



Queensland

Right to Information Bill 2009



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Contents

		Page
Chapter 1	Preliminary	
Part 1	Introductory	
1	Short title	16
2	Commencement	16
3	Object of Act.	16
4	Act not intended to prevent other publication or access	16
5	Relationship with other Acts requiring publication or access	17
6	Relationship with other Acts prohibiting disclosure of information	17
7	Relationship with other Acts regulating disposal of information	18
8	Relationship with Information Privacy Act	18
9	Act binds State	19
Part 2	Interpretation	
10	Definitions	19
11	Meaning of document to which this Act does not apply	19
12	Meaning of document of an agency	20
13	Meaning of document of a Minister	20
14	Meaning of agency	20
15	Local government references for this Act	21
16	Meaning of public authority	21
17	Meaning of entity to which this Act does not apply.	23
18	Meaning of processing period, revision period and transfer period	23
Chapter 2	Disclosure other than by application under this Act	
19	Other ways of accessing information	24
20	Requirement for policy documents to be publicly available	24
21	Requirement for publication scheme	25
22	Disclosure under publication scheme.	26

Chapter 3	Disclosure by application under this Act	
Part 1	Right to access	
23	Right to be given access to particular documents	26
Part 2	Access application	
24	Making access application	27
25	Making access applications for children	28
26	Access application may not be made to commissioner	29
27	Application for documents then existing	29
28	Application for metadata	30
29	Application not for backup system documents	30
Part 3	Dealing with application	
Division 1	Decision-maker	
30	Decision-maker for application to agency	31
31	Decision-maker for application to Minister	32
Division 2	Preliminary contact with applicant	
32	Application outside scope of Act	33
33	Noncompliance with application requirement	33
34	Application for personal information	34
35	Longer processing period	35
36	Schedule of relevant documents and charges estimate notice	36
Division 3	Contact with relevant third party	
37	Disclosure of concern to third party	38
Division 4	Transfers	
38	Transfer of application	40
Part 4	Refusal to deal with application	
39	Pro-disclosure bias in deciding to deal with applications	41
40	Exempt information	41
41	Effect on agency's or Minister's functions	42
42	Prerequisites before refusal because of effect on functions	43
43	Previous application for same documents	44
Part 5	Decision	
44	Pro-disclosure bias in deciding access to documents	47
45	Considered decision on access application	48
46	Deemed decision on access application	48
47	Grounds on which access may be refused	48
48	Exempt information	49

49	Contrary to public interest	50
50	Contrary to child's best interests	51
51	Contrary to applicant's best interests—healthcare information	52
52	Document nonexistent or unlocatable	53
53	Other access available	54
54	Notification of decision and reasons.	55
55	Information as to existence of particular documents	58
Part 6	Charging regime	
Division 1	Preliminary	
56	Meaning of processing charge	59
57	Meaning of access charge	59
58	Duty in relation to processing charge and access charge	59
59	No processing charge for personal information	59
Division 2	Payment of charges	
60	Requirement to pay charges	60
61	Amount of charges	60
62	Refund of excess payment	60
Division 3	Waiver of charges	
63	Waiver under div 3 only	61
64	Uneconomical to charge.	61
65	Agency or Minister has delayed	61
66	Applicant under financial hardship	61
67	Financial hardship status for non-profit organisation	62
Part 7	Giving access	
Division 1	Giving access to applicant	
68	Forms of access	64
69	Time limit for access.	66
70	Precautions	67
71	Precautions for children	68
72	Deferral of access.	68
73	Deletion of irrelevant information	68
74	Deletion of exempt information.	69
75	Deletion of contrary to public interest information	69
76	Giving summary of personal information to applicant or intermediary	70

Contents

77	Giving relevant healthcare information to applicant's nominated healthcare professional	71
Division 2	Giving access to others	
78	Disclosure logs	71
Part 8	Internal review	
79	Definitions for pt 8.	73
80	Internal review	73
81	Decisions that may not be reviewed.	74
82	Applying for internal review	74
83	When internal review application to be decided	75
Part 9	External review	
Division 1	Preliminary	
84	Definitions for pt 9.	75
85	External review.	75
86	Decisions that may not be reviewed.	76
87	Onus.	76
Division 2	Application	
88	Applying for external review	77
89	Participants in external review	77
Division 3	After application made	
90	Early resolution encouraged.	78
91	Agency or Minister to be informed of application for external review of deemed decision.	78
92	Agency or Minister to be informed before external review of decision	79
93	Applications where decision delayed	79
94	Information commissioner may decide not to review	79
Division 4	Conduct of external review	
95	Procedure on external review.	80
96	Requirement to assist during review	81
97	Conduct of reviews.	81
Division 4A	Powers of information commissioner on external review	
98	Preliminary inquiries.	82
99	Better reasons	83
100	Access to documents.	83
101	Access in particular form	83
102	Requiring a search.	84

103	Requiring information, documents and attendance	84
104	Examining witnesses	85
105	Additional powers	86
106	Restrictions under other laws not applicable	86
107	Information commissioner to ensure proper disclosure and return of documents	87
108	Information commissioner to ensure nondisclosure of particular information	87
109	Exception for successful challenge of s 55(2) notice	88
Division 5	Decision on external review	
110	Decision on external review	89
111	Correction of mistakes in decisions	90
Division 6	Miscellaneous	
112	Costs of external review	90
113	Disciplinary action	90
Part 10	Vexatious applicants	
114	Vexatious applicants	92
115	Declaration may be varied or revoked	93
Part 11	References of questions of law and appeals	
116	Definitions for pt 11	94
117	Reference of questions of law to Supreme Court	94
118	Reference of questions of law to Queensland Civil and Administrative Tribunal	94
119	Appeal to Queensland Civil and Administrative Tribunal on question of law	95
120	Application to Queensland Civil and Administrative Tribunal for review of decision about financial hardship status	96
121	Application to Queensland Civil and Administrative Tribunal for review of vexatious applicant declaration	96
122	Rules and procedures of Queensland Civil and Administrative Tribunal	96
Chapter 4	Office of the Information Commissioner	
Part 1	General	
123	Information Commissioner and office of the information commissioner	97
124	Office of the information commissioner is a statutory body	97
Part 2	Information Commissioner	
125	General power	98

Contents

126	Information commissioner not subject to direction	98
127	Control of the office of the information commissioner	98
128	Support functions	98
129	Decision-making functions	99
130	External review functions	99
131	Performance monitoring functions	100
132	Power to issue guidelines	100
133	Budget and performance	101
134	Appointment	102
135	Procedure before appointment	102
136	Term of appointment	102
137	Remuneration and conditions	103
138	Leave of absence	103
139	Preservation of rights if public service officer appointed	103
140	Oath before performing duties	104
141	Restriction on outside employment	104
142	Resignation	104
143	Acting information commissioner	105
Part 3	Staff of the Office of the Information Commissioner	
144	Staff employed under Public Service Act 2008	105
145	Delegation	106
146	Staff subject only to direction of information commissioner	106
Part 4	Right to Information Commissioner	
147	Right to Information Commissioner	106
148	Role and function of RTI commissioner	106
149	RTI commissioner subject to direction of information commissioner	107
150	Appointment	107
151	Procedure before appointment	107
152	Term of appointment	107
153	Remuneration and conditions	108
154	Leave of absence	108
155	Preservation of rights if public service officer appointed	108
156	Restriction on outside employment	109
157	Resignation	109
158	Acting RTI commissioner	109

Part 5	Commissioner may be removed or suspended from office	
159	Definition for pt 5	110
160	Grounds for removal or suspension	110
161	Removal on address.	110
162	Suspension on address	111
163	Suspension if Assembly not sitting.	112
164	Acts Interpretation Act 1954.	113
Part 6	Proceedings	
165	Third party proceedings	113
166	Costs in proceedings	114
167	Information commissioner or RTI commissioner may appear in proceedings	114
168	Intervention by Attorney-General	114
Chapter 5	Protections and offences	
Part 1	Protections	
169	Meaning of access was required or permitted to be given under this Act	115
170	Access—protection against actions for defamation or breach of confidence	115
171	Publication—protection against actions for defamation or breach of confidence	116
172	Access—protection in respect of offences	117
173	Publication—protection in respect of offences	117
174	Protection of agency, information commissioner etc. from personal liability	117
Part 2	Offences	
175	Direction to act in particular way	118
176	Unlawful access	119
177	False or misleading information	119
178	Failure to produce documents or attend proceedings	120
179	Disclosure or taking advantage of information	120
Chapter 6	Miscellaneous provisions	
Part 1	Archival documents	
180	Operation of Public Records Act 2002	120
181	Non-official documents in Queensland State Archives etc.	121
182	Official documents in Queensland State Archives	121

Contents

Part 2	Operation of this Act	
183	Review of Act	122
184	Reports of information commissioner.	122
185	Report to Assembly on Act’s operation	123
186	Strategic review of office	123
187	Conduct of strategic review	124
188	Report of strategic review.	125
189	Functions of parliamentary committee	126
Part 3	Other	
190	Power of person acting for another person.	127
191	Contents of prescribed written notice.	127
192	Approval of forms	128
193	Regulation-making power.	128
Chapter 7	Repeal and transitional provisions	
Part 1	Repeal	
194	Repeal	128
Part 2	Transitional provisions	
195	Outdated references.	128
196	Continuation of appointment as information commissioner	129
197	Continuation of appointment as acting information commissioner	129
198	Pre-enactment recruitment process	129
199	Applications under Freedom of Information Act 1992	129
200	Time limit for access under Freedom of Information Act 1992 continues to apply	130
201	Statements of affairs.	130
202	Refusal to deal with application—previous application for same documents	130
203	Delayed appeals and applications to QCAT	130
Chapter 8	Amendment of Acts	
Part 1	Amendment of Ombudsman Act 2001	
204	Act amended	131
205	Amendment of s 16 (What ombudsman may not investigate)	131
Part 2	Amendment of Public Records Act 2002	
206	Act amended	131
207	Amendment of s 3 (Purposes)	132
208	Amendment of s 16 (Meaning of restricted access period)	132

209	Amendment of s 18 (Public access to public records)	134
210	Replacement of pt 6, hdg (Transitional and consequential provisions)	134
211	Insertion of new pt 6, div 2	135
	Division 2 Transitional provisions for Information Privacy Act 2009 and Right to Information Act 2009	
62	Omitted references to Freedom of Information Act 1992	135
62A	Establishing restricted access period for record made before commencement.	136
212	Amendment of sch 2 (Dictionary)	136
Part 3	Amendment of regulations and other Acts	
213	Acts and regulations amended.	137
Schedule 1	Documents to which this Act does not apply	138
1	Security document	138
2	Documents under Terrorism (Preventative Detention) Act 2005	138
3	Particular documents under Crime and Misconduct Act 2001	138
4	Particular documents under Police Powers and Responsibilities Act 2000	139
5	Particular documents under Police Service Administration Act 1990	140
6	Particular documents received or created by integrity commissioner under Public Sector Ethics Act 1994.	140
7	Document received or created by Prostitution Licensing Authority	141
8	Particular coronial document during investigation	141
9	Root cause analysis document	141
10	Particular documents under Workers' Compensation and Rehabilitation Act 2003	141
11	Particular documents under Biodiscovery Act 2004.	142
12	Particular documents under Gene Technology Act 2001	142
13	Particular documents under Sugar Industry Act 1999	142
14	Particular GOC documents created or received before commencement	143
15	Particular corporatised corporation documents created or received before commencement	143
Schedule 2	Entities to which this Act does not apply	144
Schedule 3	Exempt information	147
1	Cabinet matter brought into existence before commencement	147

Contents

2	Cabinet information brought into existence on or after commencement	147
3	Executive Council information	149
4	Information briefing incoming Minister	150
5	Information revealing particular Sovereign communications	150
6	Information disclosure of which would be contempt of court or Parliament	150
7	Information subject to legal professional privilege	151
8	Information disclosure of which would found action for breach of confidence	151
9	National or State security information	152
10	Law enforcement or public safety information	152
11	Investment incentive scheme information	156
12	Information disclosure of which prohibited by Act	157
Schedule 4	Factors for deciding the public interest	159
Schedule 5	Amendment of Acts and Regulations	171
	Biodiscovery Act 2004	171
	Coal Mining Safety and Health Act 1999	171
	Corrective Services Act 2006	172
	Corrective Services Regulation 2006	172
	Crime and Misconduct Act 2001	173
	Education (General Provisions) Act 2006	173
	Electricity Act 1994	174
	Electricity Regulation 2006	175
	Environmental Protection Act 1994	175
	Environmental Protection (Waste Management) Regulation 2000	176
	Environmental Protection Regulation 2008	176
	Evidence Act 1977	177
	Evidence Regulation 2007	177
	Explosives Act 1999	178
	Gas Supply Act 2003	178
	Gene Technology Act 2001	179
	Geothermal Exploration Act 2004	179
	Health Quality and Complaints Commission Act 2006	180
	Introduction Agents Act 2001	180
	Legal Profession Act 2007	180

Contents

Local Government Act 1993	181
Lotteries Act 1997	181
Mineral Resources Act 1989	181
Mining and Quarrying Safety and Health Act 1999	182
Partnership Act 1891	182
Police Powers and Responsibilities Act 2000	182
Police Service Administration Act 1990	183
Private Employment Agents Act 2005	183
Private Employment Agents (Code of Conduct) Regulation 2005	184
Prostitution Act 1999	184
Public Sector Ethics Act 1994	185
Public Service Act 2008	185
Queensland Investment Corporation Act 1991	186
Terrorism (Preventative Detention) Act 2005	187
Tourism Services Act 2003	187
Transport Infrastructure Act 1994	187
Transport Infrastructure (Rail) Regulation 2006	188
Water Act 2000	188
Workers' Compensation and Rehabilitation Act 2003	189
Schedule 6 Dictionary	190

2009

A Bill

for

An Act about rights to government and other information

Preamble—	1
Parliament’s reasons for enacting this Act are—	2
1 Parliament recognises that in a free and democratic society—	3
(a) there should be open discussion of public affairs; and	4
(b) information in the government’s possession or under the government’s control is a public resource; and	5 6
(c) the community should be kept informed of government’s operations, including, in particular, the rules and practice followed by government in its dealings with members of the community; and	7 8 9 10
(d) openness in government enhances the accountability of government; and	11 12
(e) openness in government increases the participation of members of the community in democratic processes leading to better informed decision-making; and	13 14 15
(f) right to information legislation contributes to a healthier representative, democratic government and enhances its practice; and	16 17 18
(g) right to information legislation improves public administration and the quality of government decision-making; and	19 20 21
(h) right to information legislation is only 1 of a number of measures that should be adopted by government to increase the flow of information in the government’s possession or under the government’s control to the community.	22 23 24 25 26
2 The Government is proposing a new approach to access to information. Government information will be released administratively as a matter of course, unless there is a good reason not to, with applications under this Act being necessary only as a last resort.	27 28 29 30 31
3 It is Parliament’s intention to emphasise and promote the right to government information. It is also Parliament’s intention to provide a right of access to information in the government’s possession or under the government’s control unless, on	32 33 34 35

balance, it is contrary to the public interest to provide the 1
information. This Act reflects Parliament's opinion about 2
making information available and the public interest. 3

[s 1]

The Parliament of Queensland enacts—	1
Chapter 1 Preliminary	2
Part 1 Introductory	3
1 Short title	4
This Act may be cited as the <i>Right to Information Act 2009</i> .	5
2 Commencement	6
This Act commences on a day to be fixed by proclamation.	7
3 Object of Act	8
(1) The primary object of this Act is to give a right of access to information in the government’s possession or under the government’s control unless, on balance, it is contrary to the public interest to give the access.	9 10 11 12
(2) The Act must be applied and interpreted to further the primary object.	13 14
4 Act not intended to prevent other publication or access	15
(1) This Act is not intended to prevent or discourage the publication of information or the giving of access to documents otherwise than under this Act if the publication or giving of access can properly be done or is permitted or required to be done by law.	16 17 18 19 20
(2) To remove any doubt, it is declared that subsection (1) applies to—	21 22

(a)	the giving of access to documents to which this Act does not apply, exempt documents and contrary to public interest documents; and	1 2 3
(b)	the publication of information and the giving of access to documents by an entity to which this Act does not apply or to which this Act does not apply in relation to a particular function.	4 5 6 7
5	Relationship with other Acts requiring publication or access	8 9
	Without limiting section 4, this Act does not affect the operation of another Act or administrative scheme that—	10 11
(a)	requires information concerning documents in the possession, or under the control, of government to be made available to members of the community; or	12 13 14
(b)	enables a member of the community to access documents in the possession, or under the control, of government; or	15 16 17
(c)	requires the publication of information concerning government operations;	18 19
	whether or not on payment of a charge.	20
6	Relationship with other Acts prohibiting disclosure of information	21 22
	This Act overrides the provisions of other Acts prohibiting the disclosure of information (however described).	23 24
	<i>Notes—</i>	25
1	The Parliament considers that, unless the information is personal information of the applicant, information the disclosure of which is prohibited under a provision of an Act mentioned in schedule 3, section 12 is information the disclosure of which would, on balance, be contrary to the public interest—see section 44(2)(a) and schedule 3, section 12.	26 27 28 29 30 31

[s 7]

- | | | |
|---|---|-------------|
| 2 | This information is called exempt information and, under section 47(3)(a), an agency or Minister may refuse access to a document to the extent the document comprises exempt information. | 1
2
3 |
| 3 | However, an agency or Minister may give access to a document even if this Act provides that access to the document may be refused—see section 48(3). | 4
5
6 |

7 Relationship with other Acts regulating disposal of information 7
8

This Act does not affect the provisions of other Acts regulating the disposal of information (however described). 9
10

Note— 11

For example, the *Public Records Act 2002*, section 13 provides— 12

8 Disposal of public records 13

A person must not dispose of a public record unless the record is disposed of under— 14
15

(a) an authority given by the archivist; or 16

(b) other legal authority, justification or excuse. 17

Maximum penalty—165 penalty units. 18

8 Relationship with Information Privacy Act 19

(1) The Information Privacy Act also provides for applications for access to documents of an agency or Minister but only to the extent the documents contain the applicants' personal information. 20
21
22
23

(2) The Information Privacy Act also provides for applications to amend documents to the extent the documents contain the applicants' personal information. 24
25
26

(3) If, on its face, an access application purportedly made under the Information Privacy Act should have been made under this Act because the application is for access to a document other than to the extent it contains the applicant's personal information, the Information Privacy Act, section 54 applies. 27
28
29
30
31

<i>Notes—</i>	1
1 Under the Information Privacy Act, section 54—	2
• the applicant is given an opportunity to change the application so it is an application that can be made under the Information Privacy Act or to pay the application fee payable under this Act and have the application dealt with under this Act; or	3 4 5 6
• the application may continue to be dealt with under the Information Privacy Act but is potentially subject to a decision under section 32(1)(b)(i), as applied by the Information Privacy Act, that the application is outside the Act's scope.	7 8 9 10 11
2 If the applicant pays the application fee payable under this Act, the applicant is taken to have made the application under this Act on the date of the payment—see the Information Privacy Act, section 54(4).	12 13 14 15
3 To facilitate this situation, the approved form for an access application under this Act is the same as the approved form for an access application under the Information Privacy Act and agencies will make appropriate administrative arrangements.	16 17 18 19
9 Act binds State	20
This Act binds the State.	21
Part 2 Interpretation	22
10 Definitions	23
The dictionary in schedule 6 defines particular words used in this Act.	24 25
11 Meaning of <i>document to which this Act does not apply</i>	26
In this Act, a <i>document to which this Act does not apply</i> means a document mentioned in schedule 1.	27 28

[s 12]

12	Meaning of <i>document</i> of an agency	1
	In this Act, <i>document</i> , of an agency, means a document, other than a document to which this Act does not apply, in the possession, or under the control, of the agency whether brought into existence or received in the agency, and includes—	2 3 4 5 6
	(a) a document to which the agency is entitled to access; and	7 8
	(b) a document in the possession, or under the control, of an officer of the agency in the officer’s official capacity.	9 10
13	Meaning of <i>document</i> of a Minister	11
	In this Act, <i>document</i> , of a Minister, means a document, other than a document of an agency or a document to which this Act does not apply, in the possession, or under the control, of the Minister that relates to the affairs of an agency, and includes—	12 13 14 15 16
	(a) a document to which the Minister is entitled to access; and	17 18
	(b) a document in the possession, or under the control, of a member of the staff of, or a consultant to, the Minister in the person’s capacity as member or consultant.	19 20 21
	<i>Note</i> —	22
	<i>Minister</i> is defined to include a Parliamentary Secretary—see schedule 6.	23 24
14	Meaning of <i>agency</i>	25
	(1) In this Act, an <i>agency</i> means—	26
	(a) a department; or	27
	(b) a local government; or	28
	(c) a public authority; or	29
	(d) a government owned corporation; or	30

(e)	a subsidiary of a government owned corporation.	1
(2)	However, in this Act, agency does not include an entity to which this Act does not apply.	2 3
	<i>Note—</i>	4
	See section 17 for entities to which this Act does not apply. Also, under section 26, an application may not be made to the information commissioner, RTI commissioner or privacy commissioner.	5 6 7
(3)	For this Act—	8
(a)	a board, council, committee, subcommittee or other body established by government to help, or to perform functions connected with, an agency is not a separate agency, but is taken to be comprised within the agency; and	9 10 11 12 13
(b)	a reference to an agency includes a reference to a body that is taken to be comprised within the agency.	14 15
15	Local government references for this Act	16
	A reference to local government includes a reference to the Wide Bay Water Corporation.	17 18
16	Meaning of <i>public authority</i>	19
(1)	In this Act, public authority means any of the following entities—	20 21
	<i>Note—</i>	22
	Under the <i>Acts Interpretation Act 1954</i> , section 36—	23
	entity includes a person and an unincorporated body.	24
(a)	an entity—	25
(i)	established for a public purpose by an Act; or	26
(ii)	established by government under an Act for a public purpose, whether or not the public purpose is stated in the Act;	27 28 29

[s 16]

- (b) an entity created by the Governor in Council or a Minister; 1
2
- (c) another entity declared by regulation to be a public authority for this Act, being an entity— 3
4
 - (i) supported directly or indirectly by government funds or other assistance or over which government is in a position to exercise control; or 5
6
7
 - (ii) established under an Act; or 8
 - (iii) given public functions under an Act; 9
- (d) subject to subsection (3), a person holding an office established under an Act; 10
11
- (e) a person holding an appointment— 12
 - (i) made by the Governor in Council or Minister otherwise than under an Act; and 13
14
 - (ii) declared by regulation to be an appointment the holder of which is a public authority for this Act. 15
16
- (2) A prescribed entity is not a public authority in relation to documents received, or created, by it in performing a function other than a public function given under an Act. 17
18
19
- (3) A person is not a public authority merely because the person holds— 20
21
 - (a) an office the duties of which are performed as duties of employment as an agency's officer; or 22
23
 - (b) an office of member of a body; or 24
 - (c) an office established under an Act for the purposes of an agency. 25
26
- (4) In this section— 27
 - prescribed entity*** means an entity that is a public authority only because it is given public functions under an Act and is declared by regulation to be a public authority for this Act. 28
29
30

17	Meaning of <i>entity to which this Act does not apply</i>	1
	In this Act, an <i>entity to which this Act does not apply</i>	2
	means—	3
	(a) an entity mentioned in schedule 2, part 1; or	4
	(b) an entity mentioned in schedule 2, part 2 in relation to	5
	the function mentioned in that part.	6
18	Meaning of <i>processing period, revision period and transfer period</i>	7
	In this Act—	8
	<i>processing period</i> , for an application to an agency or	9
	Minister—	10
	1 The processing period is a period of 25 business days	11
	from the day the application is received by the agency or	12
	Minister.	13
	2 However, the following periods do not count as part of	14
	the processing period—	15
	(a) if the application is transferred to the agency or	16
	Minister—the transfer period;	17
	(b) if the agency or Minister asks the applicant for a	18
	further specified period under section 35(1)—the	19
	period during which, under section 35(3), the	20
	agency or Minister may continue to consider the	21
	application;	22
	(c) if the applicant is given a charges estimate notice	23
	under section 36—the revision period;	24
	(d) if the application involves consultation with a	25
	relevant third party under section 37—10 business	26
	days;	27
	(e) if the applicant is given a notice under section	28
	42(1)(a)—the prescribed consultation period under	29
	section 42.	30
		31

[s 19]

revision period, for an application, means the period starting 1
on the date of the first charges estimate notice given under 2
section 36 and ending on the day the applicant confirms the 3
application or, if the applicant narrows the application, 4
confirms the changed application. 5

transfer period, for an application, means the lesser of the 6
following periods— 7

- (a) the period starting on the day the application is received 8
by the agency or Minister who transfers the application 9
and ending on the day the application is transferred; 10
- (b) the period of 10 business days. 11

Chapter 2 Disclosure other than by 12 **application under this Act 13**

19 Other ways of accessing information 14

Information may be accessed other than by application under 15
this Act. 16

Examples— 17

- 1 A document may be accessed under administrative arrangements 18
made by an agency, including under its publication scheme or 19
disclosure log or under another Act. 20
- 2 A document may be available for public inspection under the 21
Public Records Act 2002 or in a public library. 22
- 3 A document may be commercially available. 23

20 Requirement for policy documents to be publicly 24 **available 25**

- (1) An agency must make copies of each of its policy documents 26
available for inspection and purchase by the public. 27

-
- (2) However, nothing in this section prevents an agency from deleting exempt information or contrary to public interest information from a copy of a policy document. 1
2
3
- (3) A person must not be subjected to any prejudice because of the application of the provisions of an agency's policy document (other than provisions the agency is permitted to delete from a copy of the document) to any act or omission of the person if, at the time of the act or omission— 4
5
6
7
8
- (a) the policy document was not available for inspection and purchase; and 9
10
- (b) the person was not aware of the provisions; and 11
- (c) the person could lawfully have avoided the prejudice had the person been aware of the provisions. 12
13
- 21 Requirement for publication scheme 14**
- (1) An agency, other than an excluded entity, must publish a scheme (a *publication scheme*) setting out— 15
16
- (a) the classes of information that the agency has available; and 17
18
- (b) the terms on which it will make the information available, including any charges. 19
20
- (2) However, an agency (the *relevant agency*) may comply with subsection (1) if another agency publishes a scheme setting out— 21
22
23
- (a) the classes of information that the relevant agency has available; and 24
25
- (b) the terms on which the relevant agency or other agency will make the information available, including any charges. 26
27
28
- (3) An agency publishing a publication scheme must ensure that the publication scheme complies with any guidelines about publication schemes published by the Minister on the Minister's website. 29
30
31
32

[s 22]

