



Queensland

Right to Information and Integrity (Openness and Transparency) Amendment Act 2012

Act No. 45 of 2012



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Right to Information and Integrity (Openness and Transparency) Amendment Act 2012

Act No. 45 of 2012

An Act to amend the Right to Information Act 2009 and the Integrity Act 2009 for particular purposes

[Assented to 11 December 2012]

[s 1]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Right to Information and Integrity (Openness and Transparency) Amendment Act 2012*.

2 Commencement

Part 2 commences on a day to be fixed by proclamation.

Part 2 Amendment of Right to Information Act 2009

3 Act amended

This part amends the *Right to Information Act 2009*.

4 Amendment of s 24 (Making access application)

Section 24(2)—

insert—

‘(d) state whether access to the document is sought for the benefit of, or use of the document by—

- (i) the applicant; or
- (ii) another entity; and

Example for paragraph (d)(ii)—

A journalist makes an access application for a document for use of the document by an electronic or print media organisation.

-
- (e) if access to the document is sought for the benefit of, or use of the document by, an entity other than the applicant—the name of the other entity.’.

5 Amendment of s 54 (Notification of decision and reasons)

Section 54(2)(a)(iii) and (iv)—

omit, insert—

- ‘(iii) details of the publication of the document, or of information about the document, that is required or permitted by section 78 or 78A, if the applicant accesses the document within the access period and the document does not contain personal information of the applicant; and
- (iv) details of the publication of the document, or of information about the document, that is required or permitted by section 78 or 78A, if the applicant fails to access the document within the access period and the document does not contain personal information of the applicant;’.

6 Replacement of s 78 (Disclosure logs)

Section 78—

omit, insert—

‘78 Disclosure logs—departments and Ministers

- ‘(1) This section applies if a person makes a valid access application to a department or a Minister.
- ‘(2) The department or Minister must, as soon as practicable after the application is made, include the following information about the application in a disclosure log—
- (a) details of the information being sought by the applicant, as stated in the application;
- (b) the date the application was made.

[s 6]

- ‘(3) If the department or Minister decides to give access to a document that does not contain personal information of the applicant and the applicant accesses the document within the access period, the following must be included in a disclosure log as soon as practicable after the applicant accesses the document—
- (a) a copy of the document;
 - (b) the applicant’s name;
 - (c) if access to the document was sought for the benefit of, or use of the document by, an entity other than the applicant—the name of the other entity.
- ‘(4) If the department or Minister decides to give access to a document that does not contain personal information of the applicant and the applicant fails to access the document within the access period, details identifying the document, and information about the way in which the document may be accessed and any applicable charge, must be included in a disclosure log as soon as practicable after the access period ends.
- ‘(5) A person may access a document the details of which are included in a disclosure log under subsection (4) on payment of the applicable charge, and in the way mentioned in the disclosure log.
- ‘(6) After a person accesses a document under subsection (5)—
- (a) no further charge is payable for access to the document by any person; and
 - (b) a copy of the document must be included in a disclosure log.
- ‘(7) However, the inclusion of a document or information in a disclosure log under this section is subject to section 78B(2).
- ‘(8) In this section—
- valid access application*** means an access application that—
- (a) is in a form complying with all relevant application requirements; and

(b) is not an application to which section 32 applies.

‘78A Disclosure logs—other agencies

- ‘(1) If an agency makes a decision in relation to an access application to give access to a document that does not contain personal information of the applicant and the applicant accesses the document within the access period—
- (a) a copy of the document may be included in a disclosure log, if this is reasonably practicable; or
 - (b) otherwise—details identifying the document and information about the way in which the document may be accessed may be included in a disclosure log.
- ‘(2) A person may access a document the details of which are included in a disclosure log under subsection (1)(b) for no charge and in the way mentioned in the disclosure log.
- ‘(3) If an agency decides to give access to a document that does not contain personal information of the applicant and the applicant fails to access the document within the access period, details identifying the document, and information about the way in which the document may be accessed and any applicable charge, may be included in a disclosure log.
- ‘(4) A person may access a document the details of which are included in a disclosure log under subsection (3) on payment of the applicable charge, and in the way mentioned in the disclosure log.
- ‘(5) After a person accesses a document under subsection (4)—
- (a) no further charge is payable for access to the document by any person; and
 - (b) a copy of the document may be included in a disclosure log.
- ‘(6) However, the inclusion of a document or information in a disclosure log under this section is subject to section 78B(2).
- ‘(7) In this section—

[s 7]

agency does not include a department or a prescribed entity under section 16.

