

2011

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

---

(As presented)

(Attorney-General)

# Freedom of Information Amendment Bill 2011

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# Freedom of Information Amendment Bill 2011

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## A Bill for

An Act to amend the *Freedom of Information Act 1989*, and for other purposes

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The Legislative Assembly for the Australian Capital Territory enacts as follows:

**1 Name of Act**

This Act is the *Freedom of Information Amendment Act 2011*.

**2 Commencement**

This Act commences on a day fixed by the Minister by written notice.

*Note 1* The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

*Note 2* A single day or time may be fixed, or different days or times may be fixed, for the commencement of different provisions (see Legislation Act, s 77 (1)).

*Note 3* If a provision has not commenced within 6 months beginning on the notification day, it automatically commences on the first day after that period (see Legislation Act, s 79).

**3 Legislation amended**

This Act amends the *Freedom of Information Act 1989*.

*Note* This Act also amends the following legislation (see sch 1):

- *Children and Young People Act 2008*
- *Crimes (Restorative Justice) Act 2004*
- *Gene Technology Act 2003*
- *Territory Records Act 2002*.

**4 Object**  
**New section 2 (1) (c)**

*insert*

- (c) recognising that information held by the Territory is to be managed for public purposes, and is a Territory resource.

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**5 New sections 10A to 10C***insert***10A Access to documents on request**

- (1) This section applies if a person makes a request under section 14 (Requests for access) to an agency or Minister for access to—
- (a) a document of the agency; or
  - (b) an official document of the Minister.
- (2) The agency or Minister must give the person access to the document in accordance with this Act.
- (3) The agency or Minister is not required to give the person access to the document at a particular time if, at that time, the document is an exempt document.
- (4) The agency or Minister must give the person access to the document if it is conditionally exempt at a particular time unless access to the document at that time would, on balance, be contrary to the public interest.
- (5) Despite subsection (4), the agency or Minister is not required to give access to the document at a particular time if, at that time, the document is both—
- (a) a conditionally exempt document; and
  - (b) an exempt document within the dictionary meaning of *exempt document*, paragraph (b) or (c).

**10B Public interest exemptions—factors**

- (1) This section applies for working out whether access to a conditionally exempt document would, on balance, be contrary to the public interest under section 10A (4).

- 1           (2) Factors favouring access to the document in the public interest  
2           include whether access to the document would do any of the  
3           following:
- 4           (a) promote the objects of this Act;  
5           (b) inform debate on a matter of public importance;  
6           (c) promote effective oversight of public expenditure;  
7           (d) allow a person to access his or her personal information.
- 8           (3) The following factors must not be taken into account in deciding  
9           whether access to the document would, on balance, be contrary to  
10          the public interest:
- 11          (a) access to the document could result in embarrassment to the  
12          government, or cause a loss of confidence in the government;  
13          (b) access to the document could result in a person misinterpreting  
14          or misunderstanding the document;  
15          (c) the author of the document was (or is) of high seniority in the  
16          agency to which the request for access to the document was  
17          made;  
18          (d) access to the document could result in confusion or  
19          unnecessary debate.
- 20          (4) This section does not limit section 10A (4).

21       **10C          Publication of information in accessed documents**

- 22           (1) This section applies to information if an agency or Minister gives a  
23           person access under section 10A to a document containing the  
24           information, unless the information is—
- 25           (a) personal information about a person and it would be  
26           unreasonable to publish the information; or

- 1 (b) information about the business, commercial, financial or  
2 professional affairs of a person and it would be unreasonable to  
3 publish the information; or
- 4 (c) any other information and it is not reasonably practicable to  
5 publish the information under this section because of the extent  
6 of any modifications to a document (or documents) necessary  
7 to delete information mentioned in paragraphs (a) and (b).
- 8 (2) The agency, or the Minister, must publish the information on a  
9 website by—
  - 10 (a) making the information available for downloading from the  
11 website; or
  - 12 (b) publishing on the website a link to another website, from  
13 which the information can be downloaded; or
  - 14 (c) publishing on the website other details of how the information  
15 may be obtained.
- 16 (3) The agency or Minister must publish the information within  
17 15 working days after the day the person is given access to the  
18 document.

