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FREEDOM OF INFORMATION ACT 1982 - SECT 11A

Access to documents on request

Scope

(1) This section applies if:

(a) a request is made by a person, in accordance with subsection 15(2), to an agency or Minister for access to:

(i) a document of the agency; or

(ii) an official document of the Minister; and

(b) any charge that, under the regulations, is required to be paid before access is given has been paid.

(2) This section applies subject to this Act.

Note: Other provisions of this Act are relevant to decisions about access to documents, for example the following:

- (a) section 12 (documents otherwise available);
- (b) section 13 (documents in national institutions);
- (c) section 15A (personnel records);
- (d) section 22 (access to edited copies with exempt or irrelevant matter deleted).

Mandatory access--general rule

(3) The agency or Minister must give the person access to the document in accordance with this Act, subject to this section.

Exemptions and conditional exemptions

(4) The agency or Minister is not required by this Act to give the person access to the document at a particular time if, at that time, the document is an exempt document.

Note: Access may be given to an exempt document apart from under this Act, whether or not in response to a request (see section 3A (objects--information or documents otherwise accessible)).

(5) The agency or Minister must give the person access to the document if it is conditionally exempt at a particular time unless (in the circumstances) access to the document at that time would, on balance, be contrary to the public interest.

Note 1: Division 3 of Part IV provides for when a document is conditionally exempt.

Note 2: A conditionally exempt document is an exempt document if access to the document would, on balance, be contrary to the public interest (see section 31B (exempt documents for the purposes of Part IV)).

Note 3: Section 11B deals with when it is contrary to the public interest to give a person access to the document.

(6) Despite subsection (5), 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:

(i) under Division 2 of Part IV (exemptions); or

(ii) within the meaning of paragraph (b) or (c) of the definition of exempt document in subsection 4(1).

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FREEDOM OF INFORMATION ACT 1982 - SECT 24A

Requests may be refused if documents cannot be found, do not exist or have not been received

Document lost or non-existent

- (1) 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.

Document not received as required by contract

- (2) An agency may refuse a request for access to a document if:
 - (a) in order to comply with section 6C, the agency has taken contractual measures to ensure that it receives the document; and
 - (b) the agency has not received the document; and
 - (c) the agency has taken all reasonable steps to receive the document in accordance with those contractual measures.

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FREEDOM OF INFORMATION ACT 1982 - SECT 33

Documents affecting national security, defence or international relations

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.

Note: See also subsection 4(10).

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FREEDOM OF INFORMATION ACT 1982 - SECT 47C

Public interest conditional exemptions--deliberative processes

General rule

(1) A document is conditionally exempt if its disclosure under this Act would disclose matter (*deliberative 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:

- (a) an agency; or
- (b) a Minister; or
- (c) the Government of the Commonwealth; or
- (d) the Government of Norfolk Island.

Exceptions

(2) Deliberative matter does not include either of the following:

- (a) operational information (see section 8A);
- (b) purely factual material.

Note: An agency must publish its operational information (see section 8).

(3) This section does not apply to any of the following:

- (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 body or organisation, prescribed by the regulations, that is established within an agency;
- (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.

Note: Access must generally be given to a conditionally exempt document unless it would be contrary to the public interest (see section 11A).