

2022

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Elizabeth Lee)

Freedom of Information Amendment Bill 2022

A Bill for

An Act to amend the *Freedom of Information Act 2016*

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

1 Name of Act

This Act is the *Freedom of Information Amendment Act 2022*.

2 Commencement

This Act commences 6 months after its notification day.

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

3 Legislation amended

This Act amends the *Freedom of Information Act 2016*.

4 New part 4A

insert

Part 4A Proactive publication of Cabinet records

29A Definitions—pt 4A

In this part:

Cabinet includes a Cabinet committee or subcommittee.

Cabinet record means—

- (a) a document given to Cabinet for its consideration or created for that purpose; or
- (b) an official record of Cabinet.

relevant Minister, in relation to a Cabinet record, means—

- (a) if the Cabinet record is given by a Minister to Cabinet—the Minister; and

1 (b) for any other Cabinet record—the Chief Minister.

2 *restricted information*—see section 29D (1).

3 **29B Purpose—pt 4A**

4 The purpose of this part is to allow the public to—

- 5 (a) have better access to information considered by Cabinet; and
6 (b) participate more effectively in government decision-making
7 processes.

8 **29C Minister to publish Cabinet records**

9 (1) The relevant Minister must publish a Cabinet record.

10 (2) However, subsection (1) does not apply to a Cabinet record
11 containing—

12 (a) information that, if published, would or could reasonably be
13 expected to—

14 (i) endanger the life or physical safety of a person; or

15 (ii) be an unreasonable limitation on a person's rights under
16 the *Human Rights Act 2004*; or

17 (iii) significantly prejudice an ongoing criminal investigation;
18 or

19 (b) information that is taken to be contrary to the public interest to
20 disclose under schedule 1 (other than section 1.6); or

21 (c) information that, in the relevant Minister's opinion, would be
22 contrary to the public interest to be published, having regard to
23 the factors listed in schedule 2, section 2.2 (other than
24 section 2.2 (a) (i)).

- 1 **29D Cabinet records with restricted information**
- 2 (1) This section applies if a Cabinet record contains the kinds of
- 3 information mentioned in section 29C (2) (*restricted information*).
- 4 (2) The relevant Minister must—
- 5 (a) if it is practicable to do so—publish the Cabinet record with the
- 6 restricted information deleted; or
- 7 (b) if it is not practicable to comply with paragraph (a)—publish a
- 8 summary of all material information in the record with the
- 9 restricted information deleted; or
- 10 (c) if it is not practicable to comply with paragraphs (a) and (b)—
- 11 publish a description of the information in the record.
- 12 (3) If the relevant Minister publishes a Cabinet record or other document
- 13 under subsection (2), the Minister must, at the same time, publish—
- 14 (a) the reason for not publishing the record with the restricted
- 15 information; and
- 16 (b) the findings on any material questions of fact referring to the
- 17 evidence or other material on which the findings were based.
- 18 **29E Publishing Cabinet records etc—time frames**
- 19 (1) This section applies if a Cabinet record or other document is required
- 20 to be published under this part.
- 21 (2) The relevant Minister must publish the Cabinet record or document
- 22 not later than 30 business days after—
- 23 (a) for a Cabinet record given to Cabinet for its consideration—the
- 24 day the record was considered by Cabinet; and
- 25 (b) for any other Cabinet record—the day the record became a
- 26 Cabinet record.

(3) However, subsection (2) does not apply if the Cabinet record or document—

(a) is to otherwise be made available to the public within 50 business days after the relevant day mentioned in subsection (2); or

(b) relates to a bill that is to be presented to the Legislative Assembly.

5 Dictionary, new definitions

insert

Cabinet, for part 4A (Proactive publication of Cabinet records)—see section 29A.

Cabinet record, for part 4A (Proactive publication of Cabinet records)—see section 29A.

relevant Minister, in relation to a Cabinet record, for part 4A (Proactive publication of Cabinet records)—see section 29A.

restricted information, for part 4A (Proactive publication of Cabinet records)—see section 29D (1).

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 21 September 2022.

2 Notification

Notified under the [Legislation Act](#) on 2022.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

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