## **6 Part 4**

*substitute*

## **Part 4 Exempt documents**

### **Division 4.1 Preliminary**

#### **31A Meaning of *exempt*—pt 4**

For this part, a document is *exempt* if—

- (a) it is an exempt document under division 4.2; or

- 1 (b) it is conditionally exempt under division 4.3 and access to it  
2 would, on balance, be contrary to the public interest under  
3 section 10A (4).

4 **32 Exemptions do not limit each other**

5 A provision of this part under which a document is an exempt  
6 document—

- 7 (a) must not be taken as limited in its scope or operation in any  
8 way by any other provision of this part; and  
9 (b) must not be taken as not applying to a particular document  
10 because another provision of this part also applies to the  
11 document.

12 **Division 4.2 Exemptions—general**

13 **33 Executive documents**

- 14 (1) A document is an exempt document if—  
15 (a) it—  
16 (i) was created for the purpose of submission to the  
17 Executive for its consideration; and  
18 (ii) has been submitted, or is proposed by a Minister to be  
19 submitted, to the Executive for its consideration; or  
20 (b) it is an official record of the Executive; or  
21 (c) it is a document that is a copy of, or of a part of, or contains an  
22 extract from, a document mentioned in paragraph (a) or (b); or  
23 (d) disclosure of the document would disclose a deliberation or  
24 decision of the Executive and it is not a document officially  
25 publishing a decision of the Executive.

26 *Note* Access to the Cabinet notebook is excluded under s 11 (2).



- 1 (2) This section does not apply to a document mentioned in  
2 subsection (1) (a), (b) or (c) to the extent that the document contains  
3 purely factual material unless—  
4 (a) the disclosure of the document under this Act would disclose a  
5 deliberation or decision of the Executive; and  
6 (b) the fact of that deliberation or decision has not been officially  
7 published.  
8 (3) In this section:  
9 *Executive* includes a committee of the Executive.
- 10 **34 Documents affecting enforcement of the law and**  
11 **protection of public safety**  
12 (1) A document is an exempt document if its disclosure under this Act  
13 would, or could reasonably be expected to—  
14 (a) prejudice the conduct of an investigation of—  
15 (i) a breach, or possible breach, of the law; or  
16 (ii) a failure, or possible failure, to comply with a law  
17 relating to taxation; or  
18 (b) prejudice the enforcement or proper administration of the law  
19 in a particular instance; or  
20 (c) disclose, or enable a person to ascertain, the existence or  
21 identity of a confidential source of information in relation to  
22 the enforcement or administration of the law; or  
23 (d) endanger the life or physical safety of a person.  
24 (2) A document is an exempt document if its disclosure under this Act  
25 would, or could reasonably be expected to—  
26 (a) prejudice the fair trial of a person or the impartial adjudication  
27 of a particular case; or

- 1 (b) disclose lawful methods or procedures for preventing,  
2 detecting, investigating, or dealing with matters arising out of  
3 breaches or evasions of the law the disclosure of which would,  
4 or could reasonably be expected to, prejudice the effectiveness  
5 of those methods or procedures; or
- 6 (c) prejudice the maintenance or enforcement of lawful methods  
7 for the protection of public safety.

8 (3) In this section:

9 *law* means a law in force in Australia.