(4)	In this section—	1
	<i>excluded entity</i> means a prescribed entity under section 16.	2
22	Disclosure under publication scheme	3
	Without limiting another way an agency may disclose information, it may disclose information under a publication scheme.	4 5 6
Chapter 3	Disclosure by application under this Act	7 8
Part 1	Right to access	9
23	Right to be given access to particular documents	10
(1)	Subject to this Act, a person has a right to be given access under this Act to—	11 12
(a)	documents of an agency; and	13
(b)	documents of a Minister.	14
	<i>Notes—</i>	15
1	See part 2 for how to exercise this right to access.	16
2	Exclusions of the right are provided for under part 4 (which provides particular circumstances where an entity may refuse to deal with an application); and section 47 (which provides grounds on which an entity may refuse access).	17 18 19 20
3	A limitation on the right is set out in section 73 (which provides that, in particular circumstances, an entity may delete irrelevant information from a document before giving access).	21 22 23
(2)	Subsection (1) applies to documents even if they came into existence before the commencement of this Act.	24 25

<i>Note—</i>	1
Section 27 deems an access application to apply only to documents that are, or may be, in existence on the day the application is received.	2 3

Part 2 Access application 4

24 Making access application 5

- (1) A person who wishes to be given access to a document of an agency or a document of a Minister under this Act may apply to the agency or Minister for access to the document. 6
7
8

Notes— 9

- 1 *Minister* is defined to include a Parliamentary Secretary—see schedule 6. 10
11
 - 2 Section 25 provides for access applications by parents for children and section 190 clarifies the powers of those acting for others. 12
13
 - 3 For an application made for a person, the person (and not the agent) is the applicant—see schedule 6, definition *applicant*. This may be particularly relevant for section 66 (Applicant under financial hardship). 14
15
16
17
- (2) The application must— 18
- (a) be in the approved form and be accompanied by the application fee; and 19
20
 - (b) give sufficient information concerning the document to enable a responsible officer of the agency or the Minister to identify the document; and 21
22
23
 - (c) state an address to which notices under this Act may be sent to the applicant. 24
25
- (3) Also, if the application is for access to a document containing personal information of the applicant, the applicant must provide with the application or within 10 business days after making the application— 26
27
28
29

[s 25]

(a)	evidence of identity for the applicant; and	1
(b)	if an agent is acting for the applicant—evidence of the agent’s authorisation and evidence of identity for the agent.	2 3 4
	<i>Examples of an agent’s authorisation—</i>	5
	• the will or court order appointing the agent to act as the applicant’s guardian	6 7
	• the client agreement authorising a legal practitioner to act for an applicant	8 9
	• if the application is made in reliance on section 25, evidence the agent is the child’s parent	10 11
(4)	The application fee mentioned in subsection (2)(a) may not be waived.	12 13
	<i>Note—</i>	14
	However, an application fee must be refunded if a deemed decision is made—see section 46(1).	15 16
(5)	In this section—	17
	<i>evidence of identity</i> means the evidence of identity prescribed under a regulation.	18 19
25	Making access applications for children	20
(1)	Without limiting the ability of persons to make applications for children, an access application may be made for a child by the child’s parent.	21 22 23
	<i>Notes—</i>	24
	1 Section 190 clarifies the powers of those acting for others.	25
	2 For an application made for a child, the child (and not the parent) is the applicant—see schedule 6, definition <i>applicant</i> . This may be particularly relevant for section 66 (Applicant under financial hardship).	26 27 28 29
(2)	In this section—	30
	<i>child</i> means an individual who is under 18 years.	31

<i>parent</i> —	1
1 <i>Parent</i> , of a child, is any of the following persons—	2
(a) the child’s mother;	3
(b) the child’s father;	4
(c) a person who exercises parental responsibility for the child, including a person who is granted guardianship of the child under the <i>Child Protection Act 1999</i> or who otherwise exercises parental responsibility for the child under a decision or order of a federal court or a court of a State.	5 6 7 8 9 10 11
2 However, a person standing in the place of a parent of a child on a temporary basis is not a parent of the child.	12 13
3 A parent of an Aboriginal child includes a person who, under Aboriginal tradition, is regarded as a parent of the child.	14 15 16
4 A parent of a Torres Strait Islander child includes a person who, under Island custom, is regarded as a parent of the child.	17 18 19
26 Access application may not be made to commissioner	20
An access application may not be made or transferred to the information commissioner, the RTI commissioner or the privacy commissioner.	21 22 23
27 Application for documents then existing	24
(1) An access application is taken only to apply to documents that are, or may be, in existence on the day the application is received.	25 26 27
(2) However, subsection (1) does not prevent an agency or Minister giving access to a document created after the	28 29

[s 28]

application is received but before notice is given under section 54 (<i>a post-application document</i>).	1 2
(3) If the agency or Minister gives the applicant access to a post-application document—	3 4
(a) no processing charge or access charge is payable in relation to the document; and	5 6
(b) the applicant is not entitled to review under this Act of a decision about the document made in relation to the application.	7 8 9
28 Application for metadata	10
(1) An access application for a document is taken not to include an application for access to metadata about the document unless the access application expressly states that it does.	11 12 13
(2) If an access application for a document expressly states that access to metadata about the document is sought, access to the metadata does not need to be given unless access is reasonably practicable.	14 15 16 17
(3) In this section—	18
<i>metadata</i> , about a document, includes information about the document’s content, author, publication date and physical location.	19 20 21
29 Application not for backup system documents	22
(1) An access application, however expressed, for a document does not require an agency or Minister to search for the document from a backup system.	23 24 25
(2) However, subsection (1) does not prevent an agency or Minister searching for a document from a backup system if the agency or Minister considers the search appropriate.	26 27 28
<i>Note—</i>	29
While a search for a document from a backup system is not generally required before refusing access on the ground that the document is	30 31

nonexistent or unlocatable, a search is required in the particular 1
circumstances mentioned in section 52(2). 2

Part 3 Dealing with application 3

Division 1 Decision-maker 4

30 Decision-maker for application to agency 5

- (1) An access application to an agency must be dealt with for the 6
agency by the agency's principal officer. 7
- (2) The agency's principal officer may delegate the power to deal 8
with the application to another officer of the agency. 9
- (3) Also, for an agency other than a local government, the 10
agency's principal officer may, with the agreement of another 11
agency's principal officer, delegate the power to deal with the 12
application to the other agency's principal officer. 13
- (4) The principal officer of the other agency may subdelegate a 14
power delegated to him or her under subsection (3). 15

Note— 16

Under the *Acts Interpretation Act 1954*, section 27A(2), a delegation 17
may be revoked, wholly or partly, by the delegator. Accordingly, a 18
delegation may be revoked before a decision is made in a particular case 19
and the delegator may make the decision. 20

- (5) However— 21
- (a) a principal officer may not, under subsection (2) or (4) 22
delegate the power to deal with the application to the 23
extent it involves— 24
- (i) making a healthcare decision; or 25
- (ii) appointing a healthcare professional under 26
paragraph (b); but 27

[s 31]

- (b) the agency may appoint an appropriately qualified healthcare professional to make a healthcare decision in relation to the application. 1
2
3
 - (6) In this section— 4
 - healthcare decision* means a decision about any of the following matters— 5
6
 - (a) whether disclosure to the applicant of relevant healthcare information about the applicant might be prejudicial to the physical or mental health or wellbeing of the applicant under section 51; 7
8
9
10
 - (b) whether to refuse access under section 47(3)(d); 11
 - (c) whether to give access despite being able to refuse access under section 47(3)(d); 12
13
 - (d) whether to give a direction under section 77(2); 14
 - (e) whether to approve a healthcare professional under section 77(2). 15
16
- 31 Decision-maker for application to Minister** 17
- (1) An access application to a Minister may be dealt with by the person the Minister directs, either generally or in a particular case. 18
19
20
 - (2) However— 21
 - (a) the Minister may not direct the person to deal with the application to the extent it involves— 22
23
 - (i) making a healthcare decision; or 24
 - (ii) appointing a healthcare professional under paragraph (b); but 25
26
 - (b) the Minister may appoint an appropriately qualified healthcare professional to make a healthcare decision in relation to the application. 27
28
29

(3)	In this section—	1
	<i>healthcare decision</i> see section 30.	2
Division 2	Preliminary contact with applicant	3
32	Application outside scope of Act	4
(1)	This section applies if—	5
(a)	a person purports to make an application under this Act to an entity for access to a document; and	6 7
(b)	the entity decides the application is outside the scope of this Act for 1 or more of the following reasons—	8 9
(i)	the document is a document to which this Act does not apply;	10 11
(ii)	the entity is an entity to which this Act does not apply;	12 13
(iii)	the application is made to the information commissioner, RTI commissioner or privacy commissioner.	14 15 16
(2)	Within 10 business days after the purported application is received, the entity must give prescribed written notice to the applicant of the decision.	17 18 19
33	Noncompliance with application requirement	20
(1)	This section applies if—	21
(a)	a person purports to make an access application for a document to an agency or Minister; and	22 23
(b)	the application does not comply with all relevant application requirements.	24 25
(2)	The agency or Minister must make reasonable efforts to contact the person within 15 business days after the purported application is received and inform the person how the	26 27 28

[s 34]

application does not comply with a relevant application requirement.	1 2
(3) An agency or Minister must not refuse to deal with an application because it does not comply with all relevant application requirements without first giving the applicant a reasonable opportunity to consult with a view to making an application in a form complying with all relevant application requirements.	3 4 5 6 7 8
(4) The applicant is taken to have made an application under this Act if and when the application is made in a form complying with all relevant application requirements.	9 10 11
(5) If, after giving the opportunity mentioned in subsection (3) and any consultation, an agency or Minister decides the application does not comply with all relevant application requirements, the agency or Minister must, within 10 business days after making the decision, give the applicant prescribed written notice of the decision.	12 13 14 15 16 17
(6) In this section— <i>relevant application requirement</i> , for an access application, means a matter set out in section 24(2) or (3) that is required for the application.	18 19 20 21
34 Application for personal information	22
(1) This section applies if, on its face, an access application made under this Act could have been made under the Information Privacy Act because the application is for access to a document to the extent it contains the applicant's personal information.	23 24 25 26 27
(2) The agency or Minister must, within 15 business days after the application is received, inform the applicant that—	28 29
(a) the application could have been made under the Information Privacy Act without any application fee or processing charge being payable; and	30 31 32
(b) the applicant may either—	33

-
- (i) ask for the application to be dealt with under the Information Privacy Act; or 1
2
- (ii) confirm the application as an application under this Act. 3
4
- (3) If the applicant asks for the application to be dealt with under the Information Privacy Act— 5
6
- (a) the applicant is taken to have made the application under the Information Privacy Act on the date of the request; and 7
8
9
- (b) any application fee paid by the applicant must be refunded as soon as practicable. 10
11
- (4) However, the application continues to be dealt with as an application under this Act if— 12
13
- (a) the applicant confirms the application as an application under this Act; or 14
15
- (b) the applicant does not, within a reasonable time, either make the request, or give the confirmation, mentioned in subsection (2)(b). 16
17
18
- 35 Longer processing period** 19
- (1) At any time before a deemed decision is taken to have been made in relation to an access application, the agency or Minister may ask the applicant for a further specified period to consider the application. 20
21
22
23
- (2) Additional requests for further specified periods may be made under subsection (1). 24
25
- (3) The agency or Minister may continue to consider the application and make a considered decision in relation to it only if— 26
27
28
- (a) the agency or Minister has asked the applicant for a further specified period under subsection (1); and 29
30
- (b) the applicant has not refused the request; and 31

[s 36]

- (c) the agency or Minister has not received notice that the applicant has applied for review under this Act. 1
2
- (4) If a considered decision is made, the considered decision replaces any deemed decision for the purposes of this Act. 3
4
- Note—* 5
- The agency or Minister must give prescribed written notice of the considered decision and the considered decision is potentially subject to review under this Act. 6
7
8
- 36 Schedule of relevant documents and charges estimate notice** 9
10
- (1) If a person makes an access application to an agency or Minister, the agency or Minister must— 11
12
- (a) consider whether a processing charge or access charge is payable in relation to the application; and 13
14
- (b) before the end of the processing period for the application, give the applicant— 15
16
- (i) a schedule of relevant documents for the applicant unless the applicant waives the requirement; and 17
18
- (ii) a charges estimate notice. 19
- (2) After receiving a charges estimate notice, the applicant may consult with the agency or Minister with a view to narrowing the application to reduce the applicable charges. 20
21
22
- (3) If the applicant does not confirm, narrow or withdraw the access application within the prescribed period, the applicant is taken to have withdrawn the applicant's application at the end of the prescribed period. 23
24
25
26
- (4) If the applicant narrows the access application within the prescribed period, the agency or Minister must, before the end of the processing period for the application, give the applicant a new charges estimate notice. 27
28
29
30
- (5) No more than 2 charges estimate notices may be given in relation to an access application. 31
32

-
- (6) Also, subsections (2) to (4) do not apply if a decision is made, under part 6, division 3, to waive charges. 1
2
- (7) In this section— 3
- charges estimate notice**, for an access application, means a written notice stating the following details— 4
5
- (a) if a request has been made to an agency or Minister for waiver of charges—the agency’s or Minister’s decision on whether charges will be waived under part 6, division 3; 6
7
8
9
- (b) the agency’s or Minister’s estimate of the amount of any processing charge or access charge; 10
11
- (c) the basis on which the estimate is made; 12
- (d) the day the decision was made; 13
- (e) the name and designation of the person making the decision; 14
15
- (f) the effect of subsections (2) and (3); 16
- (g) any rights of review under this Act in relation to the decision, the procedures to be followed for exercising the rights and the time within which an application for review must be made. 17
18
19
20
- prescribed period**— 21
- 1 The **prescribed period** is 20 business days from the date of the charges estimate notice or any longer period agreed under paragraph 2. 22
23
24
- 2 The applicant and the agency or Minister may agree to extend the prescribed period. 25
26
- schedule of relevant documents**— 27
- 1 For an access application, a **schedule of relevant documents** is a schedule that— 28
29
- (a) sets out and gives a brief description of the classes of documents relevant to the application in the 30
31

[s 37]

- possession, or under the control, of the agency or Minister; and 1
2
- (b) sets out the number of documents in each class. 3
- 2 However, an agency or Minister is not required to 4
include any exempt information or contrary to public 5
interest information in the schedule. 6

Division 3 Contact with relevant third party 7

37 Disclosure of concern to third party 8

- (1) An agency or Minister may give access to a document that 9
contains information the disclosure of which may reasonably 10
be expected to be of concern to a government, agency or 11
person (the *relevant third party*) only if the agency or 12
Minister has taken the steps that are reasonably practicable— 13
- (a) to obtain the views of the relevant third party about 14
whether— 15
- (i) the document is a document to which this Act does 16
not apply; or 17
- (ii) the information is exempt information or contrary 18
to public interest information; and 19
- (b) to inform the relevant third party that if access is given 20
to the document because of an access application, access 21
may also be given to the document under a disclosure 22
log. 23
- (2) If disclosure of information may reasonably be expected to be 24
of concern to a person but for the fact that the person is 25
deceased, subsection (1) applies as if the person's 26
representative were a relevant third party. 27
- (3) If— 28
- (a) the agency or Minister obtains the views of the relevant 29
third party and the relevant third party considers— 30

-
- (i) the document is a document to which this Act does not apply; or 1
2
- (ii) the information is exempt information or contrary to public interest information; but 3
4
- (b) the agency or Minister decides— 5
- (i) the document is a document to which this Act does apply; or 6
7
- (ii) the information is not exempt information or contrary to public interest information; 8
9
- the agency or Minister must— 10
- (c) give prescribed written notice of the decision of the agency or Minister to the applicant and the relevant third party; and 11
12
13
- (d) defer giving access to the document until after— 14
- (i) the agency or Minister is given written notice by the relevant third party that it does not intend to make any application for review under this Act; or 15
16
17
- (ii) if notice is not given under subparagraph (i) and no application for review under this Act is made by the end of the review period—the end of the review period; or 18
19
20
21
- (iii) if an application for review under this Act is made by the end of the review period—the review has ended (whether because of an informal resolution or because of a decision of the entity conducting the review). 22
23
24
25
26
- (4) The agency or Minister must give the applicant written notice when access is no longer deferred under subsection (3)(d). 27
28
- (5) In this section— 29
- representative**, in relation to a deceased person, means the deceased person's eligible family member, or, if 2 or more persons qualify as the deceased person's eligible family member, 1 of those persons. 30
31
32
33

[s 38]

review period means the period within which any application
for review under this Act may be made. 1
2

Division 4 Transfers 3

38 Transfer of application 4

(1) In this section— 5

agency includes a Minister. 6

(2) An agency to which an application has been made (the
original agency) may transfer the application to another
agency if— 7
8
9

(a) the document to which the application relates is not in
the original agency's possession but is, to the original
agency's knowledge, in the other agency's possession;
and 10
11
12
13

(b) the other agency consents to the transfer. 14

(3) An application that is transferred from 1 agency to another
agency is taken to have been made to the other agency. 15
16

(4) If— 17

(a) an application is made to an agency for access to more
than 1 document; and 18
19

(b) 1 or more of the documents is a document mentioned in
subsection (2)(a); 20
21

this section (other than subsections (5) and (6)) applies to each
of the documents as if separate applications had been made to
the agency for each of the documents. 22
23
24

(5) If part of an application is transferred under this section and
the transferred part of the application relates to a document
that is not personal information for the applicant, a separate
application fee is payable for the transferred part of the
application. 25
26
27
28
29

-
- (6) However, if the part of the application which is not transferred under this section relates only to a document that is personal information for the applicant, subsection (5) applies only to the extent that there is a transfer to more than 1 agency.

Part 4 Refusal to deal with application

- 39 Pro-disclosure bias in deciding to deal with applications**
- (1) It is the Parliament's intention that if an access application is made to an agency or Minister, the agency or Minister should deal with the application unless this would, on balance, be contrary to the public interest.
- (2) Sections 40, 41 and 43 state the only circumstances in which the Parliament considers it would, on balance, be contrary to the public interest to deal with an access application.
- (3) However, it is the Parliament's intention that this Act should be administered with a pro-disclosure bias and an agency or Minister may deal with an access application even if this Act provides that the agency or Minister may refuse to deal with the application.
- 40 Exempt information**
- (1) This section applies if—
- (a) an access application is expressed to relate to all documents, or to all documents of a stated class, that contain information of a stated kind or relate to a stated subject matter; and
- (b) it appears to the agency or Minister that all of the documents to which the application relates are comprised of exempt information.

[s 41]

- (2) The agency or Minister may refuse to deal with the application without having identified any or all of the documents. 1
2
3

41 Effect on agency's or Minister's functions 4

- (1) An agency or Minister may refuse to deal with an access application or, if the agency or Minister is considering 2 or more access applications by the applicant, all the applications, if the agency or Minister considers the work involved in dealing with the application or all the applications would, if carried out— 5
6
7
8
9
10
- (a) substantially and unreasonably divert the resources of the agency from their use by the agency in the performance of its functions; or 11
12
13
- (b) interfere substantially and unreasonably with the performance by the Minister of the Minister's functions. 14
15
- (2) Without limiting the matters to which the agency or Minister may have regard in making a decision under subsection (1), the agency or Minister must have regard to the resources that would have to be used— 16
17
18
19
- (a) in identifying, locating or collating any documents in the filing system of the agency or the Minister's office; 20
21
or 22
- (b) in deciding whether to give, refuse or defer access to any documents, or to give access to edited copies of any documents, including resources that would have to be used— 23
24
25
26
- (i) in examining any documents; or 27
- (ii) in consulting in relation to the application with a relevant third party under section 37; or 28
29
- (c) in making a copy, or edited copy, of any documents; or 30
- (d) in notifying any final decision on the application. 31

(3)	In deciding whether to refuse, under subsection (1), to deal with an access application, an agency or Minister must not have regard to—	1 2 3
(a)	any reasons the applicant gives for applying for access; or	4 5
(b)	the agency’s or Minister’s belief about what are the applicant’s reasons for applying for access.	6 7
42	Prerequisites before refusal because of effect on functions	8 9
(1)	An agency or Minister may refuse to deal with an access application under section 41 only if—	10 11
(a)	the agency or Minister has given the applicant a written notice—	12 13
(i)	stating an intention to refuse to deal with the application; and	14 15
(ii)	advising that, for the prescribed consultation period for the notice, the applicant may consult with the agency or Minister with a view to making an application in a form that would remove the ground for refusal; and	16 17 18 19 20
(iii)	stating the effect of subsections (2) to (6); and	21
(b)	the agency or Minister has given the applicant a reasonable opportunity to consult with the agency or Minister; and	22 23 24
(c)	the agency or Minister has, as far as is reasonably practicable, given the applicant any information that would help the making of an application in a form that would remove the ground for refusal.	25 26 27 28
(2)	Following any consultation, the applicant may give the agency or Minister written notice either confirming or narrowing the application.	29 30 31

[s 43]

- (3) If the application is narrowed, section 41 applies in relation to the changed application but this section does not apply to it. 1
2
- (4) If the applicant fails to consult after being given notice under subsection (1), the applicant is taken to have withdrawn the application at the end of the prescribed consultation period. 3
4
5
- (5) Without limiting subsection (4), the applicant is taken to have failed to consult if, by the end of the prescribed consultation period, the applicant has not given the named officer or member written notice under subsection (2). 6
7
8
9
- (6) In this section— 10
- prescribed consultation period*, for a written notice under subsection (1)(a), means— 11
12
- (a) the period of 10 business days after the date of the notice; or 13
14
- (b) the longer period agreed by the agency or Minister and the applicant whether before or after the end of the 10 business days mentioned in paragraph (a). 15
16
17
- 43 Previous application for same documents** 18
- (1) This section applies if— 19
- (a) an applicant makes an access application, whether under this Act or the Information Privacy Act, to an agency or Minister (the *first application*); and 20
21
22
- (b) the applicant makes another access application under this Act (the *later application*) to the same agency or Minister for access to 1 or more of the same documents sought under the first application and the later application does not, on its face, disclose any reasonable basis for again seeking access to the document or documents. 23
24
25
26
27
28
29
- (2) For subsection (1)(a)— 30
- (a) the first application, if made under this Act— 31

-
- (i) does not include an access application taken to have been withdrawn under section 36(3) or 42(4); and
- (ii) if an access application has been narrowed under section 36 or 42—means only the access application as changed; and
- (b) the first application, if made under the Information Privacy Act—
- (i) does not include an access application taken to have been withdrawn under section 61(4) of that Act; and
- (ii) if an access application has been narrowed under section 61 of that Act—means only the access application as changed.
- (3) The agency or Minister may refuse to deal with the later application to the extent it is for access to a document or documents sought under the first application if—
- (a) when the later application was made, the agency or Minister had not decided the first application; or
- (b) in relation to the first application, if made under this Act—
- (i) the applicant had been given notice under section 54 that access was to be given to the document sought or to some or all of the documents sought; or
- (ii) the agency or Minister had decided that the application was for a document to which this Act does not apply; or
- (iii) the agency or Minister had decided the document or documents sought were documents access to which was refused under section 47; or
- (iv) the agency or Minister had refused to deal with it under this part; or

[s 43]

- (c) in relation to the first application, if made under the Information Privacy Act—
- (i) the applicant had been given notice under section 68 of that Act that access was to be given to the document sought or to some or all the documents sought; or
 - (ii) the agency or Minister had decided that the application was for a document to which chapter 3 of that Act does not apply; or
 - (iii) the agency or Minister had decided the document or documents sought were documents access to which was refused under section 67 of that Act; or
 - (iv) the agency or Minister had refused to deal with it under chapter 3, part 4 of that Act; or
- (d) the agency's or Minister's decision on the first application—
- (i) is the subject of a review and the review is not complete; or
 - (ii) has been the subject of a completed review (other than an internal review).
- (4) For subsection (3), if a document sought under the later application is merely a record of the first application having been made (a **record document**), access to a record document is taken to have been sought under the first application.
- (5) For subsection (3)(d)—
- review** means—
- (a) an internal review under this Act or the Information Privacy Act; or
 - (b) an external review under this Act or the Information Privacy Act; or
 - (c) a proceeding under part 11 or under the Information Privacy Act, chapter 3, part 11.

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- (6) For subsection (3)(d), a review is complete if the review has ended because of an informal resolution or because of a decision of the entity conducting the review.

Part 5 Decision

- 44 Pro-disclosure bias in deciding access to documents**
- (1) It is the Parliament’s intention that if an access application is made to an agency or Minister for a document, the agency or Minister should decide to give access to the document unless giving access would, on balance, be contrary to the public interest.
- (2) The purpose of this part is to help the agency or Minister decide whether giving access would, on balance, be contrary to the public interest by—
- (a) setting out in schedule 3 types of information the disclosure of which the Parliament has considered would, on balance, be contrary to the public interest; and
- (b) setting out in section 49 the steps, and, in schedule 4, factors, for deciding, for other types of information, whether disclosure would, on balance, be contrary to the public interest.
- (3) Also, sections 50 and 51 set out circumstances concerning information about a child and personal healthcare information about an applicant in which the Parliament has stated its intention about what is in the best interests of the child and applicant.
- (4) However, it is the Parliament’s intention that this Act should be administered with a pro-disclosure bias and an agency or Minister may give access to a document even if this Act provides that access to the document may be refused.

[s 45]

45	Considered decision on access application	1
	If a person makes an access application for a document to an agency or Minister, the agency or Minister must—	2 3
	(a) after considering the application, make a decision (a <i>considered decision</i>)—	4 5
	(i) whether access is to be given to the document; and	6
	(ii) if access is to be given—whether any charge must be paid before access is given; and	7 8
	(b) give the person written notice of the decision under section 54.	9 10
46	Deemed decision on access application	11
	(1) If an applicant is not given written notice of the decision by the end of the processing period for an access application for a document—	12 13 14
	(a) on the last day of the processing period the principal officer of the agency or the Minister is taken to have made a decision (a <i>deemed decision</i>) refusing access to the document; and	15 16 17 18
	(b) the application fee must be refunded as soon as practicable after the end of the processing period.	19 20
	(2) As soon as practicable after a deemed decision is taken to have been made, the principal officer or Minister must give prescribed written notice of the decision to the applicant.	21 22 23
47	Grounds on which access may be refused	24
	(1) This section sets out grounds on which access may be refused.	25
	(2) It is the Parliament’s intention that—	26
	(a) the grounds are to be interpreted narrowly; and	27
	(b) an agency or Minister may give access to a document even if a ground on which access may be refused applies.	28 29 30

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- (3) On an application, an agency may refuse access to a document of the agency and a Minister may refuse access to a document of the Minister—
- (a) to the extent the document comprises exempt information under section 48; or
 - (b) to the extent the document comprises information the disclosure of which would, on balance, be contrary to the public interest under section 49; or
 - (c) to the extent the document is sought under an application by or for a child and comprises the child's personal information the disclosure of which would not be in the child's best interests under section 50; or
 - (d) to the extent the document comprises an applicant's relevant healthcare information the disclosure of which might be prejudicial to the physical or mental health or wellbeing of the applicant under section 51; or
 - (e) because the document is nonexistent or unlocatable as mentioned in section 52; or
 - (f) because other access to the document is available as mentioned in section 53.

