  |
| S. 64.....         | am. No. 81, 1983; No. 137, 1991; No. 43, 1996; No. 194, 1999;<br>No. 38, 2005 |
| S. 65.....         | am. No. 81, 1983  |
| S. 66.....         | rs. No. 81, 1983<br>am. No. 43, 1996  |
| Ss. 67–69 .....    | rep. No. 81, 1983   |
| Part VII .....     | rep. No. 81, 1983   |
| Ss. 70–90 .....    | rep. No. 81, 1983   |
| <b>Part VIII</b>   |   |
| S. 91.....         | am. No. 81, 1983; No. 137, 1991; No. 84, 1994                                 |
| S. 92.....         | am. No. 81, 1983; No. 84, 1994  |
| S. 92A .....       | ad. No. 84, 1994  |
| S. 93.....         | am. No. 81, 1983; No. 111, 1986; No. 137, 1991; No. 43, 1996                  |
| S. 94.....         | am. No. 81, 1983; No. 111, 1986   |
| <b>Schedule 1</b>  |   |
| Schedule 1 .....   | am. No. 87, 1988; No. 62, 2004; SLI 2006 No. 50                               |

**Table of Amendments**

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ad. = added or inserted    am. = amended    rep. = repealed    rs. = repealed and substituted

| Provision affected | How affected  |
|--------------------|---|
| <b>Schedule 2</b>  |   |
| Schedule 2 .....   | am. No. 7, 1983; No. 187, 1985; Nos. 102 and 111, 1986; Nos. 6, 121, 126, 127 and 129, 1988; Nos. 66 and 150, 1989; Nos. 26, 75 and 118, 1990; Nos. 99, 137, 149 and 180, 1991; No. 165, 1992; Nos. 64 and 84, 1994; No. 161, 1995; No. 96, 1997; Nos. 7, 146 and 161, 1999; Nos. 108 and 163, 2000; No. 30, 2001; No. 127, 2002; No. 114, 2003; No. 62, 2004; Nos. 45, 111, 118, 128 and 129, 2005; Nos. 50 and 170, 2006; Nos. 27 and 124, 2007; No. 66, 2008 |
| <b>Schedule 3</b>  |   |
| Schedule 3 .....   | ad. No. 137, 1991<br>am. No. 118, 1992; No. 181, 1994; No. 174, 1995; No. 114, 1997; Nos. 118, 161 and 176, 1999; No. 170, 2000; No. 153, 2001; Nos. 19, 28, 75 and 148, 2003; No. 62, 2004; Nos. 40, 73, 101 and 150, 2006; Nos. 8, 32 and 56, 2007  |
| <b>Schedule 4</b>  |   |
| Schedule 4 .....   | ad. No. 137, 1991<br>am. No. 84, 1994   |

**Note 2**

*AIDC Sale Act 1997* (No. 67, 1997)

The following amendment commences by proclamation:

**Schedule 2**

**5 Part I of Schedule 2**

Omit “Australian Industry Development Corporation”.

As at 10 July 2008 the amendment is not incorporated in this compilation.

**Table A**

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**Table A**

**Application, saving or transitional provisions**

*Migration Legislation Amendment (Protected Information) Act 2003*  
(No. 75, 2003)

**Schedule 2**

**4 Application**

- (1) The amendments made by this Schedule apply to a request for access to protected information made under the *Freedom of Information Act 1982*:
- (a) on or after the commencement of this Schedule; or
  - (b) before the commencement of this Schedule if no decision under the *Freedom of Information Act 1982* in respect of the request has been made, or has been taken to be made, before the commencement of this Schedule.
- (2) In this item:
- protected information*** means:
- (a) information that:
    - (i) is communicated to an authorised migration officer by a gazetted agency on condition that it be treated as confidential information; and
    - (ii) is relevant to the exercise of a power under section 501, 501A, 501B or 501C of the *Migration Act 1958*; and
  - (b) the agency details in relation to the protected information.
- (3) In the definition of ***protected information*** in subitem (2):
- agency details*** has the meaning given in subsection 503D(2) of the *Migration Act 1958*.
- authorised migration officer*** has the meaning given in subsection 503A(9) of the *Migration Act 1958*.
- gazetted agency*** has the meaning given in subsection 503A(9) of the *Migration Act 1958*.
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**Table A**

*Administrative Appeals Tribunal Amendment Act 2005* (No. 38, 2005)

**Schedule 1**

**212 Application of amendments—section 58D of the *Freedom of Information Act 1982***

The amendments made by items 210 and 211 do not apply to a proceeding if, immediately before the commencement of this item, the Tribunal was constituted for the purposes of the proceeding by one or more members.

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*Human Services Legislation Amendment Act 2005* (No. 111, 2005)

**Schedule 2**

**729 Operation of the *Freedom of Information Act 1982***

The *Freedom of Information Act 1982* has effect after the commencement time as if the reference to Medicare Australia in Division 1 of Part II of Schedule 2 to that Act included a reference to HIC.

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*Law and Justice Legislation Amendment (Serious Drug Offences and Other Measures) Act 2005* (No. 129, 2005)

**Schedule 9**

**2 Application**

The amendment made by item 1 applies in relation to a document that is a document of an agency before, on or after the commencement of that item.

## **Table A**

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*Tax Laws Amendment (Repeal of Inoperative Provisions) Act 2006*  
(No. 101, 2006)

### **Schedule 6**

#### **5 Application of Schedule 5 amendments**

The repeals and amendments made by Schedule 5 apply to acts done or omitted to be done, or states of affairs existing, after the commencement of the amendments.