10 **35 Documents affecting national security, defence or**  
11 **international relations**

12 (1) A document is an exempt document if its disclosure under this  
13 Act—

- 14 (a) would, or could reasonably be expected to, cause damage to—
- 15 (i) the security of the Commonwealth, the Territory or a  
16 State; or
- 17 (ii) the defence of the Commonwealth, the Territory or a  
18 State; or
- 19 (iii) the international relations of the Commonwealth; or
- 20 (b) would divulge any information or matter communicated in  
21 confidence by or for a foreign government, an authority of a  
22 foreign government or an international organisation to—
- 23 (i) the government of the Commonwealth or Territory; or
- 24 (ii) an authority of the Commonwealth or Territory; or
- 25 (iii) a person receiving the communication on behalf of the  
26 Commonwealth or Territory or of an authority of the  
27 Commonwealth or Territory.

- 1           (2) If a Minister is satisfied that a document is an exempt document  
 2           under subsection (1), the Minister may sign a certificate to that  
 3           effect stating the reason and, subject to part 7, the certificate, while  
 4           in force, establishes conclusively that the document is an exempt  
 5           document.
- 6           (3) If a Minister is satisfied that a document is an exempt document  
 7           under subsection (1) only because of matter contained in a particular  
 8           part of the document, a certificate under subsection (2) in relation to  
 9           the document must identify the part of the document containing the  
 10          matter.
- 11          (4) If a Minister is satisfied that information about the existence or  
 12          non-existence of a document described in a request would, if  
 13          contained in a document of an agency, cause the document to be an  
 14          exempt document under subsection (1), the Minister may sign a  
 15          certificate to that effect, stating the reason.
- 16          *Note 1*   A Minister may delegate the Minister's functions under an Act or  
 17          statutory instrument to anyone else (see Legislation Act, s 254A).
- 18          *Note 2*   For the making of delegations and the exercise of delegated functions,  
 19          see the Legislation Act, pt 19.4.
- 20          (5) In this section:  
 21          *security of the Commonwealth, the Territory or a State* includes—  
 22          (a) matters relating to the detection, prevention or suppression of  
 23          activities, whether within or outside Australia, subversive of or  
 24          hostile to the interests of the Commonwealth, the Territory or a  
 25          State or of any country allied or associated with the  
 26          Commonwealth; and

- 1 (b) the security of any communications system or cryptographic  
2 system of the Commonwealth, the Territory, a State or another  
3 country used for—
- 4 (i) the defence of the Commonwealth, the Territory or a  
5 State or of any country allied or associated with the  
6 Commonwealth; or
- 7 (ii) the conduct of the international relations of the  
8 Commonwealth.

9 **36 Documents to which secrecy provisions of enactments**  
10 **apply**

11 A document is an exempt document if an enactment is in force  
12 applying specifically to information of a kind contained in the  
13 document and prohibiting people referred to in the enactment from  
14 disclosing information of that kind, whether the prohibition is  
15 absolute or is subject to exceptions or qualifications.

16 **37 Documents subject to legal professional privilege**

- 17 (1) A document is an exempt document if it would be privileged from  
18 production in a legal proceeding on the ground of legal professional  
19 privilege.
- 20 (2) A document is not an exempt document under this section if the  
21 person entitled to claim legal professional privilege in relation to the  
22 production of the document in a legal proceeding waives that claim.
- 23 (3) A document mentioned in section 8 (1) is not an exempt document  
24 under this section only because the document includes matter that is  
25 used or is to be used for making decisions or recommendations  
26 mentioned in section 8 (1).

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**38 Documents containing material obtained in confidence**

(1) A document is an exempt document if its disclosure under this Act would be a breach of confidence.

(2) Subsection (1) does not apply to a document to which section 43 (1) (Public interest conditional exemptions—deliberative processes) applies (or would apply but for section 43 (2) or (3)) that is prepared by a relevant person for purposes relating to the affairs of an agency or the official affairs of a Minister unless the disclosure would be a breach of confidence owed to a person or body other than—

(a) a Minister, member of the staff of a Minister or officer of an agency; or

(b) an agency or the Territory.

(3) In this section:

*relevant person* means—

(a) a Minister; or

(b) a member of the staff of a Minister or an officer of an agency in the course of the member's or officer's duties; or

(c) a prescribed authority in the exercise of its functions.