Note—

Only a principal officer, Minister or appointed healthcare professional may refuse access to a document of an agency as mentioned in paragraph (d)—see sections 30(5) and 31(2).

- (4) In this section—
- child* means an individual who is under 18 years.

48 Exempt information

- (1) If an access application is made to an agency or Minister for a document, the agency or Minister must decide to give access to the document unless disclosure would, on balance, be contrary to the public interest.

[s 49]

- (2) Schedule 3 sets out the types of information the disclosure of which the Parliament has considered would, on balance, be contrary to the public interest. 1
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- (3) However, despite an agency or Minister being able, under section 47(3)(a), to refuse access to all or part of a document, the agency or Minister may decide to give access. 4
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- (4) In this Act— 7
exempt information means the information that is exempt information under schedule 3. 8
9

49 Contrary to public interest 10

- (1) If an access application is made to an agency or Minister for a document, the agency or Minister must decide to give access to the document unless disclosure would, on balance, be contrary to the public interest. 11
12
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- (2) This section sets out the steps, and, in schedule 4, factors, the Parliament considers appropriate for deciding, for types of information (other than exempt information), whether disclosure would, on balance, be contrary to the public interest. 15
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- (3) If it is relevant for an agency or Minister to consider whether, on balance, disclosure of information would be contrary to the public interest, the agency or Minister must undertake the following steps— 20
21
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23
- (a) identify any factor that is irrelevant to deciding whether, on balance, disclosure of the information would be contrary to the public interest, including any factor mentioned in schedule 4, part 1 that applies in relation to the information (an *irrelevant factor*); 24
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27
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- (b) identify any factor favouring disclosure that applies in relation to the information (a *relevant factor favouring disclosure*), including any factor mentioned in schedule 4, part 2; 29
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- (c) identify any factor favouring nondisclosure that applies in relation to the information (a *relevant factor favouring nondisclosure*), including any factor mentioned in schedule 4, part 3 or 4;
- (d) disregard any irrelevant factor;
- (e) having regard to subsection (4), balance any relevant factor or factors favouring disclosure against any relevant factor or factors favouring nondisclosure;
- (f) decide whether, on balance, disclosure of the information would be contrary to the public interest;
- (g) unless, on balance, disclosure of the information would be contrary to the public interest, allow access to the information subject to this Act.
- (4) The factors mentioned in schedule 4, part 4 are factors where disclosure could reasonably be expected to cause a public interest harm (*harm factors*) but the fact that 1 or more of the relevant factors favouring nondisclosure is a harm factor does not of itself mean that, on balance, disclosure of the information would be contrary to the public interest.
- (5) However, despite an agency or Minister being able, under section 47(3)(b), to refuse access to all or part of a document, the agency or Minister may decide to give access.
- 50 Contrary to child's best interests**
- (1) If an access application is made to an agency or Minister for a document, the agency or Minister must decide to give access to the document unless disclosure would, on balance, be contrary to the public interest.
- (2) Despite schedule 3, section 12(2) and schedule 4, part 2, item 8, in relation to an application by or for a child for access to a document, the Parliament considers it would, on balance, be contrary to the public interest to give access to the document to the extent it comprises personal information of the child if

[s 51]

	the disclosure of the information would not be in the child’s best interests.	1 2
(3)	In considering whether disclosure of the information would not be in the best interests of the child, the agency or Minister must, unless the access application was made for the child, have regard to whether the child has the capacity to—	3 4 5 6
(a)	understand the information and the context in which it was recorded; and	7 8
(b)	make a mature judgment as to what might be in his or her best interests.	9 10
(4)	However, despite an agency or Minister being able, under section 47(3)(c), to refuse access to all or part of a document, the agency or Minister may decide to give access.	11 12 13
(5)	In this section—	14
	<i>child</i> means an individual who is under 18 years.	15
51	Contrary to applicant’s best interests—healthcare information	16 17
(1)	If an access application is made to an agency or Minister for a document, the agency or Minister must decide to give access to the document unless disclosure would, on balance, be contrary to the public interest.	18 19 20 21
(2)	Despite schedule 3, section 12(2) and schedule 4, part 2, item 7, the Parliament considers it would, on balance, be contrary to the public interest to give access to a document to the extent it comprises relevant healthcare information of the applicant if the disclosure of the information might be prejudicial to the physical or mental health or wellbeing of the applicant.	22 23 24 25 26 27
	<i>Note—</i>	28
	Only a principal officer, Minister or appointed healthcare professional may decide whether disclosure might be prejudicial to the physical or mental health or wellbeing of the applicant—see sections 30(5) and 31(2).	29 30 31 32

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- (3) However, despite an agency or Minister being able, under section 47(3)(d), to refuse access to all or part of a document, the agency or the Minister may decide to give access.
- Notes—*
- 1 Only a principal officer, Minister or appointed healthcare professional may decide to give access under subsection (3)—see sections 30(5) and 31(2).
 - 2 Also, relevant healthcare information to which access is refused may ultimately be disclosed to the applicant by the applicant's nominated healthcare professional under section 77.

52 Document nonexistent or unlocatable

- (1) For section 47(3)(e), a document is nonexistent or unlocatable if—
- (a) the agency or Minister dealing with the application for access is satisfied the document does not exist; or
- Example—*
- a document that has not been created
- (b) the agency or Minister dealing with the application for access is satisfied—
 - (i) the document has been or should be in the agency's or Minister's possession; and
 - (ii) all reasonable steps have been taken to find the document but the document can not be found.
- Examples—*
- a document that has been lost
 - a document that has been disposed of under an authority given by the State Archivist
- Note—*
- Under the *Public Records Act 2002*, section 13, it is an offence to dispose of a public record without authority.
- (2) Before an agency or Minister may be satisfied under subsection (1)(a) that a prescribed document does not exist, a

[s 53]

search for the document from a backup system is required, but 1
only if the agency or Minister considers the document has 2
been kept in, and is retrievable from, the backup system. 3

(3) Subject to subsection (2), a search for a document from a 4
backup system is not required before the document is 5
nonexistent or unlocatable for section 47(3)(e). 6

(4) In this section— 7

prescribed document means a document that— 8

(a) is a document required to be kept under the *Public 9
Records Act 2002*; and 10

(b) is not a document that the agency or Minister could 11
lawfully have disposed of under the *Public Records Act 12
2002*. 13

53 Other access available 14

For section 47(3)(f), other access is available to a document 15
if— 16

(a) the applicant can reasonably access the document under 17
another Act, or under arrangements made by an agency, 18
whether or not the access is subject to a fee or charge; or 19

Note— 20

A document mentioned in an agency's disclosure log is a 21
document an applicant can reasonably get access to under 22
arrangements made by the agency. 23

(b) the document is reasonably available for public 24
inspection under the *Public Records Act 2002* or in a 25
public library; or 26

(c) the document— 27

(i) is stored for preservation or safe custody in the 28
Queensland State Archives; and 29

(ii) is a copy of a document of an agency; or 30

(d) the document is commercially available. 31

54	Notification of decision and reasons	1
(1)	An agency or Minister must give a prescribed written notice to an applicant for an access application of—	2 3
(a)	the decision on the application, including a decision to refuse to deal with the application; and	4 5
(b)	if the application relates to a document that is not a document in the possession, or under the control, of the agency or Minister—the fact that the document is not a document in the possession, or under the control, of the agency or Minister.	6 7 8 9 10
(2)	In addition to the details that must be stated in a prescribed written notice, the notice must also specify the following—	11 12
(a)	if access to a document is to be given—	13
(i)	an itemisation of any processing and access charges payable by the applicant; and	14 15
(ii)	the period within which the applicant may access the document under section 69 (the <i>access period</i>); and	16 17 18
(iii)	that, unless the document contains personal information of the applicant, it may be made available to the public not sooner than 24 hours after the applicant accesses the document; and	19 20 21 22
(iv)	that, unless the document contains personal information of the applicant, if the applicant fails to access the document within the access period, details identifying the document and information about how the document may be accessed and any applicable charge may be made available to the public not sooner than 24 hours after the end of the access period;	23 24 25 26 27 28 29 30
(b)	if access is to be given to a copy of a document subject to the deletion under section 73 of irrelevant information—the fact that the document is such a copy;	31 32 33

[s 54]

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|-------|---|----------------|
| (c) | if access is to be given to a copy of a document subject to the deletion under section 74 of exempt information— | 1
2
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| (i) | the fact that the document is such a copy; and | 4 |
| (ii) | the provision of schedule 3 under which the information is exempt information; and | 5
6 |
| (iii) | the reasons for the decision classifying the information as exempt information; | 7
8 |
| (d) | if access is to be given to a copy of a document subject to the deletion under section 75 of contrary to public interest information— | 9
10
11 |
| (i) | the fact that the document is such a copy; and | 12 |
| (ii) | the factors identified as favouring disclosure and the factors identified as favouring nondisclosure under section 49; and | 13
14
15 |
| (iii) | the reasons for the decision that, on balance, disclosure would be contrary to the public interest under section 49; | 16
17
18 |
| (e) | if access to a document is to be given subject to deferral under section 72— | 19
20 |
| (i) | the reason for the deferral; and | 21 |
| (ii) | the day on which the agency or Minister expects the document to be presented or released as mentioned in section 72; | 22
23
24 |
| (f) | if dealing with the access application is refused under section 40— | 25
26 |
| (i) | the provision of schedule 3 under which the information in the document is exempt information; and | 27
28
29 |
| (ii) | the reasons for the decision classifying the information as exempt information; | 30
31 |
| (g) | if access to a document is refused under section 47(3)— | 32 |

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- (i) the processing charges payable by the applicant; 1
and 2
 - (ii) the provision of section 47(3) under which access 3
is refused; and 4
 - (iii) if access is refused under section 47(3)(a)— 5
 - (A) the provision of schedule 3 under which the 6
information in the document is exempt 7
information; and 8
 - (B) the reasons for the decision classifying the 9
information as exempt information; and 10
 - (iv) if access is refused under section 47(3)(b)— 11
 - (A) the factors identified as favouring disclosure 12
and the factors identified as favouring 13
nondisclosure under section 49; and 14
 - (B) the reasons for the decision that, on balance, 15
disclosure would be contrary to the public 16
interest under section 49; and 17
 - (v) if access is refused under section 47(3)(c)—the 18
reason under section 50 the agency or Minister 19
considers access would not be in the best interests 20
of the child; and 21
 - (vi) if access is refused under section 47(3)(d)—the 22
reason under section 51 the agency or Minister 23
considers that the disclosure to the applicant might 24
be prejudicial to the physical or mental health or 25
wellbeing of the applicant; and 26
 - (vii) if access is refused under section 47(3)(e)—the 27
provision of section 52(1) under which the 28
document is nonexistent or unlocatable; and 29
 - (viii) if access is refused under section 47(3)(f)—the 30
type of access to the document under section 53 31
that is available. 32

[s 55]

- (3) An agency or Minister is not required to include any exempt information or contrary to public interest information in the notice. 1
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- (4) Subsection (2)(a)(ii) does not apply if the document is given with the notice. 4
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- (5) This section does not apply in relation to a deemed decision. 6

55 Information as to existence of particular documents 7

- (1) Nothing in this Act requires an agency or Minister to give information as to the existence or non-existence of a document containing prescribed information. 8
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- (2) For an access application for a document containing prescribed information, the agency or Minister may give a prescribed written notice that does not include the details mentioned in section 191(a) or (b) but, by way of a decision, states that— 11
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 - (a) the agency or Minister neither confirms nor denies the existence of that type of document as a document of the agency or a document of the Minister; but 16
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18
 - (b) assuming the existence of the document, it would be a document to which access would be refused under section 47(3) to the extent it comprised prescribed information. 19
20
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- (3) The prescribed written notice may be given in a schedule of relevant documents. 23
24

Part 6	Charging regime	1
Division 1	Preliminary	2
56	Meaning of <i>processing charge</i>	3
	In this Act, <i>processing charge</i> , in relation to an access application for a document, means the charge prescribed under a regulation for—	4 5 6
	(a) searching for or retrieving the document; and	7
	(b) making, or doing things related to making, a decision on the application.	8 9
57	Meaning of <i>access charge</i>	10
	In this Act, <i>access charge</i> , in relation to an access application for a document, means the charge prescribed under a regulation in relation to giving access to the document.	11 12 13
58	Duty in relation to processing charge and access charge	14
	It is the duty of the agency or Minister to minimise any charges payable by an applicant.	15 16
59	No processing charge for personal information	17
	To remove any doubt, it is declared that no processing charge is payable in relation to a document to the extent the document contains information that is personal information for the applicant.	18 19 20 21

[s 60]

Division 2	Payment of charges	1
60	Requirement to pay charges	2
(1)	Before an applicant for an access application for a document is given access to the document, the applicant must pay the applicable processing charge and access charge for the application.	3 4 5 6
(2)	An applicant for an access application for a document must pay the applicable processing charge for the application even if—	7 8 9
(a)	access to the document is refused under this Act; or	10
(b)	the applicant does not seek to access the document within the access period mentioned in section 69 after a decision is made to give access.	11 12 13
61	Amount of charges	14
(1)	The amount payable for the processing charge for an access application may not be more than the estimated processing charge set out in the final charges estimate notice for the application.	15 16 17 18
(2)	The amount payable for the access charge for an access application may not be more than the estimated access charge set out in the final charges estimate notice for the application.	19 20 21
	<i>Note—</i>	22
	Also, if an applicant is given access to a document in a form different to the form of access requested by the applicant, the applicant must not be required to pay a charge that is more than the charge that would have been payable if access had been given in the form requested by the applicant—see section 68(5).	23 24 25 26 27
62	Refund of excess payment	28
	If an applicant pays an agency or Minister an amount for the processing charge and access charge that is more than the	29 30

amount of the processing charge and access charge ultimately 1
payable under this Act, the agency or Minister must refund 2
the difference to the applicant. 3

Division 3 Waiver of charges 4

63 Waiver under div 3 only 5

A processing charge or access charge may be waived only 6
under this division. 7

64 Uneconomical to charge 8

(1) A processing charge, or access charge, for an access 9
application may be waived if the agency or Minister considers 10
the likely associated costs to the agency or Minister would be 11
more than the likely amount of the charge. 12

(2) In this section— 13

associated costs mean the costs of— 14

(a) estimating and otherwise complying with this Act in 15
relation to the charge; and 16

(b) receiving payment of the charge. 17

65 Agency or Minister has delayed 18

A processing charge may be waived under section 93(2). 19

66 Applicant under financial hardship 20

(1) This section applies if, at any time, an applicant makes a 21
written request to an agency or Minister that the applicable 22
processing charge or access charge for the application be 23
waived. 24

(2) The agency or Minister must decide to waive any processing 25
charge, or access charge, for the application if— 26

[s 67]

(a)	for an applicant who is an individual—	1
(i)	the request is accompanied by a copy of a concession card; and	2 3
(ii)	the agency or Minister considers the applicant is the holder of a concession card; and	4 5
(iii)	the agency or Minister considers the applicant is not making the application for some other person who is seeking to avoid the payment of a charge; or	6 7 8
(b)	for an applicant that is a non-profit organisation—there is in effect a decision of the information commissioner that the non-profit organisation has financial hardship status under section 67.	9 10 11 12
(3)	The agency or Minister must give the applicant a prescribed written notice of a decision under subsection (2) before the end of the processing period.	13 14 15
(4)	However, subsection (3) does not apply if the agency or Minister has given the applicant a charges estimate notice that includes a decision that charges are not to be waived.	16 17 18
(5)	In this section—	19
	<i>concession card</i> means a health care card or pensioner concession card under the <i>Social Security Act 1991</i> (Cwlth) or a pensioner concession card issued by the department of the Commonwealth in which the <i>Veterans' Entitlements Act 1986</i> (Cwlth) is administered.	20 21 22 23 24
	<i>holder</i> , of a concession card, at a time the concession card is being relied on for a purpose under this Act, means a person who is named on the concession card and would be qualified to be named on the concession card if the concession card were issued at the time the concession card is being relied on.	25 26 27 28 29
67	Financial hardship status for non-profit organisation	30
(1)	The information commissioner may, on written application by a non-profit organisation, decide whether a non-profit organisation has financial hardship status by considering the	31 32 33

nature and size of the organisation's funding base and the amount of the organisation's liquid funds. 1
2

Example— 3

The fact an organisation receives significant government funding may indicate its finances are strictly limited. 4
5

- (2) The commissioner must give a non-profit organisation that has applied for financial hardship status prescribed written notice of the decision. 6
7
8
- (3) The commissioner's decision that a non-profit organisation has financial hardship status has effect for 1 year from the date of the decision. 9
10
11
- (4) While there is in effect a decision that a non-profit organisation has financial hardship status— 12
13
 - (a) the non-profit organisation must give the commissioner written notice of any substantial improvement in the organisation's financial circumstances as soon as practicable after the improvement happens; and 14
15
16
17
 - (b) the commissioner may revoke the decision if the commissioner considers that the non-profit organisation's financial circumstances at any time result in the commissioner considering that the organisation should not have financial hardship status. 18
19
20
21
22
- (5) If the commissioner revokes a decision that a non-profit organisation has financial hardship status, the commissioner must, as soon as practicable, give the organisation prescribed written notice of the revocation. 23
24
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26
- (6) If an organisation that has made an access application to an agency or Minister receives a notice under subsection (5) during the processing period for the application, the organisation must immediately advise the agency or Minister that the decision that the organisation has financial hardship status has been revoked. 27
28
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32
- (7) If the commissioner gives a non-profit organisation written notice of a decision that it is not to be given financial hardship 33
34

[s 68]

- status, the non-profit organisation may not make another 1
application for a decision under subsection (1) unless— 2
- (a) there is a substantial deterioration in its financial 3
circumstances; or 4
- (b) it is more than 1 year since the date of the 5
commissioner’s decision. 6

Part 7 Giving access 7

Division 1 Giving access to applicant 8

68 Forms of access 9

- (1) Access to a document may be given to a person in 1 or more 10
of the following forms— 11
- (a) a reasonable opportunity to inspect the document; 12
- (b) providing a copy of the document; 13
- (c) if the document is an article or material from which 14
sounds or visual images are capable of being 15
reproduced—making arrangements for the person to 16
hear the sounds or view the images; 17
- (d) if the document is one— 18
- (i) by which words are recorded in a way in which 19
they are capable of being reproduced in the form of 20
sound; or 21
- (ii) in which words are contained in the form of 22
shorthand writing or in codified form; 23
- providing a written transcript of the words recorded or 24
contained in the document; 25
- (e) if— 26

-
- (i) the application relates to information that is not contained in a written document in the possession, or under the control, of the agency; and
- (ii) the agency could create a written document containing the information using equipment that is usually available to it for retrieving or collating stored information;
- providing a written document created using the equipment.
- (2) For subsection (1)(a) and (b), the reference to the document includes a reference to a copy of the document from which information has been deleted under sections 73 to 75.
- (3) Subject to this section and sections 73 to 75, if an applicant has requested access in a particular form, access must be given in that form.
- (4) If giving 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 the Minister’s functions; or
- (b) would be detrimental to the preservation of the document or, having regard to the physical nature of the document, would be inappropriate; or
- (c) would involve an infringement of the copyright of a person other than the State;
- access in that form may be refused and given in another form.
- (5) If an applicant is given access to a document in a form different to the form of access requested by the applicant, the applicant must not be required to pay a charge that is more than the charge that would have been payable if access had been given in the form requested by the applicant.
- (6) Access under subsection (1)(a) to a document to which section 181 or 182 applies must be given by affording the applicant a reasonable opportunity to inspect the document on

[s 69]

the premises of the Queensland State Archives or public library or in an office of an agency.	1 2
(7) If a document is more than 25 years old or in the custody of the Queensland State Archives, the State Archivist may direct that access not be given in 1 or more, but not all, of the forms mentioned in subsection (1) if, in the State Archivist's opinion, giving access in that form would be detrimental to the document's preservation or, having regard to the physical nature of the document, would be inappropriate.	3 4 5 6 7 8 9
(8) This section does not prevent an agency or Minister giving access to a document in another form agreed to by the applicant.	10 11 12
69 Time limit for access	13
(1) This section applies if an applicant for an access application for a document is given access to the document.	14 15
(2) The person may access the document—	16
(a) if the giving of access is deferred under section 37(3)(d) or 72, within—	17 18
(i) 40 business days after the date of the notice that access is no longer deferred; and	19 20
(ii) any additional period allowed by the agency or Minister; or	21 22
(b) otherwise, within—	23
(i) 40 business days after the date of the decision to give the person access to the document; and	24 25
(ii) any additional period allowed by the agency or Minister.	26 27
(3) For subsection (2)(b)(i), the date of the decision to give the person access to the document is—	28 29
(a) if the person is given access because of a decision of the agency or Minister—the date of the prescribed written notice; or	30 31 32

[s 70]

-
- (b) if the person is given access because of a decision of the information commissioner, QCAT or a court—the date of the decision; or
- (c) if the person is given access because of an informal resolution of an external review—the date of the notice of the commissioner given under section 90(4)(a); or
- (d) if the person is given access because of an informal resolution of a proceeding under part 11—the date of the informal resolution.
- (4) If the person does not seek to access the document within the 40 business days, or any additional period allowed by the agency or Minister, the person’s entitlement to access under the application ends.
- (5) To remove any doubt, it is declared that subsection (2) does not entitle a person to access a document without paying any processing charge and access charge payable under part 6.

70 Precautions

- (1) This section applies if—
- (a) an access application is made to an agency or Minister for a document containing personal information for a person (the *first person*); and
- (b) disclosure of the information would, on balance, be contrary to the public interest under section 49, or the information would be exempt information, if the application were made by a person other than the first person or the first person’s agent.
- (2) The agency or Minister must ensure, by the adoption of appropriate procedures, that any information intended for the applicant is received—
- (a) if the application is made by the applicant’s agent—only by the applicant or the agent; or
- (b) in any other case—only by the applicant.

[s 71]

71	Precautions for children	1
(1)	This section applies if—	2
(a)	an access application states that it is made for a child by the child’s parent; and	3 4
(b)	the application is for documents containing the child’s personal information.	5 6
(2)	The agency or Minister must ensure, by the adoption of appropriate procedures, that any information intended for the child is received only by the parent.	7 8 9
(3)	In this section—	10
	<i>child</i> see section 25.	11
	<i>parent</i> see section 25.	12
72	Deferral of access	13
(1)	An agency or Minister may defer giving access to a document for a reasonable period if the document was prepared—	14 15
(a)	for presentation to the Assembly or a committee of the Assembly; or	16 17
(b)	for release to the media; or	18
(c)	solely for inclusion, in the same or an amended form, in a document to be prepared for a purpose mentioned in paragraph (a) or (b);	19 20 21
	and the document is yet to be presented or released, or included in a document to be presented or released, as the case may be.	22 23 24
(2)	The agency or Minister must give the applicant written notice when access is no longer deferred under subsection (1).	25 26
73	Deletion of irrelevant information	27
(1)	This section applies if giving access to a document will disclose to the applicant information the agency or Minister	28 29

reasonably considers is not relevant to the access application for the document.	1 2
(2) The agency or Minister may delete the irrelevant information from a copy of the document and give access to the document by giving access to a copy of the document with the irrelevant information deleted.	3 4 5 6
(3) However, the agency or Minister may give access to the document under subsection (2) only if the agency or Minister considers, from the terms of the application or after consultation with the applicant—	7 8 9 10
(a) the applicant would accept the copy; and	11
(b) it is reasonably practicable to give access to the copy.	12
74 Deletion of exempt information	13
Subject to section 55, if—	14
(a) an access application is made for a document containing exempt information; and	15 16
(b) it is practicable to give access to a copy of the document from which the exempt information has been deleted; and	17 18 19
(c) it appears to the agency or Minister concerned (whether from the terms of the application or after consultation with the applicant) that the applicant would wish to be given access to the copy;	20 21 22 23
the agency or Minister must give access accordingly.	24
75 Deletion of contrary to public interest information	25
Subject to section 55, if—	26
(a) an access application is made for a document containing contrary to public interest information; and	27 28

[s 76]

- (b) it is practicable to give access to a copy of the document from which the contrary to public interest information has been deleted; and
 - (c) it appears to the agency or Minister concerned (whether from the terms of the application or after consultation with the applicant) that the applicant would wish to be given access to the copy;
- the agency or Minister must give access accordingly.