#### **6 Object**

The object of this Part is to ensure that, despite the repeals and amendments made by this Act, the full legal and administrative consequences of:

- (a) any act done or omitted to be done; or
- (b) any state of affairs existing; or
- (c) any period ending;

before such a repeal or amendment applies, can continue to arise and be carried out, directly or indirectly through an indefinite number of steps, even if some or all of those steps are taken after the repeal or amendment applies.

#### **7 Making and amending assessments, and doing other things, in relation to past matters**

Even though an Act is repealed or amended by this Act, the repeal or amendment is disregarded for the purpose of doing any of the following under any Act or legislative instrument (within the meaning of the *Legislative Instruments Act 2003*):

- (a) making or amending an assessment (including under a provision that is itself repealed or amended);
- (b) exercising any right or power, performing any obligation or duty or doing any other thing (including under a provision that is itself repealed or amended);

in relation to any act done or omitted to be done, any state of affairs existing, or any period ending, before the repeal or amendment applies.

Example 1: On 31 July 1999, Greg Ltd lodged its annual return under former section 160ARE of the *Income Tax Assessment Act 1936*. The return stated that the company had a credit on its franking account and that no franking deficit tax was payable for the 1998-99 franking year.

**Table A**

Under former section 160ARH of that Act, the Commissioner was taken to have made an assessment consistent with the return.

Following an audit undertaken after the repeal of Part IIIAA of that Act, the Commissioner concludes that Greg Ltd fraudulently overfranked dividends it paid during the 1998-99 franking year, and had a franking account deficit for that franking year. As a result, the Commissioner considers that franking deficit tax and a penalty by way of additional tax are payable.

The Commissioner can amend the assessment under former section 160ARN of that Act, because item 7 of this Schedule disregards the repeal of that section for the purposes of making an assessment in relation to the 1998-99 franking year. Item 7 will also disregard the repeal of Division 11 of former Part IIIAA to the extent necessary for the Commissioner to assess Greg Ltd's liability to a penalty by way of additional tax.

Despite the repeal of sections 160ARU and 160ARV, item 9 will ensure that the general interest charge will accrue on the unpaid franking deficit tax and penalty until they are paid.

Item 7 will also preserve Greg Ltd's right, under former section 160ART of that Act, to object against the Commissioner's amended assessment (including the penalty), since the objection is the exercise of a right in relation to a franking year that ended before the repeal of Part IIIAA.

Example 2: During the 1997-98 income year, Duffy Property Ltd withheld amounts from its employees' wages as required by former Divisions 1AAA and 2 of Part VI of the *Income Tax Assessment Act 1936*. The company failed to notify the Commissioner of those amounts, and failed to remit them to the Commissioner.

Following an audit undertaken after the repeal of those Divisions, the Commissioner discovers that the withheld amounts have not been remitted. The company's records are incomplete and the Commissioner is unable to completely ascertain the extent of its liability for the withheld amounts. Under section 222AGA of that Act, the Commissioner makes an estimate of the liability.

Item 7 will disregard the repeal of section 220AAZA of that Act (which empowered the Commissioner to recover the amount of the estimate). Even though the estimate is made after the repeal, it relates to amounts withheld before the repeal.

**8 Saving of provisions about effect of assessments**

If a provision or part of a provision that is repealed or amended by this Act deals with the effect of an assessment, the repeal or amendment is disregarded in relation to assessments made, before or after the repeal or amendment applies, in relation to any act done or omitted to be done, any state of affairs existing, or any period ending, before the repeal or amendment applies.

**Table A**

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**9 Saving of provisions about general interest charge, failure to notify penalty or late reconciliation statement penalty**

If:

- (a) a provision or part of a provision that is repealed or amended by this Act provides for the payment of:
  - (i) general interest charge, failure to notify penalty or late reconciliation statement penalty (all within the meaning of the *Income Tax Assessment Act 1936*); or
  - (ii) interest under the *Taxation (Interest on Overpayments and Early Payments) Act 1983*; and
- (b) in a particular case, the period in respect of which the charge, penalty or interest is payable (whether under the provision or under the *Taxation Administration Act 1953*) has not begun, or has begun but not ended, when the provision is repealed or amended;

then, despite the repeal or amendment, the provision or part continues to apply in the particular case until the end of the period.

**10 Repeals disregarded for the purposes of dependent provisions**

If the operation of a provision (the *subject provision*) of any Act or legislative instrument (within the meaning of the *Legislative Instruments Act 2003*) made under any Act depends to any extent on an Act, or a provision of an Act, that is repealed by this Act, the repeal is disregarded so far as it affects the operation of the subject provision.

**11 Schedule does not limit operation of section 8 of the Acts Interpretation Act 1901**

This Schedule does not limit the operation of section 8 of the *Acts Interpretation Act 1901*.

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**Table A**

*Classification (Publications, Films and Computer Games) Amendment Act 2007*  
(No. 27, 2007)

**Schedule 1**

**22 Application provision—exempt documents**

The amendment made by item 14 of this Schedule applies to exempt Internet-content documents on or after the commencement of that item, whether the documents came into existence before, on or after commencement of that item.

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*Tax Laws Amendment (2007 Measures No. 1) Act 2007* (No. 56, 2007)

**Schedule 1**

**5 Application**

The amendments made by this Schedule apply to disclosures of information made on or after the day on which this Act receives the Royal Assent (whenever the information was obtained).

**Table B**

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**Table B**

**Modifications**

A.C.T. Self-Government (Consequential Provisions) Regulations

**Schedule 1**

**After section 16:**

Insert the following section:

**16A Requests transferred from the ACT**

Where a request under the *Freedom of Information Act 1989* of the Australian Capital Territory is transferred to an agency in accordance with section 33 of the Act, it becomes a request under this Act at the time at which it is received by the agency.