**39 Documents disclosure of which would be contempt of Legislative Assembly or 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; or

(b) be contrary to an order made or discretion 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 Legislative Assembly, of the Commonwealth parliament, of the parliament of a State or of a house of the parliament of a State or of the Legislative Assembly of the Northern Territory.

**40 Documents disclosing trade secrets or commercially valuable information**

- (1) A document is an exempt document if its disclosure under this Act would disclose—

- (a) trade secrets; or
- (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.

- (2) Subsection (1) does not apply to a request by a person for access to a document—

- (a) only because the document includes information about the person's business or professional affairs; or
- (b) only because the document includes information about the business, commercial or financial affairs of an undertaking if the person making the request is the proprietor of the undertaking or a person acting on behalf of the proprietor; or
- (c) only because the document includes information about the business, commercial or financial affairs of an organisation if the person making the request is the organisation or a person acting on behalf of the organisation.

- (3) In this section:

***undertaking*** includes an undertaking that is carried on by, or by an authority of, the Territory, the Commonwealth, a State or by a local government authority.

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## 41 Electoral rolls and related documents

(1) In this section:

*electoral roll* means—

(a) a roll of electors kept under the *Electoral Act 1992*; or

(b) a roll extract within the meaning of the *Electoral Act 1992*.

(2) A reference in this section to an electoral roll in electronic form is a reference to a disk or tape from which the information contained in the roll may be reproduced by mechanical, electronic or other means.

(3) Subject to subsection (4), each of the following documents is an exempt document:

(a) an electoral roll, whether in printed or electronic form or on microfiche or microfilm;

(b) a copy of a document mentioned in paragraph (a);

(c) a document setting out particulars of only 1 enrolled person that was used in keeping an electoral roll;

(d) a copy of a document mentioned in paragraph (c);

(e) a document containing only copies mentioned in paragraph (d);

(f) a document derived from an electoral roll setting out particulars of enrolled people.

(4) A document mentioned in subsection (3) is not an exempt document in relation to a person to the extent that it sets out only the particulars of the person.

1     **Division 4.3                      Public interest conditional**  
2    **exemptions**

3     **42                      Public interest conditional exemptions—relations with**  
4    **Commonwealth and States**

5             A document is conditionally exempt if disclosure of the document  
6             under this Act—

7                 (a) would, or could reasonably be expected to, cause damage to  
8                     relations between the Territory and the Commonwealth or the  
9                     Territory and a State; or

10                (b) would divulge information or matter communicated in  
11                    confidence by or on behalf of the Commonwealth, a State or an  
12                    authority of the Commonwealth or of a State to the Territory,  
13                    to a Territory authority or to a person receiving the  
14                    communication on behalf of the Territory or of a Territory  
15                    authority.

16             *Note*       Access must generally be given to a conditionally exempt document  
17                            unless it would be contrary to the public interest (see s 10A).

18     **43                      Public interest conditional exemptions—deliberative**  
19    **processes**

20             (1) Subject to this section, a document is conditionally exempt if its  
21                disclosure under this Act would disclose matter in the nature of, or  
22                relating to, opinion, advice or recommendation obtained, prepared  
23                or recorded, or consultation or deliberation that has taken place, in  
24                the course of, or for the deliberative processes involved in the  
25                functions of an agency or Minister or of the Territory.

26             (2) For a document mentioned in section 8 (1), the matter mentioned in  
27                this section, subsection (1) does not include matter that is used or to  
28                be used for the making of decisions or recommendations mentioned  
29                in section 8 (1).



(3) This section does not apply to a document only because it contains purely factual material.

(4) 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 the experts on scientific or technical matters; or

(b) reports of a prescribed body or organisation 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.

(5) If a decision is made under part 3 that an applicant is not entitled to access to a document because of this section, the notice under section 25 must state the ground of public interest on which the decision is based.

*Note* Access must generally be given to a conditionally exempt document unless it would be contrary to the public interest (see s 10A).