76 Giving summary of personal information to applicant or intermediary

- (1) This section applies if under this Act, other than under section 47(3)(d), an agency or a Minister refuses an applicant access to a document to the extent it comprises personal information of the applicant.
- (2) Despite the refusal mentioned in subsection (1), the agency or Minister must consider whether it is consistent with the primary object of this Act to give the applicant, or a person nominated by the applicant and approved by the agency or Minister (an *intermediary*), a summary of the personal information on conditions of use or disclosure agreed between the agency or Minister and the intermediary, or between the agency or Minister, the intermediary and the applicant.
- (3) However—
 - (a) if a summary of information under subsection (2) includes information given by a person (the *information giver*), other than the applicant, who gave the information on a confidential basis—the summary must not be given to the applicant or intermediary without consultation with, and the agreement of, the information giver; and
 - (b) if a summary of information under subsection (2) includes personal information of a person other than the applicant—the summary must not be given to the

	applicant or intermediary without consultation with, and the agreement of, the other person.	1 2
(4)	Subsection (3) applies whether or not the summary is capable of revealing the identity of the information giver or other person.	3 4 5
77	Giving relevant healthcare information to applicant's nominated healthcare professional	6 7
(1)	This section applies if an agency or Minister refuses access to a document under section 47(3)(d).	8 9
(2)	Despite the refusal, the agency or Minister may direct that access to the document is to be given instead to an appropriately qualified healthcare professional nominated by the applicant and approved by the agency or Minister.	10 11 12 13
	<i>Note—</i>	14
	Only a principal officer, Minister or appointed healthcare professional may give this direction or approve the applicant's nominated healthcare professional—see sections 30(5) and 31(2).	15 16 17
(3)	The nominated and approved healthcare professional may decide—	18 19
(a)	whether or not to disclose all or part of the relevant healthcare information contained in the document to the applicant; and	20 21 22
(b)	the way in which to disclose the information to the applicant.	23 24
Division 2	Giving access to others	25
78	Disclosure logs	26
(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—	27 28 29 30

[s 78]

- (a) a copy of the document may be included in a disclosure log if this is reasonably practicable; or 1
2
- (b) otherwise—details identifying the document and information about how the document may be accessed may be included in a disclosure log. 3
4
5
- (2) An agency maintaining a disclosure log must ensure that the disclosure log complies with any guidelines published by the Minister on the Minister’s website. 6
7
8
- (3) 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. 9
10
11
- (4) However, nothing about the document (including a copy of the document) may be put on a disclosure log until at least 24 hours after the applicant accesses the document. 12
13
14
- (5) If— 15
- (a) a decision is made to give access to a document that does not contain personal information of the applicant; and 16
17
18
- (b) the applicant fails to access the document within the access period; 19
20
- details identifying the document and information about how the document may be accessed and any applicable charge may be included in a disclosure log. 21
22
23
- (6) A person may access a document the details of which are included in a disclosure log under subsection (5) upon payment of the applicable charge and in the way mentioned in the disclosure log. 24
25
26
27
- (7) After a person accesses a document under subsection (6)— 28
- (a) no further charge is payable for access to the document by any person; and 29
30
- (b) a copy of the document may be included in the disclosure log if this is reasonably practicable. 31
32

-
- (8) However, the copy of the document may not be put on the disclosure log under subsection (7) until at least 24 hours after the person accesses the document under subsection (6). 1
2
3
- (9) In this section— 4
- agency* includes a Minister but does not include a prescribed entity under section 16. 5
6
- disclosure log* means a part of an agency’s website called a disclosure log. 7
8

Part 8 Internal review 9

- 79 Definitions for pt 8** 10
- In this part— 11
- internal review* means review under this part. 12
- internal review application* means an application for internal review. 13
14

- 80 Internal review** 15
- (1) A person affected by a reviewable decision may apply to have the decision reviewed by the agency or Minister dealing with the application. 16
17
18
- Notes*— 19
- 1 *Reviewable decision* is defined in schedule 6. 20
- 2 It is not necessary to have an internal review before applying for an external review under part 9. 21
22
- (2) On an internal review of a decision, the reviewer must make a new decision as if the reviewable decision had not been made. 23
24
- (3) An internal review application must not be decided by— 25

[s 81]

- (a) the person who made the reviewable decision; or 1
- (b) a person who is less senior than that person. 2

81 Decisions that may not be reviewed 3

To remove any doubt, it is declared that the following 4
decisions in relation to an access application are not 5
reviewable decisions for internal review— 6

- (a) a decision on an internal review application; 7
- (b) a decision by an agency’s principal officer; 8
- (c) a decision by a Minister; 9
- (d) a decision by a healthcare professional appointed under 10
section 30 or 31; 11
- (e) a decision about the amount of a charge stated in a 12
charges estimate notice. 13

82 Applying for internal review 14

An application for internal review of a decision must— 15

- (a) be in writing; and 16
- (b) state an address to which notices under this Act may be 17
sent to the applicant for internal review; and 18
- (c) be made within 20 business days after the date of the 19
written notice of the decision or within the further time 20
the agency or the Minister allows (whether before or 21
after the end of the 20 business days); and 22
- (d) be lodged at an office of the agency or Minister. 23

Note— 24

Section 190 clarifies the powers of those acting for others. 25

83	When internal review application to be decided	1
	(1) An agency or Minister must decide an internal review application as soon as practicable.	2 3
	(2) However, if an agency or Minister does not decide an internal review application and notify the applicant of the decision within 20 business days after the internal review application is made, the agency's principal officer or the Minister is taken to have made a decision at the end of the 20 business days affirming the original decision.	4 5 6 7 8 9
	(3) As soon as practicable after a decision is made or taken to have been made under this section, the principal officer or Minister must give prescribed written notice of the decision to the applicant.	10 11 12 13
Part 9	External review	14
Division 1	Preliminary	15
84	Definitions for pt 9	16
	In this part—	17
	<i>external review</i> means review by the information commissioner under this part.	18 19
	<i>external review application</i> means an application for external review.	20 21
85	External review	22
	A person affected by a reviewable decision may apply to have the decision reviewed by the information commissioner.	23 24

[s 86]

Notes—

- 1 *Reviewable decision* is defined in schedule 6. 2
- 2 It is not necessary to have an internal review under part 8 before 3
applying for an external review. 4

86 Decisions that may not be reviewed 5

To remove any doubt, it is declared that a decision about the 6
amount of a charge stated in a charges estimate notice is not a 7
reviewable decision for external review. 8

87 Onus 9

- (1) On an external review, the agency or Minister who made the 10
decision under review has the onus of establishing that the 11
decision was justified or that the information commissioner 12
should give a decision adverse to the applicant. 13
- (2) However, if the decision under external review is a disclosure 14
decision, the participant in the external review application 15
who opposes the disclosure decision has the onus of 16
establishing that a decision not to disclose the document or 17
information is justified or that the commissioner should give a 18
decision adverse to the person who wishes to be given access 19
to the document. 20
- (3) In this section— 21
disclosure decision means— 22
 - (a) a decision to disclose a document or information 23
contrary to the views of a relevant third party obtained 24
under section 37; or 25
 - (b) a decision to disclose a document or information if the 26
agency or Minister should have taken, but has not taken, 27
steps to obtain the views of a relevant third party under 28
section 37. 29

Division 2	Application	1
88	Applying for external review	2
(1)	An application for external review must—	3
(a)	be in writing; and	4
(b)	specify an address of the applicant to which notices may be sent under this Act; and	5 6
(c)	give details of the decision for review; and	7
(d)	be made within 20 business days from the date of the written notice of the decision, or within the longer period the information commissioner allows; and	8 9 10
(e)	be lodged at an office of the OIC.	11
	<i>Note—</i>	12
	Section 190 clarifies the powers of those acting for others.	13
(2)	The application may contain details of the basis on which the applicant disputes the decision under review.	14 15
89	Participants in external review	16
(1)	The applicant for external review and the agency or Minister concerned are participants in an external review.	17 18
(2)	Any other person affected by the decision the subject of the external review (including a government, agency or person whose views were required to be sought under section 37 before the decision was made) may apply to the information commissioner to participate in the external review.	19 20 21 22 23
(3)	The commissioner may allow a person mentioned in subsection (2) to participate in the external review in the way the commissioner directs.	24 25 26

[s 90]

Division 3	After application made	1
90	Early resolution encouraged	2
(1)	If an external review application is made to the information commissioner, the commissioner must—	3 4
(a)	identify opportunities and processes for early resolution of the external review application, including mediation; and	5 6 7
(b)	promote settlement of the external review application.	8
(2)	Subsection (1) does not apply if the commissioner decides not to deal with, or to further deal with, the external review application under section 94.	9 10 11
(3)	The commissioner may suspend an external review at any time to allow the participants in the external review to negotiate a settlement.	12 13 14
(4)	If an external review is resolved informally—	15
(a)	the commissioner must give each participant in the external review notice that the external review is complete; and	16 17 18
(b)	the external review is taken to be complete at the date of the notice mentioned in paragraph (a).	19 20
91	Agency or Minister to be informed of application for external review of deemed decision	21 22
	If an application is made for external review of a deemed decision of an agency's principal officer or a Minister, the information commissioner must inform the agency or Minister of the application as soon as practicable after it is made.	23 24 25 26 27

92	Agency or Minister to be informed before external review of decision	1 2
	Before starting an external review of a decision, the information commissioner must inform the agency or Minister concerned that the decision is to be reviewed under this part.	3 4 5 6
93	Applications where decision delayed	7
	(1) This section applies if—	8
	(a) an application is made to the information commissioner for external review of a deemed decision in relation to an access application; and	9 10 11
	(b) the agency or Minister applies to the commissioner to allow the agency or Minister further time to deal with the access application.	12 13 14
	(2) The commissioner may allow the agency or Minister further time to deal with the access application subject to the conditions the commissioner considers appropriate, including a condition that the application fee must be refunded or the applicable processing charge must be reduced or waived.	15 16 17 18 19
	(3) If the agency or Minister does not deal with the access application and give the applicant for external review prescribed written notice of a considered decision within the further time, the agency’s principal officer or the Minister is taken, for the purpose of enabling a fresh external review application to be made, to have made, on the last day of the further time, a decision affirming the deemed decision.	20 21 22 23 24 25 26
94	Information commissioner may decide not to review	27
	(1) The information commissioner may decide not to deal with, or not to further deal with, all or part of an external review application if—	28 29 30

[s 95]

- (a) the commissioner is satisfied the application, or the part of the application, is frivolous, vexatious, misconceived or lacking substance; or 1
2
3
 - (b) the applicant for external review fails to comply with a direction given by the commissioner; or 4
5
 - (c) the commissioner considers the applicant for external review has failed to cooperate in progressing the external review application, or the part of it, without reasonable excuse; or 6
7
8
9
 - (d) the commissioner considers the address the applicant for external review stated in the application is no longer an address at which the applicant is contactable and the applicant has not, within a reasonable time, advised the commissioner of a new address of the applicant to which notices may be sent under this Act. 10
11
12
13
14
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- (2) If the commissioner decides not to deal with, or not to further deal with, all or part of an external review application, the commissioner must, as soon as practicable, inform each of the following persons in writing of the decision and of the reasons for the decision— 16
17
18
19
20
- (a) the applicant for external review, unless subsection (1)(d) applies; 21
22
 - (b) any other person informed by the commissioner of the proposed external review. 23
24

Division 4 Conduct of external review 25

95 Procedure on external review 26

- (1) On an external review— 27
- (a) the procedure to be followed is, subject to this Act, within the discretion of the information commissioner; 28
29
and 30

-
- (b) proceedings must be conducted with as little formality and technicality, and with as much expedition, as the requirements of this Act and a proper consideration of the matters before the commissioner allow; and
- (c) the commissioner is not bound by the rules of evidence and may inform himself or herself on any matter in any way the commissioner considers appropriate.
- (2) The commissioner may, during an external review, give directions as to the procedure to be followed on the external review.
- 96 Requirement to assist during review**
- (1) During an external review, any participant must comply in a timely way with a reasonable request made by the information commissioner for assistance in relation to the review.
- Examples—*
- 1 The commissioner may request that a participant give further and better particulars of a matter.
 - 2 The commissioner may request that an agency or Minister specifically indicate in a written document the words the agency or Minister considers are exempt information.
- (2) Subsection (1) applies even if the participant who is asked for assistance does not have the onus under section 87.
- 97 Conduct of reviews**
- (1) If, during an external review, the information commissioner proposes to—
- (a) allow a participant to make oral submissions; or
 - (b) take evidence on oath or affirmation;
- that part of the external review must be conducted in public unless the commissioner decides otherwise.
- (2) In conducting an external review, the commissioner must—

[s 98]

- (a) adopt procedures that are fair, having regard to the obligations of the commissioner under this Act; and
 - (b) ensure that each participant has an opportunity to present the participant's views to the commissioner by making written or oral submissions but, subject to paragraph (a), it is not necessary for a participant to be given an opportunity to appear before the commissioner.
- (3) If the commissioner gives a participant an opportunity to appear before the commissioner, the participant may, with the approval of the commissioner, be represented by another person.
- (4) If—
- (a) the commissioner has decided not to notify a person of the review; and
 - (b) it later becomes apparent to the commissioner that documents in which the person has an interest are likely to be released;
- the commissioner must take reasonable steps to notify the person of the likely release if the release may reasonably be expected to be of concern to the person.

Division 4A Powers of information commissioner on external review

98 Preliminary inquiries

- If an external review application is made, the information commissioner may, for the purpose of deciding—
- (a) whether the commissioner has power to review the matter to which the application relates; or
 - (b) whether the commissioner may decide not to review the matter;

make inquiries of the applicant for external review or the agency or Minister concerned.	1 2
99 Better reasons	3
(1) This section applies if—	4
(a) an application is made for external review of a decision of an agency or a Minister; and	5 6
(b) the information commissioner considers that the reasons for the decision stated in the prescribed written notice for the decision are not adequate.	7 8 9
(2) The commissioner may require the agency or Minister to give the applicant for external review and the commissioner an additional statement, as soon as practicable, but in any case within 20 business days, containing further and better particulars of the reasons for the decision.	10 11 12 13 14
100 Access to documents	15
If an external review application is made, the information commissioner is entitled to full and free access at all reasonable times to the documents of the agency or Minister concerned, including documents protected by legal professional privilege.	16 17 18 19 20
101 Access in particular form	21
(1) This section—	22
(a) applies if an external review application is made; but	23
(b) does not apply to an external review of a decision refusing to give access in the form mentioned in section 68(1)(e).	24 25 26
(2) If a document relevant to an external review is a document—	27
(a) by which words are recorded in a way in which they are capable of being reproduced in the form of sound; or	28 29

[s 102]

(b) in which words are contained in the form of shorthand 1
writing or in codified form; 2

the information commissioner may require the agency or 3
Minister concerned to give the commissioner a written 4
transcript of the words recorded or contained in the document. 5

(3) If— 6

(a) the access application relevant to the external review 7
relates to information that is not contained in a written 8
document in the possession, or under the control, of the 9
agency or Minister concerned; and 10

(b) the agency or Minister could create a written document 11
containing the information using equipment that is 12
usually available to it for retrieving or collating stored 13
information; 14

the commissioner may require the agency or Minister to give 15
the commissioner a written document created using the 16
equipment. 17

102 Requiring a search 18

(1) In the conduct of an external review of a decision to refuse 19
access to a document, the information commissioner may 20
require the agency or Minister concerned to conduct a 21
particular further search, or further searches, for a document. 22

(2) In this section— 23

conduct further searches, for a document, includes make 24
inquiries to locate the document. 25

103 Requiring information, documents and attendance 26

(1) If the information commissioner has reason to believe that a 27
person has information or a document relevant to an external 28
review, the commissioner may give to the person a written 29
notice requiring the person— 30

-
- (a) to give the information to the commissioner in writing signed by the person or, in the case of a corporation, by an officer of the corporation; or
- (b) to produce the document to the commissioner.
- (2) The notice must state—
- (a) the place at which the information or document must be given or produced to the commissioner; and
- (b) a reasonable time at which, or a reasonable period within which, the information or document must be given or produced.
- (3) If the commissioner has reason to believe that a person has information relevant to an external review, the commissioner may give to the person a written notice requiring the person to attend before the commissioner at a reasonable time and place specified in the notice to answer questions relevant to the external review.
- Note—*
- A person must not fail to comply with the notice—see section 178.

104 Examining witnesses

- (1) The information commissioner may administer an oath or affirmation to a person required under section 103 to attend before the commissioner and may examine the person on oath or affirmation.
- (2) The oath or affirmation to be taken or made by a person for the purposes of this section is an oath or affirmation that the answers the person will give will be true.
- Note—*
- A person must not give false or misleading information—see section 177.

[s 105]

105	Additional powers	1
(1)	In the conduct of an external review, the information commissioner has, in addition to any other power, power to—	2 3
(a)	review any decision that has been made by an agency or Minister in relation to the access application concerned; and	4 5 6
(b)	decide any matter in relation to the access application that could, under this Act, have been decided by an agency or Minister.	7 8 9
(2)	If it is established that a document is an exempt document or a contrary to public interest document, or contains exempt information or contrary to public interest information, the commissioner does not have power to direct that access to the document, or the document to the extent of the information, is to be given.	10 11 12 13 14 15
(3)	Any decision of the commissioner under this section has the same effect as a decision of the agency or Minister.	16 17
106	Restrictions under other laws not applicable	18
(1)	No obligation to maintain secrecy or other restriction on the disclosure of information obtained by or given to agencies or Ministers, whether imposed under an Act or a rule of law, applies to the disclosure of information to the information commissioner for the purposes of an external review.	19 20 21 22 23
(2)	Legal professional privilege does not apply to the production of documents or the giving of evidence by a member of an agency or a Minister for the purposes of an external review.	24 25 26
(3)	Subject to subsections (1) and (2), every participant in an external review has the same privileges in relation to the giving of evidence and producing documents and things that the person would have as a witness in a proceeding before a court.	27 28 29 30 31

107	Information commissioner to ensure proper disclosure and return of documents	1 2
	On an external review, the information commissioner must do all things necessary to ensure—	3 4
	(a) information or a document given to the commissioner is not disclosed to a person other than—	5 6
	(i) a member of the staff of the OIC in the course of performing duties as a member of the staff; or	7 8
	(ii) a person who created the document or who gave the document or information in the document to the agency or Minister; or	9 10 11
	(iii) if a person mentioned in subparagraph (ii) is a participant in the review—the participant’s representative; and	12 13 14
	(b) at the end of the review, any document given to the commissioner is returned to the person who gave it.	15 16
108	Information commissioner to ensure nondisclosure of particular information	17 18
	(1) On an external review, the information commissioner may give the directions the commissioner considers necessary to avoid the disclosure to an access participant or an access participant’s representative of—	19 20 21 22
	(a) information that is claimed to be exempt information or contrary to public interest information; or	23 24
	(b) information the commissioner considers may be protected by legal professional privilege.	25 26
	(2) The commissioner may receive evidence, or hear argument, in the absence of an access participant or an access participant’s representative if it is necessary to do so to prevent disclosure to that person of information that is claimed to be exempt information or contrary to public interest information.	27 28 29 30 31

[s 109]

- (3) The commissioner must not, in a decision on an external review or in reasons for a decision on an external review, include information that is claimed to be exempt information or contrary to public interest information. 1
2
3
4
- (4) In this section— 5
access participant means a participant other than— 6
- (a) the agency or Minister who made the decision under review; or 7
8
- (b) a participant who created the document concerned or who gave the document concerned to the agency or Minister who made the decision under review. 9
10
11
- 109 Exception for successful challenge of s 55(2) notice** 12
- (1) This section applies if an agency or Minister gives a notice under section 55(2) and the information commissioner is satisfied that the document concerned does not include prescribed information. 13
14
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16
- (2) Section 108(3) does not apply. 17
- (3) Section 110 applies except that the commissioner must— 18
- (a) first give a copy of the decision only to the agency or Minister; and 19
20
- (b) give a copy of the decision to each other participant only if, at the end of 20 business days after the date of the decision, the commissioner has not been notified that the agency or Minister has— 21
22
23
24
- (i) applied for a statutory order of review under the *Judicial Review Act 1991* in relation to the commissioner’s decision (*applied for judicial review*); or 25
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28
- (ii) appealed to QCAT against the commissioner’s decision under section 119 (*appealed on a question of law*). 29
30
31

[s 110]

-
- (4) Further, if the commissioner directs that access to the document is to be given, the agency or Minister must comply with the direction only if, at the end of 20 business days after the date of the decision, the agency or Minister has not applied for judicial review or appealed on a question of law.

Division 5 Decision on external review 6

110 Decision on external review 7

- (1) The information commissioner, after conducting an external review of a decision, must make a written decision—
- (a) affirming the decision; or
 - (b) varying the decision; or
 - (c) setting aside the decision and making a decision in substitution for the decision.
- (2) To remove doubt, it is declared that subsection (1) does not apply if the external review is resolved informally.
- (3) The commissioner must include in the decision the reasons for the decision.
- (4) The commissioner must give a copy of the decision to each participant.
- (5) If—
- (a) a document is to be released because of the external review; and
 - (b) the commissioner has notified a person under section 97(4) and the person did not become a participant in the review;
- the commissioner must take reasonable steps to notify the person of the release.
- (6) The commissioner must arrange to have decisions and reasons for decisions published.

[s 111]

- (7) However, subsection (6) does not require the commissioner to
arrange to have a decision and reasons for a decision
published to the extent they contain, or publication would
disclose, exempt information or contrary to public interest
information.

111 Correction of mistakes in decisions 6

- (1) This section applies if the information commissioner
considers—
- (a) there is an obvious error in a written decision of the
commissioner; and
 - (b) the error resulted from an accidental slip or omission.
- (2) The commissioner may, on application by a participant or on
the commissioner's own initiative, at any time correct the
error.

Division 6 Miscellaneous 15

112 Costs of external review 16

The costs incurred by a participant to an external review are
payable by the participant.

113 Disciplinary action 19

- (1) If the information commissioner, at the completion of an
external review, is of the opinion that—
- (a) there is evidence that an agency's officer has committed
a breach of duty or misconduct in the administration of
this Act; and
 - (b) the evidence is, in all the circumstances, of sufficient
force to justify doing so;
- the commissioner must bring the evidence to the notice of—

[s 113]

-
- (c) if the person is the principal officer of an agency—the responsible Minister of the agency; or
- (d) in any other case—the principal officer of the agency.
- (2) Also, if the commissioner, at the completion of an external review, is of the opinion that—
- (a) there is evidence that a person subject to the direction of a Minister under section 31 has committed a breach of duty or misconduct in the administration of this Act; and
- (b) the evidence is, in all the circumstances, of sufficient force to justify doing so;
- the commissioner must bring the evidence to the notice of the Minister.
- (3) In this section—
- responsible Minister*** means—
- (a) in relation to a department—the Minister administering the department; or
- (b) in relation to the town commission constituted under the *Alcan Queensland Pty. Limited Agreement Act 1965*—the Minister administering that Act; or
- (c) in relation to a council constituted under the *Local Government (Aboriginal Lands) Act 1978*—the Minister administering that Act; or
- (d) in relation to another local government—the Minister administering the *Local Government Act 1993*; or
- (e) in relation to a government owned corporation or a subsidiary of a government owned corporation—the Minister administering the *Government Owned Corporations Act 1993*; or
- (f) in relation to a public authority mentioned in section 16(1)(a) or 16(1)(c)(ii)—the Minister administering the Act by or under which the public authority is established; or

[s 114]

- (g) in relation to a public authority mentioned in section 16(1)(d)—the Minister administering the Act by which the office is established; or 1
2
3
- (h) in relation to any other public authority—the Minister declared by regulation to be the responsible Minister in relation to the public authority. 4
5
6

Part 10 Vexatious applicants 7

114 Vexatious applicants 8

- (1) The information commissioner may, on the commissioner’s own initiative or on the application of 1 or more agencies, declare in writing that a person is a vexatious applicant. 9
10
11
- (2) The commissioner may make the declaration in relation to a person only if the commissioner is satisfied that— 12
13
 - (a) the person has repeatedly engaged in access actions; and 14
 - (b) 1 of the following applies— 15
 - (i) the repeated engagement involves an abuse of process for an access action; 16
17
 - (ii) a particular access action in which the person engages involves, or would involve, an abuse of process for that access action; 18
19
20
 - (iii) a particular access action in which the person engages would be manifestly unreasonable. 21
22
- (3) The information commission must not make the declaration in relation to a person without giving the person an opportunity to make written or oral submissions. 23
24
25
- (4) A declaration has effect subject to the terms and conditions, if any, stated in the declaration. 26
27

-
- (5) Without limiting the conditions that may be stated, a declaration may include a condition that the vexatious applicant may make an access application, an internal review application or an external review application only with the written permission of the commissioner. 1
2
3
4
5
- (6) In this section— 6
- abuse of process*, for an access action, includes, but is not limited to, the following— 7
8
- (a) harassing or intimidating an individual or an employee of an agency in relation to the access action; 9
10
- (b) unreasonably interfering with the operations of an agency in relation to the access action; 11
12
- (c) seeking to use the Act for the purpose of circumventing restrictions on access to a document or documents imposed by a court. 13
14
15
- access action* means any of the following— 16
- (a) an access application; 17
- (b) an internal review application; 18
- (c) an external review application. 19
- agency* includes a Minister. 20
- engage*, for an access action, means make the access action. 21
- 115 Declaration may be varied or revoked** 22
- (1) The information commissioner may vary or revoke a declaration made under section 114. 23
24
- (2) The commissioner may vary or revoke the declaration on the commissioner's own initiative or on the application of the person subject to the declaration. 25
26
27

[s 116]

Part 11	References of questions of law and appeals	1 2
116	Definitions for pt 11	3
	In this part—	4
	<i>appeal tribunal</i> means the appeal tribunal under the QCAT Act.	5 6
	<i>judicial member</i> see the <i>Queensland Civil and Administrative Tribunal Act 2009</i> .	7 8
	<i>Note</i> —	9
	Section 190 clarifies the powers of those acting for others.	10
117	Reference of questions of law to Supreme Court	11
(1)	The information commissioner may, at the request of a participant in an external review or on the commissioner’s own initiative, refer a question of law arising on an external review to the Supreme Court.	12 13 14 15
(2)	The Supreme Court has jurisdiction to hear and decide a question of law referred to it under this section.	16 17
(3)	If a question of law is referred to the Supreme Court under this section, the commissioner must not make a decision on the external review while the reference is pending.	18 19 20
(4)	If the Supreme Court decides a question of law referred to it under this section, the commissioner is bound by the decision.	21 22
(5)	This section expires on the commencement of section 118.	23
118	Reference of questions of law to Queensland Civil and Administrative Tribunal	24 25
(1)	The information commissioner may, at the request of a participant in an external review or on the commissioner’s	26 27

own initiative, refer a question of law arising on an external review to QCAT.	1 2
(2) QCAT must—	3
(a) exercise its original jurisdiction under the QCAT Act to hear and decide the question of law referred to it under this section; and	4 5 6
(b) be constituted by 1 judicial member.	7
(3) If a question of law is referred to QCAT under this section, the commissioner must not make a decision on the external review while the reference is pending.	8 9 10
(4) If QCAT decides a question of law referred to it under this section, the commissioner is bound by the decision.	11 12
119 Appeal to Queensland Civil and Administrative Tribunal on question of law	13 14
(1) A participant in an external review may appeal to the appeal tribunal against a decision of the information commissioner on the external review.	15 16 17
(2) The appeal may only be on a question of law.	18
(3) The notice of appeal must, unless the appeal tribunal orders otherwise—	19 20
(a) be filed in QCAT’s registry within 20 business days after the date of the decision appealed from; and	21 22
(b) be served as soon as possible on all participants in the external review.	23 24
(4) The appeal tribunal—	25
(a) has jurisdiction to hear and decide the appeal; and	26
(b) must be constituted by 1 judicial member.	27
(5) The appeal may only be by way of a rehearing.	28

[s 120]

120	Application to Queensland Civil and Administrative Tribunal for review of decision about financial hardship status	1 2 3
	A non-profit organisation may apply, as provided under the QCAT Act, to QCAT for a review of a decision of the information commissioner made under section 67.	4 5 6
121	Application to Queensland Civil and Administrative Tribunal for review of vexatious applicant declaration	7 8
	A person subject to a declaration made under section 114 may apply, as provided under the QCAT Act, to QCAT for a review of a decision of the information commissioner to declare the person a vexatious applicant.	9 10 11 12
122	Rules and procedures of Queensland Civil and Administrative Tribunal	13 14
(1)	Anything done under this Act involving QCAT must be done in accordance with QCAT rules and procedures.	15 16
	<i>Examples—</i>	17
	• rules and procedures relating to filing of documents	18
	• rules and procedures relating to conduct of hearings	19
(2)	For the QCAT Act, section 43(2)(b)(iii), a person may be represented before QCAT by a lawyer on a reference of a question of law under section 118 or on an appeal on a question of law under section 119.	20 21 22 23
(3)	In this section—	24
	<i>QCAT rules and procedures</i> means the rules and procedures applying to QCAT under the QCAT Act.	25 26

Chapter 4	Office of the Information Commissioner	1
		2
Part 1	General	3
123	Information Commissioner and office of the information commissioner	4
		5
(1)	There is to be an Information Commissioner.	6
(2)	The commissioner is an officer of the Parliament.	7
(3)	The Office of the Information Commissioner established under the repealed <i>Freedom of Information Act 1992</i> is continued in existence.	8
		9
		10
(4)	The OIC consists of the commissioner and the staff of the office.	11
		12
124	Office of the information commissioner is a statutory body	13
		14
(1)	The OIC is a statutory body for the <i>Financial Accountability Act 2009</i> and the <i>Statutory Bodies Financial Arrangements Act 1982</i> .	15
		16
		17
(2)	The <i>Statutory Bodies Financial Arrangements Act 1982</i> , part 2B sets out the way in which the OIC's powers under this Act are affected by the <i>Statutory Bodies Financial Arrangements Act 1982</i> .	18
		19
		20
		21