‘78B Requirements about disclosure logs

- ‘(1) An agency maintaining a disclosure log must ensure the disclosure log complies with any guidelines published by the Minister on the Minister’s website (to the extent the guidelines are consistent with this Act).
- ‘(2) Without limiting subsection (1), an agency must delete from any document or information included in a disclosure log under section 78 or 78A, any information (including an individual’s name)—
- (a) the publication of which is prevented by law; or
 - (b) that may be defamatory; or
 - (c) that, if included in the disclosure log, would unreasonably invade an individual’s privacy; or
 - (d) that is, or allows to be ascertained, information—
 - (i) of a confidential nature that was communicated in confidence by a person other than the agency; or
 - (ii) that is protected from disclosure under a contract; or
 - (e) that, if included the disclosure log, would cause substantial harm to an entity.
- ‘(3) In this section—
- agency* includes a Minister but does not include a prescribed entity under section 16.’

7 Amendment of s 170 (Access—protection against actions for defamation or breach of confidence)

Section 170(2), after ‘section 78’—

insert—

‘or 78A’.

8 Amendment of s 171 (Publication—protection against actions for defamation or breach of confidence)

(1) Section 171(1)(a)—

omit, insert—

‘(a) the publication was—

(i) required or permitted under section 78 or 78A; or

(ii) authorised by a Minister, or an officer having authority in relation to disclosure logs, in the genuine belief the publication was required or permitted under section 78 or 78A; or’.

(2) Section 171(2), after ‘section 78’—

insert—

‘, 78A’.

9 Amendment of s 173 (Publication—protection in respect of offences)

Section 173(a)—

omit, insert—

‘(a) the publication was—

(i) required or permitted under section 78 or 78A; or

(ii) authorised by a Minister, or an officer having authority in relation to disclosure logs, in the genuine belief the publication was required or permitted under section 78 or 78A; or’.

10 Amendment of sch 6 (Dictionary)

Schedule 6—

insert—

‘*disclosure log* means a part of an agency’s website called a disclosure log.’.

[s 11]

Part 3 Amendment of Integrity Act 2009

11 Act amended

This part amends the *Integrity Act 2009*.

12 Amendment of long title

Long title, after ‘representatives’—

insert—

‘and contact between lobbyists and key representatives for the Opposition’.

13 Amendment of s 4 (Purpose)

Section 4(b), after ‘representatives’—

insert—

‘, and contact between lobbyists and key representatives for the Opposition,’.

14 Amendment of s 41 (Meaning of *lobbyist* and related concepts)

(1) Section 41, heading, after ‘lobbyist’—

insert—

‘and *third party client*’.

(2) Section 41(2)—

omit, insert—

‘(2) A ***third party client*** is an entity that engages another entity to provide services constituting, or including, a lobbying activity for a fee or other reward that is agreed to before the other entity provides the services.’.

15 Amendment of s 42 (Meaning of *lobbying activity* and *contact*)

(1) Section 42(1)—

omit, insert—

‘(1) ***Lobbying activity*** is—

(a) contact with a government representative in an effort to influence State or local government decision-making, including—

(i) the making or amendment of legislation; and

(ii) the development or amendment of a government policy or program; and

(iii) the awarding of a government contract or grant; and

(iv) the allocation of funding; and

(v) the making of a decision about planning or giving of a development approval under the *Sustainable Planning Act 2009*; or

(b) contact with an Opposition representative in an effort to influence the Opposition’s decision-making, including—

(i) the making or amendment of legislation; and

(ii) the development or amendment of a policy or program of the Opposition; and

(iii) the Opposition’s position or view in relation to State or local government decision-making, including, for example, the matters mentioned in paragraph (a)(i) to (v).’

(2) Section 42(2)(g), after ‘representatives’—

insert—

‘or Opposition representatives’.