#### **44 Public interest conditional exemptions—financial or property interests of the Territory**

A document is conditionally exempt if its disclosure under this Act would have a substantial adverse effect on the financial or property interests of the Territory or an agency.

*Note* Access must generally be given to a conditionally exempt document unless it would be contrary to the public interest (see s 10A).

**45 Public interest conditional exemptions—certain operations of agencies**

A document is conditionally exempt 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; or
- (b) prejudice the attainment of the objects of particular tests, examinations or audits conducted or to be conducted by an agency; or
- (c) have a substantial adverse effect on the management or assessment of personnel by the Territory or an agency; or
- (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 Territory or an agency of industrial relations.

*Note* Access must generally be given to a conditionally exempt document unless it would be contrary to the public interest (see s 10A).

**46 Public interest conditional exemptions—personal privacy**

- (1) A document is conditionally exempt if its disclosure under this Act would involve the unreasonable disclosure of personal information about any person (including a deceased person).
- (2) In deciding whether the disclosure of the document would involve the unreasonable disclosure of personal information, an agency or Minister must consider the following:
  - (a) how well known the information is;
  - (b) whether the person the information relates to is known to be or have been associated with the matters dealt with in the document;

- 1 (c) the availability of the information from publicly accessible  
2 sources;
- 3 (d) the *Human Rights Act 2004*, section 12 (a);
- 4 (e) any other matters the agency or Minister considers relevant.
- 5 (3) Subject to subsection (5), subsection (1) does not apply to a request  
6 by a person for access to a document only because the document  
7 includes matter relating to the person.
- 8 (4) Subsection (5) applies if—
  - 9 (a) a request is made to an agency or Minister for access to a  
10 document of the agency or an official document of the  
11 Minister; and
  - 12 (b) the document contains information about the applicant that was  
13 provided by a qualified person acting in his or her capacity as a  
14 qualified person; and
  - 15 (c) it appears to the principal officer of the agency or Minister that  
16 the disclosure of the information to the applicant might be  
17 prejudicial to the physical or mental health or wellbeing of the  
18 applicant.
- 19 (5) The principal officer or Minister may, if access to the document  
20 would otherwise be given to the applicant, direct that access to the  
21 document, so far as it contains that information, is not to be given to  
22 the applicant but is to be given instead to a qualified person of the  
23 same kind nominated by the applicant.
- 24 (6) In this section:  
25 **qualified person** means a person entitled to and carrying on an  
26 occupation that provides care for the physical or mental health of  
27 people or for their wellbeing, including the following:
  - 28 (a) a medical practitioner;
  - 29 (b) a psychiatrist;

(c) a psychologist;

(d) a counsellor;

(e) a social worker.

*Note* Access must generally be given to a conditionally exempt document unless it would be contrary to the public interest (see s 10A).

**47 Public interest conditional exemptions—business**

(1) A document is conditionally exempt if its disclosure under this Act—

(a) would disclose information about a person in relation to the person's business or professional affairs or about the business, commercial or financial affairs of an organisation or undertaking; and

(b) either—

(i) the disclosure of the information would, or could reasonably be expected to, unreasonably affect the person adversely in relation to his or her lawful business or professional affairs or the organisation or undertaking in its lawful business, commercial or financial affairs; or

(ii) the disclosure of the information could reasonably be expected to prejudice the future supply of information to the Territory or an agency for the administration of a law or the administration of matters administered by an agency.

(2) This section does not apply to information that section 40 (Documents disclosing trade secrets or commercially valuable information) applies to.

(3) Subsection (1) does not apply to a request by a person for access to a document—

(a) only because the document includes information about the person's business or professional affairs; or

(b) only because the document includes information about the business, commercial or financial affairs of an undertaking if the person making the request is the proprietor of the undertaking or a person acting on behalf of the proprietor; or

(c) only because the document includes information about the business, commercial or financial affairs of an organisation if the person making the request is the organisation or a person acting on behalf of the organisation.