[s 125]

Part 2	Information Commissioner	1
125	General power	2
	The information commissioner has power to do all things that are necessary or convenient to be done for or in connection with the performance of the commissioner’s functions under an Act.	3 4 5 6
126	Information commissioner not subject to direction	7
(1)	The information commissioner is not subject to direction by any person about—	8 9
(a)	the way in which the commissioner’s powers are to be exercised in the performance of a function under section 128, 129, 130 or 131; or	10 11 12
(b)	the priority to be given to investigations and reviews under this Act.	13 14
(2)	Subsection (1) has effect despite the <i>Public Service Act 2008</i> .	15
127	Control of the office of the information commissioner	16
	The information commissioner controls the OIC.	17
128	Support functions	18
(1)	The functions of the information commissioner include giving information and help to agencies and members of the public on matters relevant to this Act, in particular, by—	19 20 21
(a)	giving guidance on the interpretation and administration of this Act; and	22 23
(b)	giving information and help to agencies, applicants and third parties at any stage of an access application; and	24 25

(c)	promoting greater awareness of the operation of this Act in the community and within government, including by providing training and educative programs; and	1 2 3
(d)	monitoring the way the public interest test set out in section 49 is applied by agencies and on external review, consulting experts on its application and keeping agencies informed; and	4 5 6 7
(e)	commissioning external research, and consulting experts on the design of surveys, to monitor whether this Act and its administration are achieving this Act's stated objectives; and	8 9 10 11
(f)	identifying and commenting on legislative and administrative changes that would improve the administration of this Act.	12 13 14
(2)	In this section— <i>agency</i> includes a Minister.	15 16
129	Decision-making functions	17
	The functions of the information commissioner include—	18
(a)	deciding applications for extensions of time under schedule 4, part 4, item 1; and	19 20
(b)	deciding applications from non-profit organisations for financial hardship status under section 67; and	21 22
(c)	making, varying or revoking declarations under section 114 or 115.	23 24
130	External review functions	25
(1)	The functions of the information commissioner include investigating and reviewing decisions of agencies and Ministers under chapter 3, part 9.	26 27 28
(2)	The functions of the commissioner also include investigating and reviewing whether, in relation to the decisions, agencies	29 30

[s 131]

and Ministers have taken reasonable steps to identify and 1
locate documents applied for by applicants. 2

131 Performance monitoring functions 3

- (1) The functions of the information commissioner include 4
reviewing and reporting on agencies in relation to the 5
operation of this Act and the Information Privacy Act, chapter 6
3, including by— 7
- (a) monitoring, auditing and reporting on agencies’ 8
compliance with this Act and the Information Privacy 9
Act, chapter 3; and 10
- (b) advising the parliamentary committee of the statistical 11
information (including statistical information about 12
giving access to information other than on an access 13
application) agencies are to give the commissioner for 14
reports under this section; and 15
- (c) publishing performance standards and measures for use 16
in reports under this section. 17
- (2) The commissioner must, as soon as practicable after finishing 18
a review, give a report about the outcome of the review to the 19
parliamentary committee. 20
- (3) In this section— 21
agency includes a Minister. 22

132 Power to issue guidelines 23

- (1) The information commissioner also has power to issue a 24
guideline about a matter for or in connection with any of the 25
commissioner’s functions. 26
- (2) The commissioner must publish the guideline on the 27
commissioner’s website. 28
- (3) Without limiting subsection (1), the commissioner may issue 29
a guideline about any of the following matters— 30

(a)	the interpretation and administration of this Act;	1
(b)	the application of the public interest test set out in section 49, including examples of the way it should be and has been applied;	2 3 4
(c)	the production and management of schedules of relevant documents, particularly to achieve consistency;	5 6
(d)	the process for external reviews, including appropriate timeframes for completion of external reviews;	7 8
(e)	when it is appropriate to apply for a declaration that a person is a vexatious applicant;	9 10
(f)	procedural, technical and sector specific issues in relation to this Act, including documents mentioned in schedule 1 and entities mentioned in schedule 2;	11 12 13
(g)	what agencies or Ministers should include in reasons for a decision;	14 15
(h)	best practice for agencies to improve service to those seeking to access information;	16 17
(i)	best practice for publication schemes;	18
(j)	best practice for administrative access schemes, including disclosure logs.	19 20
133	Budget and performance	21
(1)	For each financial year, the information commissioner must develop, adopt and submit to the Minister a budget for the OIC not later than the day the Minister directs.	22 23 24
(2)	A budget has no effect until approved by the Minister.	25
(3)	During a financial year the commissioner may develop, adopt and submit to the Minister amendments to the OIC's budget.	26 27
(4)	An amendment has no effect until approved by the Minister.	28
(5)	The OIC must comply with its budget.	29

[s 134]

(6)	This section does not require the commissioner to give the Minister any details that would, if given, prejudice a current investigation or review by the commissioner.	1 2 3
134	Appointment	4
(1)	The information commissioner is appointed by the Governor in Council.	5 6
(2)	The commissioner is appointed under this Act and not under the <i>Public Service Act 2008</i> .	7 8
135	Procedure before appointment	9
(1)	A person may be appointed as information commissioner only if—	10 11
(a)	the Minister has placed press advertisements nationally calling for applications from suitably qualified persons to be considered for appointment; and	12 13 14
(b)	the Minister has consulted with the parliamentary committee about—	15 16
(i)	the process of selection for appointment; and	17
(ii)	the appointment of the person as commissioner.	18
(2)	Subsection (1)(a) and (b)(i) does not apply to the reappointment of a person as information commissioner.	19 20
136	Term of appointment	21
(1)	The information commissioner holds office for the term, of not more than 5 years, stated in the instrument of appointment.	22 23 24
(2)	However, a person being reappointed as information commissioner can not be reappointed for a term that would result in the person holding office as information commissioner for more than 10 years continuously.	25 26 27 28

137	Remuneration and conditions	1
(1)	The information commissioner must be paid remuneration and other allowances decided by the Governor in Council.	2 3
(2)	The remuneration paid to the commissioner must not be reduced during the commissioner's term of office without the commissioner's written consent.	4 5 6
(3)	In relation to matters not provided for by this Act, the commissioner holds office on the terms and conditions decided by the Governor in Council.	7 8 9
138	Leave of absence	10
	The Minister may grant leave to the information commissioner in accordance with entitlements available to the commissioner under the commissioner's conditions of office.	11 12 13
139	Preservation of rights if public service officer appointed	14
(1)	A public service officer who is appointed to the office of information commissioner or who is appointed to act in the office is entitled to retain all existing and accruing rights as if service in the office were a continuation of service as a public service officer.	15 16 17 18 19
(2)	If the person stops holding the office for a reason other than misconduct, the person is entitled to be employed as a public service officer.	20 21 22
(3)	The person must be employed on the classification level and remuneration that the Public Service Commission or another entity prescribed under a regulation considers the person would have attained in the ordinary course of progression if the person had continued in employment as a public service officer.	23 24 25 26 27 28

[s 140]

140	Oath before performing duties	1
(1)	Before performing the duties of office, the information commissioner must make an oath or affirmation to the effect that he or she will faithfully and impartially perform the duties of the office.	2 3 4 5
(2)	The oath must be administered by the Speaker.	6
141	Restriction on outside employment	7
(1)	The information commissioner must not, without the Minister's prior approval in each particular case—	8 9
(a)	hold any office of profit other than that of information commissioner; or	10 11
(b)	engage in any remunerative employment or undertaking outside the duties of the office.	12 13
(2)	Contravention of subsection (1) is misconduct under section 160(a).	14 15
142	Resignation	16
(1)	The information commissioner may resign by signed notice given to the Minister.	17 18
(2)	As soon as practicable after the notice is given to the Minister, the Minister must—	19 20
(a)	give the notice to the Governor for information; and	21
(b)	give a copy of the notice to—	22
(i)	the Speaker of the Assembly; and	23
(ii)	the chairperson of the parliamentary committee.	24
(3)	Failure to comply with subsection (2) does not affect the effectiveness of the resignation.	25 26

143	Acting information commissioner	1
(1)	The Governor in Council may appoint a person to act as information commissioner—	2 3
(a)	during a vacancy in the office; or	4
(b)	during any period, or during all periods, when the information commissioner is absent from duty or from Australia or is, for another reason, unable to perform the duties of the office.	5 6 7 8
(2)	The acting information commissioner is appointed under this Act and not the <i>Public Service Act 2008</i> .	9 10
(3)	Before performing the duties of office, the acting information commissioner must make an oath or affirmation to the effect that he or she will faithfully and impartially perform the duties of the office.	11 12 13 14
(4)	The oath must be administered by the Speaker.	15
(5)	The <i>Acts Interpretation Act 1954</i> , section 25(1)(b)(iv) and (v) does not apply to the office of acting information commissioner.	16 17 18

Part 3	Staff of the Office of the Information Commissioner	19 20
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144	Staff employed under Public Service Act 2008	21
(1)	The staff of the OIC must be employed under the <i>Public Service Act 2008</i> .	22 23
(2)	However, subsection (1) does not apply to the RTI commissioner or the privacy commissioner.	24 25

[s 145]

145	Delegation	1
	The information commissioner may delegate to a member of	2
	the staff of the OIC all or any of the commissioner's powers	3
	under this Act.	4
146	Staff subject only to direction of information commissioner	5
		6
(1)	The staff of the OIC are not subject to direction by any person,	7
	other than the information commissioner or a person	8
	authorised by the commissioner, about the way in which the	9
	commissioner's powers under an Act are to be exercised.	10
(2)	Subsection (1) has effect despite the <i>Public Service Act 2008</i> .	11
Part 4	Right to Information Commissioner	12
		13
147	Right to Information Commissioner	14
(1)	There is to be a Right to Information Commissioner (the <i>RTI commissioner</i>).	15
		16
(2)	The RTI commissioner is a member of the staff of the OIC.	17
148	Role and function of RTI commissioner	18
(1)	The RTI commissioner's role is that of a deputy to the	19
	information commissioner, with particular responsibility for	20
	matters relating to the information commissioner's functions	21
	under this Act.	22
(2)	The RTI commissioner's function is to perform the functions	23
	of the information commissioner under this Act to the extent	24
	the functions are delegated to the RTI commissioner by the	25
	information commissioner.	26

149	RTI commissioner subject to direction of information commissioner	1 2
	The RTI commissioner is subject to the direction of the information commissioner.	3 4
150	Appointment	5
	(1) The RTI commissioner is appointed by the Governor in Council.	6 7
	(2) The commissioner is appointed under this Act and not under the <i>Public Service Act 2008</i> .	8 9
151	Procedure before appointment	10
	(1) A person may be appointed as RTI commissioner only if—	11
	(a) the Minister has placed press advertisements nationally calling for applications from suitably qualified persons to be considered for appointment; and	12 13 14
	(b) the Minister has consulted with the parliamentary committee about—	15 16
	(i) the process of selection for appointment; and	17
	(ii) the appointment of the person as commissioner.	18
	(2) Subsection (1)(a) and (b)(i) does not apply to the reappointment of a person as RTI commissioner.	19 20
152	Term of appointment	21
	(1) The RTI commissioner holds office for the term, of not more than 5 years, stated in the instrument of appointment.	22 23
	(2) However, a person being reappointed as RTI commissioner can not be reappointed for a term that would result in the person holding office as RTI commissioner for more than 10 years continuously.	24 25 26 27

[s 153]

153	Remuneration and conditions	1
(1)	The RTI commissioner must be paid remuneration and other allowances decided by the Governor in Council.	2 3
(2)	The remuneration paid to the commissioner must not be reduced during the commissioner's term of office without the commissioner's written agreement.	4 5 6
(3)	In relation to matters not provided for by this Act, the commissioner holds office on the terms and conditions decided by the Governor in Council.	7 8 9
154	Leave of absence	10
	The Minister may grant leave to the RTI commissioner in accordance with entitlements available to the commissioner under the commissioner's conditions of office.	11 12 13
155	Preservation of rights if public service officer appointed	14
(1)	A public service officer who is appointed to the office of RTI commissioner or who is appointed to act in the office is entitled to retain all existing and accruing rights as if service in the office were a continuation of service as a public service officer.	15 16 17 18 19
(2)	If the person stops holding the office for a reason other than misconduct, the person is entitled to be employed as a public service officer.	20 21 22
(3)	The person must be employed on the classification level and remuneration that the Public Service Commission under the <i>Public Service Act 2008</i> or another entity prescribed under a regulation considers the person would have attained in the ordinary course of progression if the person had continued in employment as a public service officer.	23 24 25 26 27 28

156	Restriction on outside employment	1
(1)	The RTI commissioner must not, without the Minister's prior approval in each particular case—	2 3
(a)	hold any office of profit other than that of RTI commissioner; or	4 5
(b)	engage in any remunerative employment or undertaking outside the duties of the office.	6 7
(2)	Contravention of subsection (1) is misconduct under section 160(a).	8 9
157	Resignation	10
(1)	The RTI commissioner may resign by signed notice given to the Minister.	11 12
(2)	As soon as practicable after the notice is given to the Minister, the Minister must—	13 14
(a)	give the notice to the Governor for information; and	15
(b)	give a copy of the notice to—	16
(i)	the Speaker of the Assembly; and	17
(ii)	the chairperson of the parliamentary committee.	18
(3)	Failure to comply with subsection (2) does not affect the effectiveness of the resignation.	19 20
158	Acting RTI commissioner	21
(1)	The Governor in Council may appoint a person to act as RTI commissioner—	22 23
(a)	during a vacancy in the office; or	24
(b)	during any period, or during all periods, when the RTI commissioner is absent from duty or from Australia or is, for another reason, unable to perform the duties of the office.	25 26 27 28

[s 159]

(2)	The acting RTI commissioner is appointed under this Act and not the <i>Public Service Act 2008</i> .	1 2
(3)	The <i>Acts Interpretation Act 1954</i> , section 25(1)(b)(iv) and (v) does not apply to the office of acting RTI commissioner.	3 4
Part 5	Commissioner may be removed or suspended from office	5 6
159	Definition for pt 5	7
	In this part—	8
	<i>commissioner</i> means the information commissioner, the RTI commissioner or the privacy commissioner.	9 10
160	Grounds for removal or suspension	11
	The following are grounds for removal or suspension of a commissioner from office—	12 13
(a)	proved incapacity, incompetence or misconduct;	14
(b)	conviction of an indictable offence.	15
161	Removal on address	16
(1)	The Governor may, on an address from the Assembly, remove a commissioner from office.	17 18
(2)	The motion for the address may be moved only by the Premier.	19 20
(3)	The Premier may move the motion only if—	21
(a)	the Premier has given the commissioner a statement setting out the reasons for the motion; and	22 23

-
- (b) the statement and any written response by the commissioner have been tabled in the Assembly; and
 - (c) the Premier has consulted with the parliamentary committee about the motion; and
 - (d) agreement to the motion has been obtained from—
 - (i) all members of the parliamentary committee; or
 - (ii) a majority of members of the parliamentary committee, other than a majority consisting wholly of members of the political party or parties in government in the Assembly.

162 Suspension on address

- (1) The Governor may, on an address from the Assembly, suspend a commissioner from office.
- (2) The motion for the address may be moved only by the Premier.
- (3) The Premier may move the motion only if—
 - (a) the Premier has given the commissioner a statement setting out the reasons for the motion; and
 - (b) the statement and any written response by the commissioner have been tabled in the Assembly; and
 - (c) the Premier has consulted with the parliamentary committee about the motion; and
 - (d) agreement to the motion has been obtained from—
 - (i) all members of the parliamentary committee; or
 - (ii) a majority of members of the parliamentary committee, other than a majority consisting wholly of members of the political party or parties in government in the Assembly.
- (4) The commissioner is entitled to be paid salary and allowances for the period of the suspension only if—

[s 163]

- (a) the Assembly resolves that salary and allowances be paid for the period; or 1
2
- (b) the Assembly does not pass a resolution under paragraph (a) and the Governor in Council approves the payment of salary and allowances for the period. 3
4
5

163 Suspension if Assembly not sitting 6

- (1) If the Assembly is not sitting, the Governor in Council may suspend a commissioner from office. 7
8
- (2) The Governor in Council may suspend the commissioner only if— 9
10
 - (a) the Premier has given the commissioner a statement setting out the reasons for the suspension; and 11
12
 - (b) the Premier has considered any response by the commissioner to the statement. 13
14
- (3) The Premier must table the statement and any written response by the commissioner in the Assembly within 3 sitting days after the day the suspension begins. 15
16
17
- (4) The suspension stops having effect— 18
 - (a) at the end of 6 sitting days after the day the suspension begins; or 19
20
 - (b) if the commissioner is earlier suspended or removed from office on an address from the Assembly—at the earlier time. 21
22
23
- (5) If the suspension stops having effect under subsection (4)(a), the commissioner is entitled to be paid salary and allowances for the period of the suspension. 24
25
26
- (6) Except as provided in subsection (5), the commissioner is entitled to be paid salary and allowances for the period of the suspension only if— 27
28
29
 - (a) the Assembly resolves that salary and allowances be paid for the period; or 30
31

-
- (b) the Assembly does not pass a resolution under paragraph (a) and the Governor in Council approves the payment of salary and allowances for the period.

164 Acts Interpretation Act 1954

The *Acts Interpretation Act 1954*, section 25(1)(b)(i) to (iii) does not apply to the removal or suspension of a commissioner.

Part 6 Proceedings

165 Third party proceedings

- (1) The information commissioner or a member of the staff of the OIC can not be compelled—
- (a) to produce an RTI document in third party legal proceedings; or
 - (b) to disclose RTI information in third party legal proceedings.
- (2) In this section—
- RTI document*** means a document received, or created, by the commissioner or a member of the staff of the OIC in performing functions under this Act.
- RTI information*** means information that the commissioner or a member of the staff of the OIC obtained in performing functions under this Act.
- third party legal proceedings*** means a legal proceeding other than—
- (a) a legal proceeding started by the commissioner; or

[s 166]

(b)	a legal proceeding started against the commissioner or a member of the staff of the OIC arising out of the performance of functions under this Act.	1 2 3
166	Costs in proceedings	4
	If a proceeding arising out of the performance of the functions of the information commissioner is started by the State, the reasonable costs of a party to the proceeding must be paid by the State.	5 6 7 8
167	Information commissioner or RTI commissioner may appear in proceedings	9 10
	The information commissioner or RTI commissioner is entitled to appear and be heard in a proceeding arising out of the performance of the functions of the information commissioner.	11 12 13 14
168	Intervention by Attorney-General	15
(1)	The Attorney-General may, for the State, intervene in a proceeding before a court arising out of the performance of the functions of the information commissioner under this Act.	16 17 18
(2)	If the Attorney-General intervenes—	19
(a)	the court may make the order as to costs against the State the court considers appropriate; and	20 21
(b)	the Attorney-General becomes a party to the proceeding.	22 23

Chapter 5	Protections and offences	1
Part 1	Protections	2
169	Meaning of <i>access was required or permitted to be given under this Act</i>	3 4
	In this part—	5
	<i>access was required or permitted to be given under this Act</i>	6
	means access was required or permitted to be given under this	7
	Act, other than under section 20 or 21.	8
170	Access—protection against actions for defamation or breach of confidence	9 10
	(1) If a person has been given access to a document and—	11
	(a) the access was required or permitted to be given under	12
	this Act; or	13
	(b) the access was authorised by a decision-maker, in the	14
	genuine belief that the access was required or permitted	15
	to be given under this Act;	16
	then—	17
	(c) no action for defamation or breach of confidence lies	18
	against the State, an agency, a Minister or an officer of	19
	an agency because of the authorising or giving of the	20
	access; and	21
	(d) no action for defamation or breach of confidence in	22
	relation to any publication involved in, or resulting	23
	from, the giving of the access lies against the author of	24
	the document or another person because of the author or	25
	another person having given the document to an agency	26
	or Minister.	27
	(2) The giving of access to a document (including an exempt	28
	document or a contrary to public interest document) because	29

[s 171]

of an access application or under section 78 must not be taken 1
for the purposes of the law relating to defamation or breach of 2
confidence to constitute an authorisation or approval of the 3
publication of the document or its contents by the person to 4
whom access is given. 5

**171 Publication—protection against actions for defamation or 6
breach of confidence 7**

- (1) If a document has been published and— 8
- (a) the publication was permitted under section 78 or 9
authorised by a Minister, or by an officer having 10
authority in relation to disclosure logs, in the genuine 11
belief that the publication was permitted under section 12
78; or 13
 - (b) the publication was required under section 110 or 14
authorised by the information commissioner in the 15
genuine belief that the publication was required under 16
section 110; 17
- then— 18
- (c) no action for defamation or breach of confidence lies 19
against the State, an agency, a Minister, the 20
commissioner or an officer because of the publication; 21
and 22
 - (d) no action for defamation or breach of confidence in 23
relation to the publication or a resulting publication lies 24
against the author of the document or another person 25
because of the author or another person having given the 26
document to an agency, Minister or commissioner. 27
- (2) The publication of a document (including an exempt 28
document or contrary to public interest document) under 29
section 78 or 110 must not be taken for the purposes of the 30
law relating to defamation or breach of confidence to 31
constitute an authorisation or approval of the publication of 32
the document or its contents. 33

172	Access—protection in respect of offences	1
	If access has been given to a document and—	2
	(a) the access was required or permitted to be given under this Act; or	3 4
	(b) the access was authorised by a decision-maker, in the genuine belief that the access was required or permitted to be given under this Act;	5 6 7
	neither the person authorising the access nor any other person concerned in the giving of the access commits a criminal offence merely because of authorising or giving of the access.	8 9 10
173	Publication—protection in respect of offences	11
	If a document has been published and—	12
	(a) the publication was permitted under section 78 or authorised by a Minister, or by an officer having authority in relation to disclosure logs, in the genuine belief that the publication was permitted under section 78; or	13 14 15 16 17
	(b) the publication was required under section 110 or authorised by the information commissioner in the genuine belief that the publication was required under section 110;	18 19 20 21
	the person authorising publication and any other person concerned in the publication of the document do not commit a criminal offence merely because of authorising or being concerned in the publication.	22 23 24 25
174	Protection of agency, information commissioner etc. from personal liability	26 27
	(1) A relevant entity does not incur civil liability for an act done or omission made honestly and without negligence under this Act.	28 29 30

[s 176]

(a)	a person who is an employee or officer of the agency involved in a matter under this Act; or	1 2
(b)	an employee of a Minister involved in a matter under this Act;	3 4
	directing the person to act contrary to the requirements of this Act.	5 6
	Maximum penalty—100 penalty units.	7
176	Unlawful access	8
	A person must not, in order to gain access to a document containing another person’s personal information knowingly deceive or mislead a person exercising powers under this Act.	9 10 11
	Maximum penalty—100 penalty units.	12
177	False or misleading information	13
(1)	A person must not give information to the information commissioner, or a member of the staff of the OIC, that the person knows is false or misleading in a material particular.	14 15 16
	Maximum penalty—100 penalty units.	17
(2)	Subsection (1) does not apply to information given in a document, if the person when giving the document—	18 19
(a)	informs the commissioner or member of the staff of the OIC, to the best of the person’s ability, how the information is false or misleading; and	20 21 22
(b)	gives the correct information to the commissioner or member of the staff of the OIC if the person has, or can reasonably obtain, the correct information.	23 24 25
(3)	It is enough for a complaint against a person for an offence against subsection (1) to state that the information was ‘false or misleading’, without specifying whether it was false or whether it was misleading.	26 27 28 29

[s 178]

178	Failure to produce documents or attend proceedings	1
	A person given notice under section 103 to—	2
	(a) give information; or	3
	(b) produce a document; or	4
	(c) attend before the information commissioner;	5
	must not, without reasonable excuse, fail to do so.	6
	Maximum penalty—100 penalty units.	7
179	Disclosure or taking advantage of information	8
	If a person is or has been the information commissioner or a member of the staff of the OIC, the person must not—	9 10
	(a) otherwise than for the purposes of this Act or a proceeding arising under this Act, disclose any information that the person obtained in performing functions under this Act; or	11 12 13 14
	(b) take advantage of that information to benefit himself or herself or another person.	15 16
	Maximum penalty—100 penalty units.	17
Chapter 6	Miscellaneous provisions	18
Part 1	Archival documents	19
180	Operation of Public Records Act 2002	20
	(1) Without limiting section 4, this Act does not affect the provisions of the <i>Public Records Act 2002</i> relating to the giving of access to documents by the Queensland State Archives.	21 22 23 24

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- (2) Without limiting section 6, the *Public Records Act 2002* does not prevent a person being given access to a document in the custody of Queensland State Archives to which a person may be given access under this Act.
- 181 Non-official documents in Queensland State Archives etc.**
- A document that—
- (a) has been placed in the custody of Queensland State Archives or a public library by a person; and
- (b) was not, immediately before being placed in that custody, a document of an agency or a document of a Minister;
- is available for access to members of the community under this Act, subject to any restrictions or conditions imposed by the person—
- (c) at the time the document was placed in the custody of the Queensland State Archives or public library; or
- (d) as permitted under section 23(2) of the repealed *Freedom of Information Act 1992*.
- 182 Official documents in Queensland State Archives**
- (1) For the purposes of this Act, a document that—
- (a) has been placed in the custody of the Queensland State Archives by an agency (whether before or after the commencement of this section); and
- (b) is not reasonably available for inspection under the *Public Records Act 2002*;
- is taken to be in the agency's possession, or, if the agency no longer exists, to be in the possession of the agency whose functions are most closely related to the document, if the agency is entitled to access to the document.