(3) Section 42(2)(h), after ‘representative’—

insert—

[s 16]

‘or Opposition representative’.

- (4) Section 42(2)(h), example, after ‘Minister’—

insert—

‘or the Leader of the Opposition’.

- (5) Section 42(2)(i), before ‘client’—

insert—

‘third party’.

16 Amendment of s 45 (Meaning of former senior government representative)

Section 45(1)(b), after ‘representative’—

insert—

‘and is not an Opposition representative’.

17 Insertion of new ss 47A and 47B

Chapter 4, part 1—

insert—

‘47A Meaning of *Opposition representative*

‘Each of the following people is an *Opposition representative*—

- (a) the Leader of the Opposition;
- (b) the Deputy Leader of the Opposition;
- (c) a staff member in the office of the Leader of the Opposition.

‘47B Meaning of former *Opposition representative*

‘A person is a *former Opposition representative* if the person—

- (a) was 1 of the following people—

-
- (i) the Leader of the Opposition;
 - (ii) the Deputy Leader of the Opposition;
 - (iii) a staff member in the office of the Leader of the Opposition; and
- (b) is no longer an Opposition representative and is not a government representative.’.

18 Amendment of s 49 (Register)

- (1) Section 49(3)(b)(ii), after ‘representative’—
insert—
‘or a former Opposition representative’.
- (2) Section 49(3)(c) and (d), before ‘client’—
insert—
‘third party’.

19 Amendment of s 68 (Lobbyists code of conduct)

- (1) Section 68(3), after ‘representatives’—
insert—
‘, and contact between lobbyists and Opposition representatives,’.
- (2) Section 68(4)—
renumber as section 68(5).
- (3) Section 68—
insert—
- ‘(4) The lobbyists code of conduct may impose obligations on lobbyists to give the integrity commissioner information about lobbying activities carried out by them.’.

[s 20]

20 Replacement of s 70 (Related lobbying by former senior government representative prohibited)

Section 70—

omit, insert—

‘70 Related lobbying by former senior government representative or former Opposition representative prohibited

- ‘(1) For 2 years after a person becomes a former senior government representative or former Opposition representative, the person must not carry out a related lobbying activity for a third party client.
- ‘(2) A government representative must not knowingly permit a person who has been a former senior government representative or former Opposition representative for less than 2 years to carry out with the government representative a related lobbying activity for a third party client.
- ‘(3) An Opposition representative must not knowingly permit a person who has been a former Opposition representative or former senior government representative for less than 2 years to carry out with the Opposition representative a related lobbying activity for a third party client.
- ‘(4) In this section—
related lobbying activity, for a person who is a former senior government representative or former Opposition representative, means a lobbying activity relating to the person’s official dealings as a government representative or Opposition representative in the 2 years before becoming a former senior government representative or a former Opposition representative.’.

21 Amendment of s 71 (Lobbying by unregistered entity prohibited)

Section 71(2) to (4), after ‘representative’—

insert—

‘or Opposition representative’.

22 Amendment of s 72 (Act not to require contact or limit particular contact)

Section 72, after ‘representative’—

insert—

‘or Opposition representative’.

23 Amendment of s 72A (Disclosure of information)

(1) Section 72A(1) and (2), after ‘representative’—

insert—

‘or Opposition representative’.

(2) Section 72A(3)(c), before ‘client’—

insert—

‘third party’.

(3) Section 72A(4), after ‘representative’—

insert—

‘or Opposition representative’.

24 Amendment of sch 2 (Dictionary)

Schedule 2—

insert—

‘Deputy Leader of the Opposition means the member of the Legislative Assembly recognised in the Legislative Assembly as the Deputy Leader of the Opposition.

former Opposition representative see section 47B.

Opposition means the group of members of the Legislative Assembly recognised in the Legislative Assembly as the Opposition.

Opposition representative see section 47A.

responsible person, for an Opposition representative, means the Leader of the Opposition.

staff member, in the office of the Leader of the Opposition, means a person employed as a staff member in that office, under the *Ministerial and Other Office Holder Staff Act 2010*, section 7.

third party client see section 41(2).’.

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