(4) For this section, information is not taken to be about a person in relation to the person's professional affairs only because it is information about the person's status as a member of a profession.

(5) In this section:

***undertaking*** includes an undertaking that is carried on by, or by an authority of, the Territory, the Commonwealth, a State or by a local government authority.

*Note* Access must generally be given to a conditionally exempt document unless it would be contrary to the public interest (see s 10A).

#### **47A Public interest conditional exemptions—the economy**

(1) A document is conditionally exempt if its disclosure under this Act would, or could reasonably be expected to, have a substantial adverse effect on the Territory's economy by—

(a) influencing a decision or action of a person or entity; or

- 1 (b) giving a person an undue benefit or detriment in relation to  
2 business carried on by the person, by providing premature  
3 knowledge of proposed or possible action or inaction of a  
4 person or entity.

5 *Note 1* Words in the singular number include the plural and words in the plural  
6 number include the singular (see Legislation Act, s 145 (b))

7 *Note 2* A person includes a body corporate and a body politic (see Legislation  
8 Act, s 160 and dict, pt 1, def *corporation*).

- 9 (2) For subsection (1), a substantial adverse effect on the economy of  
10 the Territory includes a substantial adverse effect on—

11 (a) a particular sector of the economy; or

12 (b) the economy of a particular region of the Territory.

- 13 (3) The documents to which subsection (1) applies include, but are not  
14 limited to, documents containing matter relating to—

15 (a) a fee or charge; or

16 (b) any kind of tax or duty; or

17 (c) proposals for expenditure; or

18 (d) investment in the Territory from outside of Australia; or

19 (e) borrowings or proposals to borrow by the Territory or an  
20 agency.

21 *Note* Access must generally be given to a conditionally exempt document  
22 unless it would be contrary to the public interest (see s 10A).

**7 Protection against certain actions**  
**Section 77 (1)**

*omit*

defamation, breach of confidence or infringement of copyright

*substitute*

defamation or breach of confidence

**8 Section 77 (2) and (3)**

*substitute*

(2) Also, no action for defamation or breach of confidence lies against the Territory, an agency, a Minister or an officer because of—

(a) the publication of a document in the honest belief that the publication is required under section 10C; or

(b) the publication of, or giving of access to, a document in the honest belief that the publication or access is required or permitted otherwise than under this Act (whether or not under an express legislative power).

(3) The giving of access to a document (including an exempt document) because of a request is not taken to be an authorisation or approval of the publication of the document or its contents by the person to whom access is given.

**9 New parts 9 and 10**

*insert*

**Part 9 Transitional—Freedom of Information Amendment Act 2011**

**100 Application of amendments**

The amendments made by the *Freedom of Information Amendment Act 2011* apply in relation to requests for access made under section 14 that are received on or after the day the amendments commence.

**101 Transitional regulations**

- (1) A regulation may prescribe transitional matters necessary or convenient to be prescribed because of the enactment of the *Freedom of Information Amendment Act 2011*.
- (2) A regulation may modify this part (including in relation to another territory law) to make provision in relation to anything that, in the Executive's opinion, is not, or is not adequately or appropriately, dealt with in this part.
- (3) A regulation under subsection (2) has effect despite anything elsewhere in this Act or another territory law.

**102 Expiry—pt 9**

This part expires 1 year after the day it commences.

*Note* Transitional provisions are kept with the original provisions for a limited time to ensure people are aware of them. However, the expiry of a transitional provision does not end its effect (see Legislation Act, s 88).



## Part 10 Revocation of certain conclusive certificates

### 103 Revocation of certain conclusive certificates

- (1) This section applies to a certificate that was—
- (a) signed by the Minister under one of the following provisions in force before the commencement of the *Freedom of Information Amendment Act 2009*:
    - (i) section 34 (2) (Documents affecting relations with Commonwealth and States);
    - (ii) section 35 (4) (Executive documents);
    - (iii) section 36 (3) (Internal working documents); and
  - (b) in force immediately before the commencement of the *Freedom of Information Amendment Act 2009*.
- (2) The certificate is revoked.