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- (2) The commissioner must, as soon as practicable after the end of each financial year, give the Speaker and parliamentary committee a report of the operations of the OIC during that year. 1
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 - (3) A report under subsection (2) must include, in relation to the financial year to which it relates, details of the matters prescribed under a regulation. 5
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 - (4) The parliamentary committee may require the commissioner to prepare and give the committee a report on a particular aspect of the performance of the commissioner's functions. 8
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 - (5) If a report of the commissioner is given to the Speaker or the parliamentary committee, the Speaker or the chairperson of the committee must cause the report to be tabled in the Assembly on the next sitting day after it is given. 11
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185 Report to Assembly on Act's operation 15

- (1) The Minister administering this Act shall, as soon as practicable after the end of each financial year, prepare a report on the operation of this Act during that year and cause a copy of the report to be tabled in the Assembly. 16
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- (2) A report under subsection (1) must include, in relation to the financial year to which it relates, details of the matters prescribed under a regulation. 20
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186 Strategic review of office 23

- (1) Strategic reviews of the OIC must be conducted under this section and sections 187 and 188. 24
25
- (2) The first review under this section must be conducted within 4 years after the commencement of this section. 26
27
- (3) Subject to subsection (2), a strategic review must be conducted at least every 5 years, counting from the date of the report (the *earlier report*) for the most recent earlier strategic review up to when the reviewer is appointed under subsection (5) to undertake the latest review. 28
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[s 187]

- (4) However, if the parliamentary committee reported to the Assembly about the earlier report, and the committee's report made recommendations to which a Minister was required to respond under the *Parliament of Queensland Act 2001*, section 107 the 5 years is counted from when the Minister's response was tabled under that section. 1
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- (5) Each strategic review must be undertaken by an appropriately qualified person (*reviewer*), appointed by the Governor in Council, who must give a report on the review. 7
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- (6) The terms of reference for a strategic review are to be decided by the Governor in Council. 10
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- (7) Before a reviewer is appointed to conduct a strategic review, the Minister must consult with the parliamentary committee and the information commissioner about— 12
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14
- (a) the appointment of the reviewer; and 15
- (b) the terms of reference for the review. 16
- (8) The remuneration and other terms of appointment of the reviewer are as decided by the Governor in Council. 17
18
- (9) In this section— 19
- strategic review*, of the OIC, includes— 20
- (a) a review of the commissioner's functions; and 21
- (b) a review of the commissioner's performance of the functions to assess whether they are being performed economically, effectively and efficiently. 22
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187 Conduct of strategic review 25

In conducting a strategic review— 26

- (a) the reviewer has the powers an authorised auditor has under the *Auditor-General Act 2009* for an audit of an entity; and 27
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- (b) that Act and other Acts apply to the reviewer as if the reviewer were an authorised auditor conducting an audit of an entity.

188 Report of strategic review

- (1) The reviewer must give a copy of a proposed report on the strategic review to the Minister and the information commissioner.
- (2) The commissioner may, within 15 business days after receiving the proposed report, give the reviewer written comments on anything in the proposed report.
- (3) If the commissioner comments under subsection (2), the reviewer must—
- (a) if the reviewer and commissioner can agree about how to dispose of a comment—incorporate into the report any agreed amendment necessary to dispose of the comment; or
- (b) if the reviewer and commissioner can not agree about how to dispose of a comment—include the comment, in full, in the report.
- (4) After complying with subsections (1) and (3), the reviewer must give the report (*strategic review report*) to the Minister and the commissioner.
- (5) The strategic review report must be the same as the proposed report given to them under subsection (1), apart from the changes made under subsection (3).
- (6) The Minister must table the strategic review report in the Assembly within 3 sitting days after the Minister receives the report.
- (7) For the *Parliament of Queensland Act 2001*, section 84(2) the report is referred to the parliamentary committee.

[s 189]

189	Functions of parliamentary committee	1
	The parliamentary committee has the following functions under this Act—	2 3
	(a) to monitor and review the performance by the information commissioner of the commissioner's functions under this Act;	4 5 6
	(b) to report to the Assembly on any matter concerning the commissioner, the commissioner's functions or the performance of the commissioner's functions that the committee considers should be drawn to the Assembly's attention;	7 8 9 10 11
	(c) to decide, in consultation with the commissioner, the statistical information (including statistical information about giving access to information other than on an access application) agencies and Ministers are to give the commissioner for reports under section 131;	12 13 14 15 16
	(d) to examine each annual report tabled in the Assembly under this Act and, if appropriate, to comment on any aspect of the report and to make recommendations;	17 18 19
	(e) to examine each strategic review report tabled in the Assembly under this Act and, if appropriate, to comment on any aspect of the report and to make recommendations;	20 21 22 23
	(f) to report to the Assembly any changes to the functions, structures and procedures of the OIC the committee considers desirable for the more effective operation of this Act;	24 25 26 27
	(g) the other functions conferred on the parliamentary committee by this Act.	28 29
	<i>Note—</i>	30
	The parliamentary committee also has functions under other Acts, for example, the <i>Parliament of Queensland Act 2001</i> , section 86 (Administrative review reform).	31 32 33

Part 3	Other	1
190	Power of person acting for another person	2
(1)	To remove any doubt, it is declared that, in relation to an application or other matter under this Act—	3 4
(a)	a person’s agent is able to do, in accordance with the terms of the person’s authorisation as agent, anything that the person could do; and	5 6 7
(b)	a child’s parent is able to do anything that the child could do if the child were an adult.	8 9
(2)	In this section—	10
	<i>child</i> see section 25.	11
	<i>parent</i> see section 25.	12
191	Contents of prescribed written notice	13
	If an agency or Minister must give a person a prescribed written notice of a decision under this Act, the notice must be in writing and state the following details—	14 15 16
(a)	the decision;	17
(b)	the reasons for the decision;	18
	<i>Note—</i>	19
	See the <i>Acts Interpretation Act 1954</i> , section 27B (Content of statement of reasons for decision).	20 21
(c)	the day the decision was made;	22
(d)	the name and designation of the person making the decision;	23 24
(e)	if the decision is not the decision sought by the person—any rights of review under this Act in relation to the decision, the procedures to be followed for exercising the rights and the time within which an application for review must be made.	25 26 27 28 29

[s 192]

192	Approval of forms	1
	The chief executive may approve forms for use under this Act.	2
193	Regulation-making power	3
	The Governor in Council may make regulations under this Act.	4 5
Chapter 7	Repeal and transitional provisions	6 7
Part 1	Repeal	8
194	Repeal	9
	The Freedom of Information Act 1992, No. 42 is repealed.	10
Part 2	Transitional provisions	11
195	Outdated references	12
	In an Act or document, if the context permits, a reference to the <i>Freedom of Information Act 1992</i> , is taken to be a reference to this Act.	13 14 15

196	Continuation of appointment as information commissioner	1 2
	The person who, immediately before the commencement of section 123, was the information commissioner under the repealed <i>Freedom of Information Act 1992</i> —	3 4 5
	(a) continues as the information commissioner under this Act until an appointment is made under section 134; and	6 7
	(b) is taken to have satisfied the requirements under section 140 concerning the oath.	8 9
197	Continuation of appointment as acting information commissioner	10 11
	The person who, immediately before the commencement of section 143, was the acting information commissioner under the repealed <i>Freedom of Information Act 1992</i> —	12 13 14
	(a) continues as the acting information commissioner under this Act until an appointment is made under section 134 or 143; and	15 16 17
	(b) is taken to have satisfied the requirements under that section concerning the oath.	18 19
198	Pre-enactment recruitment process	20
	An appointment of a person as information commissioner or RTI commissioner after the enactment of this Act is not to be taken to be invalid only because action was taken in relation to the filling of the role of information commissioner or RTI commissioner before the enactment.	21 22 23 24 25
199	Applications under Freedom of Information Act 1992	26
	(1) The repealed <i>Freedom of Information Act 1992</i> continues to apply in relation to an application under that Act that has not been finalised before the commencement of this section as if this Act had not been enacted.	27 28 29 30

[s 200]

(2)	For subsection (1), an application has not been finalised until—	1 2
(a)	a decision on the application is made; and	3
(b)	either—	4
(i)	the time for exercising any review rights or appeal rights in relation to the decision has ended without any rights being exercised; or	5 6 7
(ii)	any review or appeal in relation to the decision has ended.	8 9
200	Time limit for access under Freedom of Information Act 1992 continues to apply	10 11
	The repealed <i>Freedom of Information Act 1992</i> , section 31A continues to apply if a person is given access under that Act to a document whether before or after the commencement of this section.	12 13 14 15
201	Statements of affairs	16
	The repealed <i>Freedom of Information Act 1992</i> , section 18 continues to apply to an agency until the agency publishes a statement of affairs under that section.	17 18 19
202	Refusal to deal with application—previous application for same documents	20 21
	For section 43, a first application may be an application under the repealed <i>Freedom of Information Act 1992</i> .	22 23
203	Delayed appeals and applications to QCAT	24
(1)	If a person may appeal to the appeal tribunal under section 119 before QCAT comes into existence, the person may appeal to the appeal tribunal within 20 business days after QCAT comes into existence.	25 26 27 28

- (2) If a person may, within a period, apply to QCAT under section 120 or 121 before QCAT comes into existence, the person may apply to QCAT within that period after QCAT comes into existence. 1
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Chapter 8 Amendment of Acts 5

Part 1 Amendment of Ombudsman Act 2001 6 7

204 Act amended 8 This part amends the *Ombudsman Act 2001*. 9

205 Amendment of s 16 (What ombudsman may not investigate) 10 11 Section 16(2)— 12 *insert*— 13 '(h) the information commissioner in the performance of the commissioner's functions under the *Right to Information Act 2009*, section 128, 129, 130 or 131.'. 14 15 16

Part 2 Amendment of Public Records Act 2002 17 18

206 Act amended 19 This part amends the *Public Records Act 2002*. 20

[s 207]

207	Amendment of s 3 (Purposes)	1
	Section 3(b), ‘ <i>Freedom of Information Act 1992</i> ’—	2
	<i>omit, insert</i> —	3
	‘ <i>Right to Information Act 2009</i> and the <i>Information Privacy Act 2009</i> ’.	4
		5
208	Amendment of s 16 (Meaning of <i>restricted access period</i>)	6
(1)	Section 16(1)—	7
	<i>omit, insert</i> —	8
‘(1)	Subject to subsection (2), the <i>restricted access period</i> for the following records starts on the day the record is made and ends 30 years after the day of the last action on the record—	9
		10
		11
(a)	a public record classified by a public authority as containing information that potentially is exempt information under the RTI Act, schedule 3, section 3;	12
		13
		14
	<i>Editor’s note</i> —	15
	RTI Act, schedule 3, section 3 (Executive Council information)	16
(b)	a Ministerial record;	17
(c)	a record of a Parliamentary Secretary.	18
‘(1A)	Subject to subsection (2), the <i>restricted access period</i> for a public record classified by a public authority as containing information that potentially is exempt information under the RTI Act, schedule 3, section 2 starts on the day the record is made and ends 20 years after the day of the last action on the record.	19
		20
		21
		22
		23
		24
	<i>Editor’s note</i> —	25
	RTI Act, schedule 3, section 2 (Cabinet information brought into existence on or after commencement)’.	26
		27
(2)	Section 16(2), ‘subsection (1)’—	28
	<i>omit, insert</i> —	29
	‘subsection (1) or (1A)’.	30

(3) Section 16(2), from ‘potentially’ to ‘FOI Act,’—	1
<i>omit, insert—</i>	2
‘information about the personal affairs of an individual, whether living or dead,’.	3 4
(4) Section 16(2)(a)—	5
<i>omit, insert—</i>	6
‘(a) the period starting on the day the record is made and ending—	7 8
(i) for a public record mentioned in subsection (1)—30 years after the day of the last action on the record; or	9 10 11
(ii) for a public record mentioned in subsection (1A)—20 years after the day of the last action on the record;’.	12 13 14
(5) Section 16(4)(a), from ‘potentially’ to ‘FOI Act’—	15
<i>omit, insert—</i>	16
‘information about the personal affairs of an individual, whether living or dead’.	17 18
(6) Section 16(4)(b), ‘potentially exempt matter mentioned in section 42, 42A, 43 or 46 of the FOI Act’—	19 20
<i>omit, insert—</i>	21
‘information that potentially is exempt information under the RTI Act, schedule 3, section 7, 8, 9 or 10’.	22 23
(7) Section 16(4)(b)—	24
<i>insert—</i>	25
‘ <i>Editor’s note—</i>	26
RTI Act, schedule 3, section 7 (Information subject to legal professional privilege), 8 (Information disclosure of which would found action for breach of confidence), 9 (National or State security information) or 10 (Law enforcement or public safety information)’.	27 28 29 30 31

[s 209]

(8)	Section 16(5)—	1
	<i>omit, insert—</i>	2
‘(5)	Subsections (1), (1A), (2) and (4)(a) and (b) apply as if the public authority in all cases were an agency under the RTI Act.’.	3 4 5
209	Amendment of s 18 (Public access to public records)	6
(1)	Section 18(2)(a)—	7
	<i>omit, insert—</i>	8
	‘(a) access is given under the IP Act or RTI Act; or	9
	<i>Note—</i>	10
	The IP Act, chapter 3 and the RTI Act, chapter 3, set out formal procedures for being given access to documents and about reviewing decisions about access under those Acts.’.	11 12 13
(2)	Section 18(5)(a), ‘potentially exempt under section 42(1)(g) to (i) or 42A of the FOI Act’—	14 15
	<i>omit, insert—</i>	16
	‘information that potentially is exempt information under the RTI Act, schedule 3, section 9 or 10(1)(h), (i) or (j)’.	17 18
210	Replacement of pt 6, hdg (Transitional and consequential provisions)	19 20
	Part 6, heading—	21
	<i>omit, insert—</i>	22
‘Part 6	Transitional provisions	23
‘Division 1	Transitional provisions for Public Records Act 2002’.	24 25

211	Insertion of new pt 6, div 2	1
	After section 61—	2
	<i>insert—</i>	3
‘Division 2	Transitional provisions for	4
	Information Privacy Act 2009 and	5
	Right to Information Act 2009	6
‘62	Omitted references to Freedom of Information Act 1992	7
		8
	‘(1) This section applies to a provision (the <i>relevant provision</i>) of this Act if—	9
		10
	(a) immediately before the commencement of this section, the relevant provision included a reference (the <i>FOI reference</i>) to a particular provision of the <i>Freedom of Information Act 1992</i> or to that Act generally; and	11
		12
		13
		14
	(b) on the commencement of this section, the relevant provision was amended to omit the FOI reference and to replace the FOI reference with a reference to—	15
		16
		17
	(i) a particular provision of the RTI Act; or	18
	(ii) information about the personal affairs of an individual, whether living or dead; or	19
		20
	(iii) the RTI Act generally; or	21
	(iv) the IP Act and the RTI Act generally.	22
	‘(2) In relation to anything done or taking effect under the relevant provision before the commencement of this section, the relevant provision, as in force immediately before the commencement of this section, continues to have effect after the commencement as if—	23
		24
		25
		26
		27
	(a) the relevant provision still included the FOI reference; and	28
		29
	(b) the provision had not otherwise been amended; and	30

[s 212]

(c) the <i>Freedom of Information Act 1992</i> had not been repealed.	1 2
<i>Example—</i>	3
A restricted access period established for a record before the commencement of this section continues to be the restricted access period for the record after the commencement of this section.	4 5 6
‘62A Establishing restricted access period for record made before commencement	7 8
‘If a public record was made before the commencement of this section, but its restricted access period was not established under section 16 before the commencement, its restricted access period must be established as if the IP Act and RTI Act had not been enacted.	9 10 11 12 13
<i>Example—</i>	14
The restricted access period for a record containing potentially exempt information under the RTI Act, schedule 3, section 2 (Cabinet information brought into existence on or after commencement) will be 30 years if the record was made before this section commenced.’.	15 16 17 18
212 Amendment of sch 2 (Dictionary)	19
(1) Schedule 2, definition <i>FOI Act—</i> <i>omit.</i>	20 21
(2) Schedule 2— <i>insert—</i>	22 23
‘ <i>IP Act</i> means the <i>Information Privacy Act 2009</i> .	24
<i>RTI Act</i> means the <i>Right to Information Act 2009</i> .’.	25

[s 213]

Part 3	Amendment of regulations and other Acts	1
		2
213	Acts and regulations amended	3
	Schedule 5 amends the Act and regulations that it mentions.	4

Schedule 1	Documents to which this Act does not apply	1 2
	section 11	3
1	Security document	4
	Either of the following documents—	5
	(a) a document (an <i>intelligence agency document</i>) that has originated with, or has been received from, any of the following entities—	6 7 8
	(i) the Australian Secret Intelligence Service;	9
	(ii) the Australian Security Intelligence Organisation;	10
	(iii) the Inspector-General of Intelligence and Security;	11
	(iv) the Office of National Assessments;	12
	(v) the Defence Imagery and Geospatial Organisation;	13
	(vi) the Defence Intelligence Organisation;	14
	(vii) the Defence Signals Directorate;	15
	(b) a document that contains a summary of, or an extract or information from, an intelligence agency document, to the extent that it contains such a summary, extract or information.	16 17 18 19
2	Documents under Terrorism (Preventative Detention) Act 2005	20 21
	A document created or received in carrying out activities under the <i>Terrorism (Preventative Detention) Act 2005</i> .	22 23
3	Particular documents under Crime and Misconduct Act 2001	24 25
	Any of the following documents—	26

(a)	a document under, or a document to the extent it comprises information about an activity under, the <i>Crime and Misconduct Act 2001</i> , chapter 3, part 6, division 2 or 3;	1 2 3 4
	<i>Note—</i>	5
	Part 6 deals with surveillance devices.	6
(b)	a document under, or a document to the extent it comprises information about an activity under, the <i>Crime and Misconduct Act 2001</i> , chapter 3, part 6A;	7 8 9
	<i>Note—</i>	10
	Part 6A deals with controlled operations and controlled activities for misconduct offences.	11 12
(c)	a document under, or a document to the extent it comprises information about an activity under, the <i>Crime and Misconduct Act 2001</i> , chapter 3, part 6B, divisions 2 to 7;	13 14 15 16
	<i>Note—</i>	17
	Part 6B deals with assumed identities.	18
(d)	a covert search warrant under the <i>Crime and Misconduct Act 2001</i> , chapter 3, part 7;	19 20
(e)	an additional powers warrant under the <i>Crime and Misconduct Act 2001</i> , chapter 3, part 8;	21 22
(f)	a document mentioned in the <i>Crime and Misconduct Act 2001</i> , section 371.	23 24
4	Particular documents under Police Powers and Responsibilities Act 2000	25 26
	Either of the following documents—	27
(a)	a document under, or a document to the extent it comprises information about an activity under, any of the following provisions of the <i>Police Powers and Responsibilities Act 2000</i> —	28 29 30 31
	• chapter 10	32
	• chapter 11	33

Schedule 1

•	chapter 12, parts 2 to 7	1
•	chapter 13	2
•	chapter 18 if it would enable either of the following to be revealed—	3 4
•	the identity of a person in relation to whom a disease test order within the meaning of the <i>Police Powers and Responsibilities Act 2000</i> is made	5 6 7 8
•	the identity of a victim of an offence to which the <i>Police Powers and Responsibilities Act 2000</i> , chapter 18 applies;	9 10 11 12
(b)	a document to the extent it comprises information kept in a register under the <i>Police Powers and Responsibilities Act 2000</i> , chapter 21, part 2, division 2.	13 14 15
	<i>Note—</i>	16
	Chapter 10 deals with controlled activities. Chapter 11 deals with controlled operations. Chapter 12 deals with assumed identities. Chapter 13 deals with surveillance device warrants. Chapter 18 deals with blood and urine testing of persons suspected of committing sexual or other serious assault offences. Chapter 21, part 2, division 2 deals with a register of covert acts.	17 18 19 20 21 22
5	Particular documents under Police Service Administration Act 1990	23 24
	A document created under the <i>Police Service Administration Act 1990</i> , part 5A.	25 26
	<i>Note—</i>	27
	Part 5A deals with alcohol and drug tests for members of the police service.	28 29
6	Particular documents received or created by integrity commissioner under Public Sector Ethics Act 1994	30 31
	A document created, or received, by the Queensland Integrity Commissioner in relation to—	32 33

	(a) advice sought on an issue about a person under the <i>Public Sector Ethics Act 1994</i> , section 28(1)(b); or	1 2
	(b) a conflict of interest issue about which advice has been sought under the <i>Public Sector Ethics Act 1994</i> , section 30.	3 4 5
7	Document received or created by Prostitution Licensing Authority	6 7
	A document created, or received, by the Prostitution Licensing Authority for the <i>Prostitution Act 1999</i> .	8 9
8	Particular coronial document during investigation	10
	A document of an agency that is a coronial document (other than a document given to, or accessed by, the agency under the <i>Coroners Act 2003</i> , section 25, 54 or 54A) while a coroner is investigating the death to which the document relates.	11 12 13 14
9	Root cause analysis document	15
	A document created for a root cause analysis of a reportable event under—	16 17
	(a) the <i>Ambulance Service Act 1991</i> , part 4A; or	18
	(b) the <i>Health Services Act 1991</i> , part 4B.	19
	<i>Notes—</i>	20
	1 For what is a root cause analysis of a reportable event under the <i>Ambulance Service Act 1991</i> , part 4A, see sections 36A and 36B.	21 22
	2 For what is a root cause analysis of a reportable event under the <i>Health Services Act 1991</i> , part 4B, see sections 38G and 38H.	23 24
10	Particular documents under Workers' Compensation and Rehabilitation Act 2003	25 26
	Either of the following documents—	27
	(a) a document created, or received, by the Workers' Compensation Regulatory Authority in carrying out its function of monitoring the financial performance of	28 29 30

Schedule 1

	self-insurers within the meaning of the <i>Workers' Compensation and Rehabilitation Act 2003</i> ;	1 2
	(b) a document created, or received, by WorkCover Queensland in carrying out its commercial activities other than activities about policies, applications for compensation, or proceedings for damages.	3 4 5 6
11	Particular documents under Biodiscovery Act 2004	7
	Any of the following documents under the <i>Biodiscovery Act 2004</i> —	8 9
	(a) a benefit sharing agreement;	10
	(b) a record kept by a department about a benefit sharing agreement or proposed benefit sharing agreement;	11 12
	(c) a record kept by a department about a collection authority;	13 14
	(d) a biodiscovery plan;	15
	(e) a record kept by a department about a biodiscovery plan;	16
	(f) a document identifying the holder of a collection authority under which a sample of native biological material was given to a receiving entity.	17 18 19
12	Particular documents under Gene Technology Act 2001	20
	A document to the extent it comprises confidential commercial information within the meaning of the <i>Gene Technology Act 2001</i> .	21 22 23
13	Particular documents under Sugar Industry Act 1999	24
	Either of the following documents—	25
	(a) a document in connection with any of the following matters under the <i>Sugar Industry Act 1999</i> that was held by the Sugar Authority on or after 1 July 2004 and before 1 January 2006—	26 27 28 29
	(i) the giving of a periodic estimate;	30

	(ii) the making or granting of an application for an exemption;	1 2
	(iii) the giving of an annual return;	3
	(b) a document in connection with either of the following matters under the <i>Sugar Industry Act 1999</i> that was given to the Sugar Industry Commissioner on or after 1 January 2006 and before 1 July 2008—	4 5 6 7
	(i) the making or granting of an application for an exemption;	8 9
	(ii) the giving of an annual return.	10
14	Particular GOC documents created or received before commencement	11 12
	A document to which the repealed <i>Freedom of Information Act 1992</i> did not apply under section 11A of that Act.	13 14
15	Particular corporatised corporation documents created or received before commencement	15 16
	A document to which the repealed <i>Freedom of Information Act 1992</i> did not apply under section 11B of that Act.	17 18

Schedule 2	Entities to which this Act does not apply	1 2
	section 17	3
Part 1	Entities to which this Act does not apply	4 5
1	the Governor	6
2	the Assembly, a member of the Assembly, a committee of the Assembly, a member of a committee of the Assembly, a parliamentary commission of inquiry or a member of a parliamentary commission of inquiry	7 8 9 10
3	the Parliamentary Judges Commission of Inquiry appointed under the expired <i>Parliamentary (Judges) Commission of Inquiry Act 1988</i>	11 12 13
4	a commission of inquiry issued by the Governor in Council, whether before or after the commencement of this schedule	14 15
5	the parliamentary service established by the <i>Parliamentary Service Act 1988</i>	16 17
6	a committee declared to be an approved quality assurance committee under the <i>Health Services Act 1991</i> , section 31(1)	18 19
7	a parents and citizens association under the <i>Education (General Provisions) Act 2006</i>	20 21
8	a grammar school to which the <i>Grammar Schools Act 1975</i> applies	22 23

Part 2	Entities to which this Act does not apply in relation to a particular function	1 2 3
1	a court, or the holder of a judicial office or other office connected with a court, in relation to the court's judicial functions	4 5 6
2	a registry or other office of a court, or the staff of a registry or other office of a court in their official capacity, so far as its or their functions relate to the court's judicial functions	7 8 9
3	a tribunal in relation to the tribunal's judicial or quasi-judicial functions	10 11
4	a tribunal member or the holder of an office connected with a tribunal, in relation to the tribunal's judicial or quasi-judicial functions	12 13 14
5	a registry of a tribunal, or the staff of a registry of a tribunal in their official capacity, so far as its or their functions relate to the tribunal's judicial or quasi-judicial functions	15 16 17
6	a quasi-judicial entity in relation to its quasi-judicial functions	18
7	a member of, or the holder of an office connected with, a quasi-judicial entity, in relation to the entity's quasi-judicial functions	19 20 21
8	the staff of a quasi-judicial entity in their official capacity, so far as their functions relate to the entity's quasi-judicial functions	22 23 24
9	Queensland Treasury Corporation in relation to its borrowing, liability and asset management related functions	25 26
10	the adult guardian under the <i>Guardianship and Administration Act 2000</i> in relation to an investigation or audit under that Act	27 28
11	the Health Rights Commissioner in relation to the conciliation of health service complaints under the repealed <i>Health Rights Commission Act 1991</i> , part 6	29 30 31
12	the Health Quality and Complaints Commission in relation to the conciliation of health service complaints under—	32 33

Schedule 2

(a)	the repealed <i>Health Rights Commission Act 1991</i> , part 6; or	1 2
(b)	the <i>Health Quality and Complaints Commission Act 2006</i> , chapter 6	3 4
13	CS Energy Limited ACN 078 848 745, or a subsidiary of CS Energy Limited, in relation to its functions, except so far as they relate to community service obligations	5 6 7
14	Ergon Energy Queensland Pty Ltd ACN 121 177 802 in relation to its functions, except so far as they relate to community service obligations	8 9 10
15	QIC Limited ACN 130 539 123, or a subsidiary of QIC Limited, in relation to its functions, except so far as they relate to community service obligations	11 12 13
16	QR Limited ACN 124 649 967 in relation to its freight operations, except so far as they relate to community service obligations	14 15 16
17	a subsidiary of QR Limited ACN 124 649 967 (other than an entity mentioned in item 18) in relation to its freight operations, except so far as they relate to community service obligations	17 18 19 20
18	ARG Risk Management Ltd ABN 76 535 579 451, On Track Insurance Pty Ltd ACN 095 032 670 or QR Surat Basin Pty Ltd ACN 122 385 568 in relation to their functions, except so far as they relate to community service obligations	21 22 23 24
19	Stanwell Corporation Limited ACN 078 848 674, or a subsidiary of Stanwell Corporation Limited, in relation to its functions, except so far as they relate to community service obligations	25 26 27 28
20	Tarong Energy Corporation Limited ACN 078 848 736, or a subsidiary of Tarong Energy Corporation Limited, in relation to its functions, except so far as they relate to community service obligations	29 30 31 32

Schedule 3	Exempt information	1
	section 48	2
	<i>Note—</i>	3
	Access to a document may be refused to the extent the document comprises exempt information—see section 47(3)(a).	4 5
1	Cabinet matter brought into existence before commencement	6 7
	Matter is exempt information if the matter is—	8
	(a) brought into existence before the commencement of this section; and	9 10
	(b) mentioned in section 36(1) of the repealed <i>Freedom of Information Act 1992</i> ; and	11 12
	(c) not officially published by decision of Cabinet.	13
2	Cabinet information brought into existence on or after commencement	14 15
	(1) Information is exempt information for 10 years after its relevant date if—	16 17
	(a) it has been brought into existence for the consideration of Cabinet; or	18 19
	(b) its disclosure would reveal any consideration of Cabinet or would otherwise prejudice the confidentiality of Cabinet considerations or operations; or	20 21 22
	(c) it has been brought into existence in the course of the State's budgetary processes.	23 24
	(2) Subsection (1) does not apply to—	25
	(a) information brought into existence before the commencement of this section; or	26 27
	(b) information officially published by decision of Cabinet.	28

Schedule 3

- (3) Without limiting subsection (1), the following documents are taken to be documents comprised exclusively of exempt information under subsection (1)—
- (a) Cabinet submissions;
 - (b) Cabinet briefing notes;
 - (c) Cabinet agendas;
 - (d) notes of discussions in Cabinet;
 - (e) Cabinet minutes;
 - (f) Cabinet decisions;
 - (g) a draft of a document mentioned in any of paragraphs (a) to (f).
- (4) A report of factual or statistical information attached to a document mentioned in subsection (3) is exempt information under subsection (1) only if—
- (a) its disclosure would have an effect mentioned in subsection (1)(b); or
 - (b) it was brought into existence for the consideration of Cabinet or for the State’s budgetary processes.
- (5) In this section—
- Cabinet** includes a Cabinet committee or subcommittee.
- consideration** includes—
- (a) discussion, deliberation, noting (with or without discussion) or decision; and
 - (b) consideration for any purpose, including, for example, for information or to make a decision.
- draft** includes a preliminary or working draft.
- relevant date**, for information, means—
- (a) for information considered by Cabinet—the date the information was most recently considered by Cabinet; or
 - (b) for other information—the date the information was brought into existence.