### 104 Expiry—pt 10

This part expires on the day it commences.

## 10 Dictionary, new definition of *conditionally exempt*

*insert*

***conditionally exempt***—a document is ***conditionally exempt*** if division 4.3 (Public interest conditional exemptions) applies to the document.

*Note* Access must generally be given to a conditionally exempt document unless it would be contrary to the public interest (see s 10A).

1   **11       Dictionary, new definition of *exempt***

2               *insert*

3               *exempt*, for part 4 (Exempt documents)—see section 31A.

4   **12       Dictionary, definition of *exempt document*, paragraph (a)**

5               *substitute*

6               (a) a document that is exempt for part 4 (see section 31A); or

**Schedule 1                      Consequential amendments**

(see s 3)

**Part 1.1                      Children and Young People  
Act 2008**

**[1.1]                      Section 848, note, first dot point**

*substitute*

- *Freedom of Information Act 1989*, s 10A (Access to documents on request) and s 36 (Documents to which secrecy provisions of enactments apply)

**Part 1.2                      Crimes (Restorative Justice)  
Act 2004**

**[1.2]                      Section 64 (6), note**

*omit*

s 38

*substitute*

s 36

**Part 1.3                      Freedom of Information Act 1989**

**[1.3]                      Section 6B (5), definition of *excepted provisions***

*substitute*

*excepted provisions* means the following provisions:

- (a) section 34 (Documents affecting enforcement of the law and protection of public safety);
- (b) section 37 (Documents subject to legal professional privilege);

- 1 (c) section 39 (Documents disclosure of which would be contempt  
2 of Legislative Assembly or court);
- 3 (d) section 42 (Public interest conditional exemptions—relations  
4 with Commonwealth and States);
- 5 (e) section 46 (Public interest conditional exemptions—personal  
6 privacy).

7 **[1.4] Section 24 (1)**

- 8 *omit*
- 9 exempt document under section 34, section 37 (1) or section 37A.
- 10 *substitute*
- 11 exempt document under—
- 12 (a) section 34 (1) (Documents affecting enforcement of the law  
13 and protection of public safety); or
- 14 (b) section 35 (Documents affecting national security, defence or  
15 international relations); or
- 16 (c) section 42 (Public interest conditional exemptions—relations  
17 with Commonwealth and States).

18 **[1.5] Section 24 (2)**

- 19 *omit*
- 20 section 34, section 37 (1) or section 37A
- 21 *substitute*
- 22 section 34 (1), section 35 or section 42

- 1 **[1.6] Section 24 (2) (b)**
- 2 *omit*
- 3 section 34 or 37 (1).
- 4 *substitute*
- 5 section 34 (1) or section 42.
- 6 **[1.7] Section 26 (1) and (2)**
- 7 *omit*
- 8 section 34
- 9 *substitute*
- 10 section 42
- 11 **[1.8] Section 27 (1) and (2)**
- 12 *omit*
- 13 section 43
- 14 *substitute*
- 15 section 40 or section 47
- 16 **[1.9] Section 27A (1)**
- 17 *omit*
- 18 section 41 (Documents affecting personal privacy)
- 19 *substitute*
- 20 section 46 (Public interest conditional exemptions—personal
- 21 privacy)

1	<b>[1.10] Section 27A (2) to (4)</b>
2	<i>omit</i>
3	section 41
4	<i>substitute</i>
5	section 46
6	<b>[1.11] Section 58 (a)</b>
7	<i>omit</i>
8	section 37A (4)
9	<i>substitute</i>
10	section 35 (4)
11	<b>[1.12] Section 58 (b)</b>
12	<i>omit</i>
13	section 34, section 35 or section 37A
14	<i>substitute</i>
15	section 35
16	<b>[1.13] Section 60 (1) (a)</b>
17	<i>omit</i>
18	, not being a decision under section 33,
19	<b>[1.14] Section 62 (3) to (5)</b>
20	<i>omit</i>
21	section 37A
22	<i>substitute</i>
23	section 35