3	Executive Council information	1
(1)	Information is exempt information if—	2
(a)	it has been submitted to Executive Council; or	3
(b)	it was brought into existence for submission to Executive Council and is proposed, or has at any time been proposed, to be submitted to Executive Council by a Minister; or	4 5 6 7
(c)	it was brought into existence for briefing, or the use of, the Governor, a Minister or a chief executive in relation to information—	8 9 10
(i)	submitted to Executive Council; or	11
(ii)	that is proposed, or has at any time been proposed, to be submitted to Executive Council by a Minister; or	12 13 14
(d)	it is, or forms part of, an official record of Executive Council; or	15 16
(e)	its disclosure would involve the disclosure of any consideration of Executive Council or could otherwise prejudice the confidentiality of Executive Council considerations or operations; or	17 18 19 20
(f)	it is a draft of matter mentioned in any of paragraphs (a) to (e); or	21 22
(g)	it is a copy of or extract from, or part of a copy of or extract from, information mentioned in any of paragraphs (a) to (f).	23 24 25
(2)	Subsection (1) does not apply to information officially published by decision of the Governor in Council.	26 27
(3)	In this section—	28
	<i>chief executive</i> means a chief executive of a unit of the public sector.	29 30
	<i>consideration</i> includes—	31
(a)	discussion, deliberation, noting (with or without discussion) or decision; and	32 33

	(b) consideration for any purpose, including, for example, for information or to make a decision.	1 2
	<i>draft</i> includes a preliminary or working draft.	3
	<i>official record</i> , of Executive Council, includes an official record of information submitted to Executive Council.	4 5
	<i>submit</i> information to Executive Council includes bring the information to Executive Council, irrespective of the purpose of submitting the information to Executive Council, the nature of the information or the way in which Executive Council deals with the information.	6 7 8 9 10
4	Information briefing incoming Minister	11
	Information is exempt information for 10 years after the appointment of a Minister for a department if the information is brought into existence by the department to brief an incoming Minister about the department.	12 13 14 15
5	Information revealing particular Sovereign communications	16 17
	Information is exempt information if its disclosure would reveal—	18 19
	(a) any communications between the Sovereign and the Sovereign’s representative; or	20 21
	(b) any communications between the Sovereign, or the Sovereign’s representative, and the Premier.	22 23
6	Information disclosure of which would be contempt of court or Parliament	24 25
	Information is exempt information if its public disclosure would, apart from this Act and any immunity of the Crown—	26 27
	(a) be in contempt of court; or	28
	(b) be contrary to an order made or direction given by—	29
	(i) a royal commission or commission of inquiry; or	30

	(ii) a person or body having power to take evidence on oath; or	1 2
	(c) infringe the privileges of—	3
	(i) Parliament; or	4
	(ii) the Parliament of the Commonwealth or a State, or a House of such a Parliament; or	5 6
	(iii) the Legislative Assembly of Norfolk Island.	7
7	Information subject to legal professional privilege	8
	Information is exempt information if it would be privileged from production in a legal proceeding on the ground of legal professional privilege.	9 10 11
8	Information disclosure of which would found action for breach of confidence	12 13
	(1) Information is exempt information if its disclosure would found an action for breach of confidence.	14 15
	(2) However, deliberative process information is not exempt information under subsection (1) unless it consists of information communicated by an entity other than—	16 17 18
	(a) a person in the capacity of—	19
	(i) a Minister; or	20
	(ii) a member of the staff of, or a consultant to, a Minister; or	21 22
	(iii) an officer of an agency; or	23
	(b) the State or an agency.	24
	(3) In this section—	25
	<i>deliberative process information</i> means information disclosing—	26 27
	(a) an opinion, advice or recommendation that has been obtained, prepared or recorded; or	28 29
	(b) a consultation or deliberation that has taken place;	30

in the course of, or for the purposes of, the deliberative processes involved in the functions of government. 1
2

9 National or State security information 3

- (1) Information is exempt information if its disclosure could reasonably be expected to damage the security of the Commonwealth or a State. 4
5
6
- (2) For subsection (1), the security of the Commonwealth includes— 7
8
 - (a) matters relating to detecting, preventing or suppressing activities, whether within or outside Australia, that are subversive of, or hostile to, the interests of the Commonwealth or a country allied or associated with the Commonwealth; and 9
10
11
12
13
 - (b) the security of a communications system or cryptographic system of the Commonwealth or another country used for— 14
15
16
 - (i) the defence of the Commonwealth or a country allied or associated with the Commonwealth; or 17
18
 - (ii) the conduct of the international relations of the Commonwealth. 19
20
- (3) For subsection (1), the security of a State includes matters relating to detecting, preventing or suppressing activities, whether within or outside the State, that are subversive of, or hostile to, the interests of the State. 21
22
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24

10 Law enforcement or public safety information 25

- (1) Information is exempt information if its disclosure could reasonably be expected to— 26
27
 - (a) prejudice the investigation of a contravention or possible contravention of the law (including revenue law) in a particular case; or 28
29
30
 - (b) enable the existence or identity of a confidential source of information, in relation to the enforcement or administration of the law, to be ascertained; or 31
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33

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|-----|---|------------------|
| (c) | endanger a person's life or physical safety; or | 1 |
| (d) | result in a person being subjected to a serious act of harassment or intimidation; or | 2
3 |
| (e) | prejudice a person's fair trial or the impartial adjudication of a case; or | 4
5 |
| (f) | prejudice the effectiveness of a lawful method or procedure for preventing, detecting, investigating or dealing with a contravention or possible contravention of the law (including revenue law); or | 6
7
8
9 |
| (g) | prejudice the maintenance or enforcement of a lawful method or procedure for protecting public safety; or | 10
11 |
| (h) | endanger the security of a building, structure or vehicle; or | 12
13 |
| | <i>Example—</i> | 14 |
| | A safety report for a major hazard facility under the <i>Dangerous Goods Safety Management Act 2001</i> , section 47, may include exempt information. | 15
16
17 |
| (i) | prejudice a system or procedure for the protection of persons, property or the environment; or | 18
19 |
| (j) | facilitate a person's escape from lawful custody; or | 20 |
| (k) | prejudice the wellbeing of a cultural or natural resource or the habitat of animals or plants. | 21
22 |
| (2) | However, information is not exempt information under subsection (1) if it consists of— | 23
24 |
| (a) | matter revealing that the scope of a law enforcement investigation has exceeded the limits imposed by law; or | 25
26 |
| (b) | matter containing a general outline of the structure of a program adopted by an agency for dealing with a contravention or possible contravention of the law; or | 27
28
29 |
| (c) | a report on the degree of success achieved in a program adopted by an agency for dealing with a contravention or possible contravention of the law; or | 30
31
32 |
| (d) | a report prepared in the course of a routine law enforcement inspection or investigation by an agency | 33
34 |
-

- whose functions include that of enforcing the law (other than the criminal law or the law relating to misconduct under the *Crime and Misconduct Act 2001*); or
- (e) a report on a law enforcement investigation that has already been disclosed to the entity the subject of the investigation.
- (3) Also, information is exempt information if—
- (a) it consists of information given in the course of an investigation of a contravention or possible contravention of the law (including revenue law); and
- (b) the information was given under compulsion under an Act that abrogated the privilege against self-incrimination.
- (4) Also, information is exempt information if it consists of information obtained, used or prepared for an investigation by a prescribed crime body, or another agency, in the performance of the prescribed functions of the prescribed crime body.
- (5) Also, information is exempt information if it consists of information obtained, used or prepared—
- (a) for an investigation by a part of the Queensland Police Service known as the State Intelligence Group; or
- (b) for an investigation by a part of the Queensland Police Service known as the State Security Operations Group; or
- (c) by Crime Stoppers Queensland Limited ACN 010 995 650.
- (6) However, information is not exempt information under subsection (4) or (5) in relation to a particular applicant if—
- (a) it consists of information about the applicant; and
- (b) the investigation has been finalised.
- (7) A reference in this section to a repealed Act includes a reference to the repealed Act as originally enacted and as in force from time to time.

-
- (8) A reference in this section to a contravention or possible
contravention of the law includes a reference to misconduct or
possible misconduct under the *Crime and Misconduct Act*
2001. 1
2
3
4
- (9) In this section— 5
- crime function*** see the *Crime and Misconduct Act 2001*, 6
section 25. 7
- intelligence functions*** mean the functions mentioned in the 8
Crime and Misconduct Act 2001, section 53. 9
- law*** includes law of the Commonwealth, a State or a foreign 10
country. 11
- misconduct functions*** see the *Crime and Misconduct Act* 12
2001, section 33. 13
- prescribed crime body*** means— 14
- (a) the Crime and Misconduct Commission; or 15
- (b) the former Criminal Justice Commission; or 16
- (c) the former Queensland Crime Commission. 17
- prescribed functions*** means— 18
- (a) in relation to the Crime and Misconduct 19
Commission—the crime function, the intelligence 20
functions and the misconduct functions; and 21
- (b) in relation to the former Criminal Justice 22
Commission—the functions of the former Criminal 23
Justice Commission under the repealed *Criminal Justice* 24
Act 1989 in relation to organised or major crime, or in 25
relation to misconduct or official misconduct, within the 26
meaning of that Act; and 27
- (c) in relation to the former Queensland Crime 28
Commission—the functions of the former Queensland 29
Crime Commission under the repealed *Crime* 30
Commission Act 1997 in relation to relevant criminal 31
activity or major crime within the meaning of that Act. 32
-

11	Investment incentive scheme information	1
(1)	Information is exempt information for the relevant period if its disclosure could reasonably be expected to disclose information about—	2 3 4
(a)	a particular incentive given to, or arranged for, a relevant person under a contract in relation to an investment incentive scheme; or	5 6 7
(b)	an incentive sought by, or proposed for, a relevant person whether or not an incentive was, in fact, given to, or arranged for, the relevant person under an investment incentive scheme.	8 9 10 11
(2)	In this section—	12
	<i>department</i> means the department administered by the Minister having responsibility for business, industry development, and investment opportunities and attraction, as identified in the Administrative Arrangements and within which that responsibility is administered.	13 14 15 16 17
	<i>incentive</i> includes any of the following—	18
(a)	an amount that is a refund of all or part of an amount paid as a tax, fee or charge;	19 20
(b)	another amount, whether as a lump sum or by instalments;	21 22
(c)	a benefit that is not an amount mentioned in paragraph (a) or (b).	23 24
	<i>investment incentive scheme</i> means a written scheme that—	25
(a)	promotes projects by giving incentives; and	26
(b)	includes processes for assessing an application under the scheme; and	27 28
(c)	is administered by the department.	29
	<i>project</i> means a project or proposed project that involves investing or spending money, or the continued investing or spending of money, and is intended to create job opportunities or to continue existing jobs.	30 31 32 33

<i>relevant period</i> —	1
(a) for an incentive given or arranged under a contract, means the period ending at the earlier of—	2 3
(i) 1 year after the contract ends; or	4
(ii) 8 years after the contract begins; or	5
(b) for an incentive that was sought or proposed but that was not given or arranged, means the period ending 8 years after the last written communication between the department and the relevant person in relation to the incentive.	6 7 8 9 10
<i>relevant person</i> means a person to the extent the person is or was any 1 or more of the following—	11 12
(a) a person who inquires of, or enters into discussions with, the department or a public service employee about an incentive for a project, whether or not the person makes an application under an investment incentive scheme for an incentive;	13 14 15 16 17
(b) a person who makes an application under an investment incentive scheme, whether or not the person is given an incentive;	18 19 20
(c) a person who is given an incentive for a project, whether or not the person continues to be subject to a provision of an agreement about the incentive that allows the department to monitor the person or project.	21 22 23 24
12 Information disclosure of which prohibited by Act	25
(1) Information is exempt information if its disclosure is prohibited by 1 of the following provisions—	26 27
• <i>Aboriginal Cultural Heritage Act 2003</i> , section 29(2)	28
• <i>Adoption of Children Act 1964</i> , section 59(3)	29
• <i>Auditor-General Act 2009</i> , section 53	30
• <i>Australian Crime Commission (Queensland) Act 2003</i> , sections 19 and 20, to the extent they apply to a	31 32

Schedule 3

summons or notice that includes a notation under section 21 of that Act	1 2
• <i>Child Protection Act 1999</i> , sections 186 to 188	3
• <i>Child Protection (Offender Prohibition Order) Act 2008</i> , section 41	4 5
• <i>Child Protection (Offender Reporting) Act 2004</i> , section 70	6 7
• repealed <i>Debits Tax Act 1990</i> , section 8, to the extent it applies section 7(2) of the repealed <i>Debits Tax Administration Act 1982</i> (Cwlth) because of the <i>Debits Tax Repeal Act 2005</i> , section 5	8 9 10 11
• <i>Financial Intermediaries Act 1996</i> , section 239	12
• <i>Juvenile Justice Act 1992</i> , section 288	13
• <i>Maintenance Act 1965</i> , section 129	14
• <i>Taxation Administration Act 2001</i> , part 8, so far as it applies to personal confidential information under that Act	15 16 17
• <i>Torres Strait Islander Cultural Heritage Act 2003</i> , section 29(2)	18 19
• <i>Transport Infrastructure Act 1994</i> , chapter 7, part 6, division 4	20 21
• <i>Whistleblowers Protection Act 1994</i> , section 55(1)	22
• <i>Witness Protection Act 2000</i> , sections 36 and 38.	23
(2) Information is not exempt information under subsection (1) in relation to an access application if it is personal information for the applicant.	24 25 26
(3) Subject to subsection (2), information is exempt information if it is contained in a document mentioned in section 112(1) of the repealed <i>Freedom of Information Act 1992</i> .	27 28 29

Schedule 4	Factors for deciding the public interest	1 2
	section 49	3
	<i>Note—</i>	4
	Access to a document may be refused to the extent the document comprises information the disclosure of which would, on balance, be contrary to the public interest under section 49—see section 47(3)(b).	5 6 7
Part 1	Factors irrelevant to deciding the public interest	8 9
1	Disclosure of the information could reasonably be expected to cause embarrassment to the Government or to cause a loss of confidence in the Government.	10 11 12
2	Disclosure of the information could reasonably be expected to result in the applicant misinterpreting or misunderstanding the document.	13 14 15
3	Disclosure of the information could reasonably be expected to result in mischievous conduct by the applicant.	16 17
4	The person who created the document containing the information was or is of high seniority within the agency.	18 19
Part 2	Factors favouring disclosure in the public interest	20 21
1	Disclosure of the information could reasonably be expected to promote open discussion of public affairs and enhance the Government's accountability.	22 23 24

Schedule 4

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| 2 | Disclosure of the information could reasonably be expected to contribute to positive and informed debate on important issues or matters of serious interest. | 1
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| 3 | Disclosure of the information could reasonably be expected to inform the community of the Government's operations, including, in particular, the policies, guidelines and codes of conduct followed by the Government in its dealings with members of the community. | 4
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| 4 | Disclosure of the information could reasonably be expected to ensure effective oversight of expenditure of public funds. | 9
10 |
| 5 | Disclosure of the information could reasonably be expected to allow or assist inquiry into possible deficiencies in the conduct or administration of an agency or official. | 11
12
13 |
| 6 | Disclosure of the information could reasonably be expected to reveal or substantiate that an agency or official has engaged in misconduct or negligent, improper or unlawful conduct. | 14
15
16 |
| 7 | The information is the applicant's personal information. | 17 |
| 8 | The information is the personal information of a child within the meaning of section 25, the agent acting for the applicant is the child's parent within the meaning of section 25 and disclosure of the information is reasonably considered to be in the child's best interests. | 18
19
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22 |
| 9 | The information is the personal information of an individual who is deceased (the <i>deceased person</i>) and the applicant is an eligible family member of the deceased person. | 23
24
25 |
| 10 | Disclosure of the information could reasonably be expected to advance the fair treatment of individuals and other entities in accordance with the law in their dealings with agencies. | 26
27
28 |
| 11 | Disclosure of the information could reasonably be expected to reveal the reason for a government decision and any background or contextual information that informed the decision. | 29
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32 |
| 12 | Disclosure of the information could reasonably be expected to reveal that the information was— | 33
34 |
| | (a) incorrect; or | 35 |

Schedule 4

- 2 Disclosure of the information could reasonably be expected to prejudice the private, business, professional, commercial or financial affairs of entities. 1
2
3
- 3 Disclosure of the information could reasonably be expected to prejudice the protection of an individual's right to privacy. 4
5
- 4 The information is the personal information of a child within the meaning of section 25, the applicant is the child's parent within the meaning of section 25 and disclosure of the information is reasonably considered not to be in the child's best interests. 6
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- 5 The information is the personal information of an individual who is deceased (the *deceased person*), the applicant is an eligible family member of the deceased person and the disclosure of the information could reasonably be expected to impact on the deceased person's privacy if the deceased person were alive. 11
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- 6 Disclosure of the information could reasonably be expected to prejudice the fair treatment of individuals and the information is about unsubstantiated allegations of misconduct or unlawful, negligent or improper conduct. 17
18
19
20
- 7 Disclosure of the information could reasonably be expected to prejudice security, law enforcement or public safety. 21
22
- 8 Disclosure of the information could reasonably be expected to impede the administration of justice generally, including procedural fairness. 23
24
25
- 9 Disclosure of the information could reasonably be expected to impede the administration of justice for a person. 26
27
- 10 Disclosure of the information could reasonably be expected to prejudice the security or good order of a corrective services facility. 28
29
30
- 11 Disclosure of the information could reasonably be expected to impede the protection of the environment. 31
32
- 12 Disclosure of the information could reasonably be expected to prejudice the economy of the State. 33
34

13	Disclosure of the information could reasonably be expected to prejudice the flow of information to the police or another law enforcement or regulatory agency.	1 2 3
14	Disclosure of the information could reasonably be expected to prejudice intergovernmental relations.	4 5
15	Disclosure of the information could reasonably be expected to prejudice trade secrets, business affairs or research of an agency or person.	6 7 8
16	Disclosure of the information could reasonably be expected to prejudice an agency's ability to obtain confidential information.	9 10 11
17	Disclosure of the information could reasonably be expected to prejudice the competitive commercial activities of an agency.	12 13
18	Disclosure of the information could reasonably be expected to prejudice the conduct of investigations, audits or reviews by the ombudsman or auditor-general.	14 15 16
19	Disclosure of the information could reasonably be expected to prejudice the management function of an agency or the conduct of industrial relations by an agency.	17 18 19
20	Disclosure of the information could reasonably be expected to prejudice a deliberative process of government.	20 21
21	Disclosure of the information could reasonably be expected to prejudice the effectiveness of testing or auditing procedures.	22 23
22	Disclosure of the information is prohibited by an Act.	24

Part 4	Factors favouring nondisclosure in the public interest because of public interest harm in disclosure	1 2 3 4
1	Affecting relations with other governments	5
(1)	Disclosure of the information could reasonably be expected to cause a public interest harm if disclosure could—	6 7
(a)	cause damage to relations between the State and another government; or	8 9
(b)	divulge information of a confidential nature that was communicated in confidence by or for another government.	10 11 12
(2)	Subsection (1) applies only for 10 years after the information was brought into existence.	13 14
(3)	The information commissioner may, on application by a prescribed entity, extend the 10 year period if the commissioner considers the extension in the public interest.	15 16 17
(4)	An application for an extension may be made before or after the end of the 10 year period.	18 19
(5)	In this section—	20
	<i>prescribed entity</i> means—	21
(a)	an agency or Minister; or	22
(b)	an entity that would be a relevant third party under section 37 in relation to the document containing the information in relation to which the extension is sought.	23 24 25
2	Affecting investigations by ombudsman or audits by auditor-general	26 27
	Disclosure of the information could reasonably be expected to cause a public interest harm if disclosure could prejudice the conduct of—	28 29 30

	(a) an investigation by the ombudsman; or	1
	(b) an audit by the auditor-general.	2
3	Affecting particular operations of agencies	3
	Disclosure of the information could reasonably be expected to cause a public interest harm if disclosure could—	4 5
	(a) prejudice the effectiveness of a method or procedure for the conduct of tests, examinations or audits by an agency; or	6 7 8
	(b) prejudice achieving the objects of a test, examination or audit conducted by an agency; or	9 10
	(c) have a substantial adverse effect on the management or assessment by an agency of the agency's staff; or	11 12
	(d) have a substantial adverse effect on the conduct of industrial relations by an agency.	13 14
4	Disclosing deliberative processes	15
	(1) Disclosure of the information could reasonably be expected to cause a public interest harm through disclosure of—	16 17
	(a) an opinion, advice or recommendation that has been obtained, prepared or recorded; or	18 19
	(b) a consultation or deliberation that has taken place;	20
	in the course of, or for, the deliberative processes involved in the functions of government.	21 22
	<i>Examples of information of the type mentioned in subsection (1)—</i>	23
	• a document prepared by an agency about projections of future revenue for the State	24 25
	• a document prepared to inform a decision by an agency about potential road routes, where disclosure of all potential routes, including those that are subsequently rejected, could have a negative impact on property values or cause community concern	26 27 28 29
	(2) If the deliberative processes mentioned in subsection (1) include public consultation, subsection (1) applies only until the public consultation starts.	30 31 32

Schedule 4

(3)	However, subsection (1) does not apply for information to the extent it consists of—	1 2
(a)	information that appears in an agency’s policy document; or	3 4
(b)	factual or statistical information; or	5
(c)	expert opinion or analysis (other than expert opinion or analysis commissioned in the course of, or for, the deliberative processes mentioned in subsection (1)) by a person recognised as an expert in the field of knowledge to which the opinion or analysis relates.	6 7 8 9 10
(4)	Also, subsection (1) does not apply for information if it consists of—	11 12
(a)	a report of a body or organisation—	13
(i)	established within an agency; and	14
(ii)	prescribed under a regulation; or	15
(b)	the record of, as a formal statement of the reasons for, a final decision, order or ruling given in the exercise of—	16 17
(i)	a power; or	18
(ii)	an adjudicative function; or	19
(iii)	a statutory function; or	20
(iv)	the administration of a publicly funded scheme.	21
5	Disclosing information brought into existence for ensuring security or good order of corrective services facility	22 23 24
(1)	Disclosure of the information could reasonably be expected to cause a public interest harm if disclosure would disclose information that—	25 26 27
(a)	is in the possession of, or brought into existence by, the department in which the <i>Corrective Services Act 2006</i> is administered; and	28 29 30

(b) is—	1
(i) a recording of a telephone call made by an offender from a corrective services facility; or	2 3
(ii) an audio recording made in a corrective services facility for the security or good order of the facility; or	4 5 6
(iii) a visual recording of a corrective services facility or a part of a corrective services facility; or	7 8
(iv) a document to the extent that it refers to or contains any part of a recording mentioned in subparagraph (i), (ii) or (iii).	9 10 11
(2) In this section—	12
<i>offender</i> means an offender as defined under the <i>Corrective Services Act 2006</i> .	13 14
6 Disclosing personal information	15
(1) Disclosure of the information could reasonably be expected to cause a public interest harm if disclosure would disclose personal information of a person, whether living or dead.	16 17 18
(2) However, subsection (1) does not apply if what would be disclosed is only personal information of the person by whom, or on whose behalf, an application for access to a document containing the information is being made.	19 20 21 22
7 Disclosing trade secrets, business affairs or research	23
(1) Disclosure of the information could reasonably be expected to cause a public interest harm because—	24 25
(a) disclosure of the information would disclose trade secrets of an agency or another person; or	26 27
(b) disclosure of the information—	28
(i) would disclose information (other than trade secrets) that has a commercial value to an agency or another person; and	29 30 31

(ii)	could reasonably be expected to destroy or diminish the commercial value of the information;	1
	or	2
		3
(c)	disclosure of the information —	4
(i)	would disclose information (other than trade secrets or information mentioned in paragraph (b)) concerning the business, professional, commercial or financial affairs of an agency or another person;	5
	and	6
		7
		8
		9
(ii)	could reasonably be expected to have an adverse effect on those affairs or to prejudice the future supply of information of this type to government.	10
		11
		12
(2)	However, subsection (1) does not apply if what would be disclosed concerns only the business, professional, commercial or financial affairs of the person by, or on whose behalf, an application for access to the document containing the information is being made.	13
		14
		15
		16
		17
(3)	Disclosure of the information could reasonably be expected to cause a public interest harm because disclosure—	18
		19
(a)	would disclose the purpose or results of research, whether the research is yet to be started, has started but is unfinished, or is finished; and	20
		21
		22
(b)	could reasonably be expected to have an adverse effect on the agency or other person by, or on whose behalf, the research is intended to be, is being, or was, carried out.	23
		24
		25
		26
(4)	However, subsection (3) does not apply if what would be disclosed concerns only research that is intended to be, is being, or was, carried out by the agency or other person by, or on whose behalf, an application for access to the document containing the information is being made.	27
		28
		29
		30
		31
8	Affecting confidential communications	32
(1)	Disclosure of the information could reasonably be expected to cause a public interest harm if—	33
		34