1	<b>[1.15] Section 63 (2)</b>
2	<i>omit</i>
3	section 37A
4	<i>substitute</i>
5	section 35
6	<b>[1.16] Section 63 (5)</b>
7	<i>omit</i>
8	section 34, section 35, section 36 or section 37A
9	<i>substitute</i>
10	section 33, section 35, section 42 or section 43
11	<b>[1.17] Section 63 (6)</b>
12	<i>omit</i>
13	section 34, section 35 or section 37A
14	<i>substitute</i>
15	section 33, section 35 or section 42
16	<b>[1.18] Section 63 (8)</b>
17	<i>omit</i>
18	section 37A
19	<i>substitute</i>
20	section 35

1 **[1.19] Section 63 (9), definition of *appropriate Minister***

2 *omit*

3 section 37A

4 *substitute*

5 section 35

6 **[1.20] Section 65 (2) (a) (iv) and (v)**

7 *omit*

8 section 37A

9 *substitute*

10 section 35

11 **[1.21] Section 67 (1)**

12 *omit*

13 section 37A

14 *substitute*

15 section 35

16 **[1.22] Section 68 (1)**

17 *omit*

18 section 34

19 *substitute*

20 section 42



- 1 **[1.23] Section 69 (1)**
- 2 *omit*
- 3 section 43
- 4 *substitute*
- 5 section 40 or section 47
- 6 **[1.24] Section 69A (1) (b)**
- 7 *omit*
- 8 section 41 (Documents affecting personal privacy)
- 9 *substitute*
- 10 section 46 (Public interest conditional exemptions—personal
- 11 privacy)
- 12 **[1.25] Section 74 (4) and (5)**
- 13 *omit*
- 14 section 37A
- 15 *substitute*
- 16 section 35
- 17 **[1.26] Section 75**
- 18 *omit*
- 19 section 37A
- 20 *substitute*
- 21 section 35

## Part 1.4                      Gene Technology Act 2003

### [1.27]                      Section 187 (4)

*omit*

section 43 (Documents relating to business affairs etc) applies

*substitute*

section 40 (Documents disclosing trade secrets or commercially valuable information) and section 47 (Public interest conditional exemptions—business) apply

## Part 1.5                      Territory Records Act 2002

### [1.28]                      Section 21 (2)

*omit*

section 34 (1) or 37

*substitute*

section 34 or section 42

### [1.29]                      Section 21 (2), note

*substitute*

*Note*                      The FOI Act, s 34 deals with documents affecting enforcement of the law and protection of public safety and s 42 deals with documents affecting relations with the Commonwealth and States.

### [1.30]                      Section 28 (2) (a) to (e)

*substitute*

(a) section 34 (Documents affecting enforcement of the law and protection of public safety);

(b) section 37 (Documents subject to legal professional privilege);

- 1 (c) section 39 (Documents disclosure of which would be contempt  
2 of Legislative Assembly or court);
- 3 (d) section 42 (Public interest conditional exemptions—relations  
4 with Commonwealth and States);
- 5 (e) section 46 (Public interest conditional exemptions—personal  
6 privacy).

7 **[1.31] Section 31G (1)**

- 8 *omit*
- 9 section 35
- 10 *substitute*
- 11 section 33

12 **[1.32] Section 31G (2) (b)**

- 13 *omit*
- 14 section 41 (Documents affecting personal privacy)
- 15 *substitute*
- 16 section 46 (Public interest conditional exemptions—personal  
17 privacy)

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## Endnotes

**1 Presentation speech**

Presentation speech made in the Legislative Assembly on 2011.

**2 Notification**

Notified under the Legislation Act on 2011.

**3 Republications of amended laws**

For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

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