-
- (a) the information consists of information of a confidential nature that was communicated in confidence; and
- (b) disclosure of the information could reasonably be expected to prejudice the future supply of information of this type.
- (2) However, subsection (1) does not apply in relation to deliberative process information unless it consists of information communicated by an entity other than—
- (a) a person in the capacity of—
- (i) a Minister; or
- (ii) a member of the staff of, or a consultant to, a Minister; or
- (iii) an officer of an agency; or
- (b) the State or an agency.
- (3) In this section—
- deliberative process information* means information disclosing—
- (a) an opinion, advice or recommendation that has been obtained, prepared or recorded; or
- (b) a consultation or deliberation that has taken place; in the course of, or for the purposes of, the deliberative processes involved in the functions of government.
- 9 Affecting State economy**
- (1) Disclosure of the information could reasonably be expected to cause a public interest harm because disclosure could—
- (a) have a substantial adverse effect on the ability of government to manage the economy of the State; or
- (b) expose any person or class of persons to an unfair advantage or disadvantage because of the premature disclosure of information concerning proposed action or inaction of the Assembly or government in the course of, or for, managing the economy of the State.
-

Schedule 4

(2)	Without limiting subsection (1)(a), that paragraph applies to information the disclosure of which would reveal—	1 2
(a)	the consideration of a contemplated movement in government taxes, fees or charges; or	3 4
(b)	the imposition of credit controls.	5
10	Affecting financial or property interests of State or agency	6 7
(1)	Disclosure of the information could reasonably be expected to cause a public interest harm because disclosure could have a substantial adverse effect on the financial or property interests of the State or an agency.	8 9 10 11
(2)	Subsection (1) applies only for 8 years after the information was brought into existence.	12 13

Schedule 5	Amendment of Acts and Regulations	1
		2
	section 213	3
Biodiscovery Act 2004		4
1	Section 116—	5
	<i>omit.</i>	6
2	Section 117(3)(b), from ‘this Act’—	7
	<i>omit, insert—</i>	8
	‘an Act’.	9
Coal Mining Safety and Health Act 1999		10
1	Section 275A(3), ‘Freedom of Information Act 1992’—	11
	<i>omit, insert—</i>	12
	‘ <i>Right to Information Act 2009</i> or the <i>Information Privacy Act 2009</i> , chapter 3’.	13
		14

	Corrective Services Act 2006	1
1	Section 273(1), ‘Freedom of Information Act 1992 applies’—	2
	<i>omit, insert—</i>	3
	<i>‘Right to Information Act 2009 and the Information Privacy Act 2009, chapter 3 apply’.</i>	4
		5
		6
2	Chapter 7, part 8—	7
	<i>insert—</i>	8
‘476A	Effect of regulation amendment by the Right to Information Act 2009	9
		10
	<i>‘The amendment of the Corrective Services Regulation 2006 by the Right to Information Act 2009 does not affect the power of the Governor in Council to further amend the regulation or to repeal it.’.</i>	11
		12
		13
		14
	Corrective Services Regulation 2006	15
1	Section 18(1)(g), ‘the Information Commissioner under the Freedom of Information Act 1992’—	16
	<i>omit, insert—</i>	17
	<i>‘the information commissioner and RTI commissioner under the Right to Information Act 2009 and the privacy commissioner under the Information Privacy Act 2009’.</i>	18
		19
		20
		21

Crime and Misconduct Act 2001	1
1 Chapter 3, part 6, division 1—	2
<i>omit, insert—</i>	3
‘Division 1 Non-application of Public Records Act 2002	4
	5
‘120 Public Records Act 2002 does not apply to divs 2–3	6
‘The <i>Public Records Act 2002</i> does not apply to activities or records under divisions 2 and 3.’	7
	8
2 Section 146I, note—	9
<i>omit.</i>	10
3 Section 146R—	11
<i>omit, insert—</i>	12
‘146R Public Records Act 2002 does not apply to divs 2–7	13
‘The <i>Public Records Act 2002</i> does not apply to activities or records under divisions 2 to 7.’	14
	15
4 Section 371(4)—	16
<i>omit, insert—</i>	17
‘(4) The <i>Public Records Act 2002</i> does not apply to records mentioned in this section.’	18
	19
 Education (General Provisions) Act 2006	 20
1 Section 106—	21
<i>omit.</i>	22

Electricity Act 1994	1
1 Section 135JJ(2), from ‘chapter’—	2
<i>omit, insert—</i>	3
‘chapter if it is not—	4
(a) exempt information under the <i>Right to Information Act 2009</i> ; or	5
	6
(b) information disclosure of which could reasonably be expected to cause a public interest harm as mentioned in the <i>Right to Information Act 2009</i> , schedule 4, part 4.’.	7
	8
	9
2 Section 135JM(2)(c), from ‘the <i>Freedom of Information Act 1992</i>’—	10
	11
<i>omit, insert—</i>	12
‘an Act’.	13
3 Section 256, heading, ‘Freedom of information Act and’—	14
<i>omit.</i>	15
4 Section 256(3)—	16
<i>omit.</i>	17
5 After section 325—	18
<i>insert—</i>	19
‘Part 9 Transitional provision for Right to Information Act 2009	20
	21
‘326 Effect of regulation amendment	22
‘The amendment of the <i>Electricity Regulation 2006</i> by the <i>Right to Information Act 2009</i> does not affect the power of the	23
	24

	Governor in Council to further amend the regulation or to repeal it.’.	1 2
Electricity Regulation 2006		3
1	Chapter 10, part 1, heading, ‘Freedom of Information Act and’— <i>omit.</i>	4 5 6
2	Section 222(1), ‘section 256(1)’ and footnote— <i>omit, insert—</i> ‘section 256(1)’.	7 8 9
Environmental Protection Act 1994		10
1	After section 655— <i>insert—</i>	11 12
‘Part 12	Transitional provision for Right to Information Act 2009	13 14
‘656	Effect of regulation amendment <i>‘The amendment of the Environmental Protection (Waste Management) Regulation 2000 and the Environmental Protection Regulation 2008 by the Right to Information Act 2009 does not affect the power of the Governor in Council to further amend the regulations or to repeal them.’.</i>	15 16 17 18 19 20

Environmental Protection (Waste Management) Regulation 2000	1 2
1 Section 66V(1), from ‘information’—	3
<i>omit, insert—</i>	4
‘information would be—	5
(a) exempt information under the <i>Right to Information Act 2009</i> ; or	6 7
(b) information disclosure of which could reasonably be expected to cause a public interest harm as mentioned in the <i>Right to Information Act 2009</i> , schedule 4, part 4, item 7.’.	8 9 10 11
Environmental Protection Regulation 2008	12
1 Section 96(1), from ‘information’—	13
<i>omit, insert—</i>	14
‘information would be—	15
(a) exempt information under the <i>Right to Information Act 2009</i> ; or	16 17
(b) information disclosure of which could reasonably be expected to cause a public interest harm as mentioned in the <i>Right to Information Act 2009</i> , schedule 4, part 4, item 7.’.	18 19 20 21

Evidence Act 1977	1
1 Section 134A(7), definition <i>agency</i>, paragraph (b)—	2
<i>omit, insert—</i>	3
‘(b) a public authority, other than a prescribed entity, within the meaning of the <i>Right to Information Act 2009</i> , section 16; or’.	4 5 6
2 After section 146—	7
<i>insert—</i>	8
‘Division 6 Right to Information Act 2009	9
‘147 Effect of regulation amendment	10
‘The amendment of the <i>Evidence Regulation 2007</i> by the <i>Right to Information Act 2009</i> does not affect the power of the Governor in Council to further amend the regulation or to repeal it.’.	11 12 13 14
Evidence Regulation 2007	15
1 Section 6, heading, ‘FOI provisions’—	16
<i>omit, insert—</i>	17
‘RTI provisions’.	18
2 Section 6(1)–(3), ‘FOI provisions’—	19
<i>omit, insert—</i>	20
‘RTI provisions’.	21
3 Section 6(2), examples—	22
<i>omit, insert—</i>	23

	<i>‘Example for subsections (1) and (2)—</i>	1
	<i>Right to Information Act 2009, schedule 2, part 2’.</i>	2
4	Section 6(3), examples—	3
	<i>omit, insert—</i>	4
	<i>‘Example for subsection (3)—</i>	5
	<i>Right to Information Act 2009, schedule 1’.</i>	6
5	Section 6(4), definition <i>FOI provisions</i>—	7
	<i>omit, insert—</i>	8
	<i>‘RTI provisions means the Right to Information Act 2009 or</i>	9
	<i>the Information Privacy Act 2009, chapter 3.’.</i>	10
	Explosives Act 1999	11
1	Section 132(3), ‘Freedom of Information Act 1992’—	12
	<i>omit, insert—</i>	13
	<i>‘Right to Information Act 2009 or Information Privacy Act 2009,</i>	14
	<i>chapter 3’.</i>	15
	Gas Supply Act 2003	16
1	Sections 29(2)(a)(iv), 150(2)(a)(v), 310(2) and 318(1)(b),	17
	‘FOI exempt matter’—	18
	<i>omit, insert—</i>	19
	<i>‘RTI excluded information’.</i>	20

2	Schedule 2, definition <i>FOI exempt matter</i>—	1
	<i>omit, insert—</i>	2
	‘ <i>RTI excluded information</i> means information that is—	3
	(a) exempt information under the <i>Right to Information Act 2009</i> ; or	4 5
	(b) information disclosure of which could reasonably be expected to cause a public interest harm as mentioned in the <i>Right to Information Act 2009</i> , schedule 4, part 4.’.	6 7 8
	 Gene Technology Act 2001	 9
1	Section 187(3)—	10
	<i>omit.</i>	11
	 Geothermal Exploration Act 2004	 12
1	Section 124(2), from ‘register’—	13
	<i>omit, insert—</i>	14
	‘register that is—	15
	(a) exempt information under the <i>Right to Information Act 2009</i> ; or	16 17
	(b) information disclosure of which could reasonably be expected to cause a public interest harm as mentioned in the <i>Right to Information Act 2009</i> , schedule 4, part 4.’.	18 19 20

Health Quality and Complaints Commission Act 2006 1

1 Section 17(b)(v)— 2

omit, insert— 3

‘(v) the information commissioner, the RTI 4

commissioner or the privacy commissioner, under 5

the *Right to Information Act 2009*; and’. 6

2 Schedule 5, definition *Information Commissioner—* 7

omit. 8

Introduction Agents Act 2001 9

1 Section 95(3), ‘Freedom of Information Act 1992’— 10

omit, insert— 11

‘*Right to Information Act 2009* or the *Information Privacy Act* 12

2009, chapter 3’. 13

Legal Profession Act 2007 14

1 Section 676(a)–(b)— 15

omit, insert— 16

‘(a) the *Information Privacy Act 2009*, chapter 3; and 17

(b) the *Ombudsman Act 2001*; and 18

(c) the *Right to Information Act 2009*.’. 19

Local Government Act 1993		1
1	Section 1205, heading, ‘Freedom of Information Act and’—	2 3
	<i>omit.</i>	4
2	Section 1205(2)—	5
	<i>omit.</i>	6
 Lotteries Act 1997		7
1	Section 225A	8
	<i>omit.</i>	9
 Mineral Resources Act 1989		10
1	Section 404C(5), from ‘an exempt matter’—	11
	<i>omit, insert—</i>	12
	‘information that is—	13
	(a) exempt information under the <i>Right to Information Act 2009</i> ; or	14 15
	(b) information disclosure of which could reasonably be expected to cause a public interest harm as mentioned in the <i>Right to Information Act 2009</i> , schedule 4, part 4.’.	16 17 18

Mining and Quarrying Safety and Health Act 1999	1
1 Section 255(3), ‘Freedom of Information Act 1992’—	2
<i>omit, insert—</i>	3
<i>‘Right to Information Act 2009 or the Information Privacy Act 2009, chapter 3’.</i>	4
	5
Partnership Act 1891	6
1 Section 112(3), ‘Freedom of Information Act 1992’—	7
<i>omit, insert—</i>	8
<i>‘Right to Information Act 2009 or the Information Privacy Act 2009, chapter 3’.</i>	9
	10
Police Powers and Responsibilities Act 2000	11
1 Section 281(2)—	12
<i>omit, insert—</i>	13
<i>‘(2) The Public Records Act does not apply to activities or records under parts 2 to 7.’.</i>	14
	15
2 Section 325(8)—	16
<i>omit.</i>	17
3 Section 325(9)—	18
<i>renumber as section 325(8).</i>	19

4	Section 539—	1
	<i>omit, insert—</i>	2
‘539	Public Records Act does not apply to this chapter	3
	‘The Public Records Act does not apply to activities or	4
	records under this chapter to the extent that Act would	5
	otherwise enable the identity of a person in relation to whom a	6
	disease test order is made or of a victim of a chapter 18	7
	offence to be disclosed.’.	8
5	Section 663—	9
	<i>omit, insert—</i>	10
‘663	Public Records Act does not apply to this division	11
	‘The Public Records Act does not apply to information kept in	12
	a register under this division.’.	13
	 Police Service Administration Act 1990	14
1	Section 5A.22—	15
	<i>omit.</i>	16
	 Private Employment Agents Act 2005	17
1	Part 8, heading—	18
	<i>omit, insert—</i>	19
‘Part 8	Transitional provisions’.	20
2	After section 52—	21
	<i>insert—</i>	22

'53	Effect of regulation amendment by the Right to Information Act 2009	1 2
	'The amendment of the <i>Private Employment Agents (Code of Conduct) Regulation 2005</i> by the <i>Right to Information Act 2009</i> does not affect the power of the Governor in Council to further amend the regulation or to repeal it.'	3 4 5 6
	Private Employment Agents (Code of Conduct) Regulation 2005	7 8
1	Schedule, section 5, examples— <i>omit—</i>	9 10
	• <i>Freedom of Information Act 1992</i> '.	11
2	Schedule, section 5, examples— <i>insert—</i>	12 13
	• <i>Information Privacy Act 2009</i>	14
	• <i>Right to Information Act 2009</i> '.	15
	Prostitution Act 1999	16
1	Section 137— <i>omit.</i>	17 18

Public Sector Ethics Act 1994	1
1 Section 33A—	2
<i>omit.</i>	3
Public Service Act 2008	4
1 Section 35(b)(ii)—	5
<i>omit, insert—</i>	6
‘(ii) the office of the information commissioner; or’.	7
2 Section 98(2), note, first dot point, from ‘and staff’—	8
<i>omit, insert—</i>	9
‘and staff of the office of the information commission (See the <i>Right to Information Act 2009</i> , sections 126, 146 and 149, and the <i>Information Privacy Act 2009</i> , sections 140 and 143)’.	10
	11
	12
3 Schedule 1, ‘information commission office’—	13
<i>omit, insert—</i>	14
‘office of the information commissioner’.	15
4 Schedule 4, definition <i>disqualified person</i>, paragraph (a)—	16
<i>insert—</i>	17
	18
‘(vi) the RTI commissioner;	19
(vii) the privacy commissioner; or’.	20

5	Schedule 4, definitions <i>information commissioner</i> and <i>information commission office</i>—	1
	<i>omit.</i>	2
		3
6	Schedule 4—	4
	<i>insert—</i>	5
	‘ <i>information commissioner</i> ’ means the information commissioner under the <i>Right to Information Act 2009</i> .	6
		7
	‘ <i>office of the information commissioner</i> ’ means the office of the information commissioner under the <i>Right to Information Act 2009</i> .	8
		9
		10
	‘ <i>privacy commissioner</i> ’ means the privacy commissioner under the <i>Information Privacy Act 2009</i> .	11
		12
	‘ <i>RTI commissioner</i> ’ means the Right to Information commissioner under the <i>Right to Information Act 2009</i> .’.	13
		14

Queensland Investment Corporation Act 1991 15

1	Section 37, heading, ‘Freedom of Information Act and’—	16
	<i>omit.</i>	17
2	Section 37(3)—	18
	<i>omit.</i>	19
3	Section 37(4)—	20
	<i>renumber</i> as section 37(3).	21

Terrorism (Preventative Detention) Act 2005		1
1	Section 7A—	2
	<i>omit.</i>	3
Tourism Services Act 2003		4
1	Section 94(3), ‘Freedom of Information Act 1992’—	5
	<i>omit, insert—</i>	6
	‘Right to Information Act 2009 or the Information Privacy Act 2009, chapter 3’.	7
		8
Transport Infrastructure Act 1994		9
1	Section 422(8), ‘matter that is exempt matter’—	10
	<i>omit, insert—</i>	11
	‘anything that is exempt information’.	12
2	Section 422(11), definition <i>exempt matter</i>—	13
	<i>omit, insert—</i>	14
	‘ <i>exempt information</i> means information that is exempt information under the <i>Right to Information Act 2009</i> .’.	15
		16
3	Section 486, heading, ‘Freedom of Information Act and’—	17
	<i>omit.</i>	18

4	Section 486(1)—	1
	<i>omit.</i>	2
5	Section 486(2) to (4)—	3
	<i>renumber</i> as section 486(1) to (3).	4
6	After section 550—	5
	<i>insert—</i>	6
‘Part 11	Transitional provision for Right	7
	to Information Act 2009	8
‘551	Effect of regulation amendment	9
	‘The amendment of the <i>Transport Infrastructure (Rail)</i>	10
	<i>Regulation 2006</i> by the <i>Right to Information Act 2009</i> does	11
	not affect the power of the Governor in Council to further	12
	amend the regulation or to repeal it.’.	13
	Transport Infrastructure (Rail) Regulation 2006	14
1	Section 38, note, ‘the <i>Freedom of Information Act 1992</i>	15
	and’—	16
	<i>omit.</i>	17
	Water Act 2000	18
1	Section 998—	19
	<i>omit.</i>	20

Workers' Compensation and Rehabilitation Act 2003	1
1 Section 284(3)(c), 'Freedom of Information Act 1992, part 3, division 2'—	2
<i>omit, insert—</i>	3
<i>'Right to Information Act 2009, schedule 3'.</i>	4
2 Section 379(2)—	6
<i>omit.</i>	7
3 Section 475(2) and (3)—	8
<i>omit.</i>	9
4 Section 572(3)(c), 'Freedom of Information Act 1992, part 3, division 2'—	10
<i>omit, insert—</i>	11
<i>'Right to Information Act 2009, schedule 3'.</i>	12
	13

Schedule 6 Dictionary 1

section 10 2

access application means an application under this Act for access. 3
4

access charge see section 57. 5

access was required or permitted to be given under this Act, for chapter 5, part 1, see section 169. 6
7

adult child means a child who is 18 years or more. 8

adult sibling means a sibling who is 18 years or more. 9

agency see section 14. 10

agent, in relation to an application, means a person who makes the application for another person. 11
12

appeal tribunal, for chapter 3, part 11, see section 116. 13

applicant, in relation to an application, means— 14

(a) if the application is made for a person—the person; or 15

(b) otherwise—the person making the application. 16

application fee, in relation to an access application, means the application fee prescribed under a regulation. 17
18

appropriately qualified, for a healthcare professional, means having the qualifications and experience appropriate to assess relevant healthcare information. 19
20
21

approved form means a form approved under section 192. 22

Assembly means the Legislative Assembly. 23

backup system means a system that has, for disaster recovery purposes, copied electronic data onto a separate data storage medium, for example, onto a backup tape. 24
25
26

charge does not include an application fee. 27

charges estimate notice see section 36. 28

<i>commissioner</i> , for chapter 4, part 5, see section 159.	1
<i>community service obligations</i> see the <i>Government Owned Corporations Act 1993</i> .	2 3
<i>competitive commercial activity</i> means an activity carried on, on a commercial basis, in competition with an entity, other than—	4 5 6
(a) the Commonwealth or a State; or	7
(b) a State authority; or	8
(c) a local government.	9
<i>considered decision</i> see section 45.	10
<i>contrary to public interest document</i> means a document containing contrary to public interest information where it is not practicable to give access to a copy of the document from which the contrary to public interest information has been deleted.	11 12 13 14 15
<i>contrary to public interest information</i> means information the disclosure of which would, on balance, be contrary to the public interest under section 49.	16 17 18
<i>coroner</i> see the <i>Coroners Act 2003</i> .	19
<i>coronial document</i> see the <i>Coroners Act 2003</i> .	20
<i>corrective services facility</i> means a corrective services facility as defined under the <i>Corrective Services Act 2006</i> .	21 22
<i>court</i> includes a justice and a coroner.	23
<i>decision-maker</i> means—	24
(a) for an access application to an agency—the person with power in relation to all or part of the application under section 30; or	25 26 27
(b) for an access application to a Minister—the Minister or the person with power in relation to all or part of the application under section 31.	28 29 30
<i>deemed decision</i> see section 46.	31

<i>document</i> —	1
(a) of an agency—see section 12; or	2
(b) of a Minister—see section 13.	3
<i>document to which this Act does not apply</i> see section 11.	4
<i>eligible family member</i> —	5
1 <i>eligible family member</i> , of a deceased person, means—	6
(a) a spouse of the deceased person; or	7
(b) if a spouse is not reasonably available—an adult child of the deceased person; or	8 9
(c) if a spouse or adult child is not reasonably available—a parent of the deceased person; or	10 11
(d) if a spouse, adult child or parent is not reasonably available—an adult sibling of the deceased person; or	12 13 14
(e) if a spouse, adult child, parent or adult sibling is not reasonably available and the deceased person was not an Aboriginal person or Torres Strait Islander—the next nearest adult relative of the deceased person who is reasonably available; or	15 16 17 18 19
(f) if a spouse, adult child, parent or adult sibling is not reasonably available and the deceased person was an Aboriginal person or Torres Strait Islander—a person who is an appropriate person according to the tradition or custom of the Aboriginal or Torres Strait Islander community to which the deceased person belonged and who is reasonably available.	20 21 22 23 24 25 26 27
2 A person described in item 1 is not <i>reasonably available</i> if—	28 29
(a) a person of that description does not exist; or	30
(b) a person of that description can not be reasonably contacted; or	31 32

- (c) a person of that description is unable or unwilling to act as the eligible family member of the deceased person for the purposes of this Act.
- entity to which this Act does not apply*** see section 17.
- exempt document*** means a document containing exempt information where it is not practicable to give access to a copy of the document from which the exempt information has been deleted.
- exempt information*** see section 48.
- Note—*
- Access to a document may be refused to the extent it comprises exempt information—see section 47(3)(a).
- external review*** see section 84.
- external review application*** see section 84.
- freight operations*** means 1 or more of the following operations—
- (a) coal operations;
 - (b) bulk freight operations;
 - (c) intermodal freight operations;
 - (d) general freight operations;
 - (e) agricultural freight operations.
- function*** includes a power.
- government*** includes an agency and a Minister.
- healthcare professional*** means a person who carries on, and is entitled to carry on, an occupation involving the provision of care for a person's physical or mental health or wellbeing, including, for example—
- (a) a doctor, including a psychiatrist; or
 - (b) a psychologist; or
 - (c) a social worker; or
 - (d) a registered nurse.

<i>holds</i> , in relation to an office, includes performs the duties of the office.	1 2
<i>information commissioner</i> means the Information Commissioner.	3 4
<i>Information Privacy Act</i> means the <i>Information Privacy Act 2009</i> .	5 6
<i>internal review</i> see section 79.	7
<i>internal review application</i> see section 79.	8
<i>judicial member</i> , for chapter 3, part 11, see section 116.	9
<i>Minister</i> includes a Parliamentary Secretary.	10
<i>narrow</i> , for an access application, means change the application by reducing the part of a document or the number of documents to which access is sought under the application.	11 12 13
<i>non-profit organisation</i> means an organisation that is not carried on for the profit or gain of its individual members.	14 15
<i>Examples of entities that may be non-profit organisations—</i>	16
charities, churches, clubs, environment protection societies	17
<i>officer</i> , in relation to an agency, includes—	18
(a) the agency’s principal officer; and	19
(b) a member of the agency; and	20
(c) a member of the agency’s staff; and	21
(d) a person employed by or for the agency.	22
<i>OIC</i> means the office of the information commissioner.	23
<i>parliamentary committee</i> means the Law, Justice and Safety Committee of the Assembly.	24 25
<i>participant</i> , in an external review, means a person who is a participant in the review under section 89.	26 27
<i>personal information</i> see the Information Privacy Act.	28
<i>Note—</i>	29
Under the Information Privacy Act, <i>personal information</i> is information or an opinion, including information or an opinion forming part of a database, whether true or not, and whether recorded in a	30 31 32

material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion.	1 2
<i>policy document</i> , in relation to an agency, means—	3
(a) a document containing interpretations, rules, guidelines, statements of policy, practices or precedents; or	4 5
(b) a document containing details of an administrative scheme; or	6 7
(c) a document containing a statement of the way, or intended way, of administration of an enactment or administrative scheme; or	8 9 10
(d) a document describing the procedures to be followed in investigating a contravention or possible contravention of an enactment or administrative scheme; or	11 12 13
(e) another document of a similar kind;	14
that is used by the agency in connection with the performance of such of its functions as affect or are likely to affect rights, privileges or other benefits, or obligations, penalties or other detriments, to which members of the community are or may become entitled, eligible, liable or subject, but does not include an enactment that has already been published.	15 16 17 18 19 20
<i>prescribed information</i> means—	21
(a) exempt information mentioned in schedule 3, section 1, 2, 3, 4, 5, 9 or 10; or	22 23
(b) personal information the disclosure of which would, on balance, be contrary to the public interest under section 47(3)(b).	24 25 26
<i>prescribed written notice</i> means a notice under section 191.	27
<i>principal officer</i> means—	28
(a) in relation to a department—the chief executive of the department; or	29 30
(b) in relation to a local government—the chief executive officer (however described) of the local government; or	31 32

Schedule 6

- (c) in relation to a government owned corporation—the chief executive officer (however described) of the government owned corporation; or 1
2
3
 - (d) in relation to a subsidiary of a government owned corporation—the principal officer (however described) of the subsidiary; or 4
5
6
 - (e) in relation to a public authority for which a regulation declares an office to be the principal office—the holder of the office; or 7
8
9
 - (f) in relation to another public authority— 10
 - (i) if it is an incorporated body that has no members—the person who manages the body’s affairs; or 11
12
13
 - (ii) if it is a body (whether or not incorporated) that is constituted by 1 person—the person; or 14
15
 - (iii) if it is a body (whether or not incorporated) that is constituted by 2 or more persons—the person who is entitled to preside at a meeting of the body at which the person is present. 16
17
18
19
- privacy commissioner*** means the Privacy Commissioner under the Information Privacy Act. 20
21
- processing charge*** see section 56. 22
- processing period*** see section 18. 23
- publication scheme*** see section 21. 24
- public authority*** see section 16. 25
- public library*** includes— 26
- (a) the State library; and 27
 - (b) a local government library; and 28
 - (c) a library in the State that forms part of a public tertiary educational institution. 29
30
- quasi-judicial entity*** means an entity that exercises quasi-judicial functions. 31
32

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- relevant healthcare information** means healthcare information given by a healthcare professional. 1
2
- reviewable decision** means any of the following decisions in relation to an access application— 3
4
- (a) a decision that an access application is outside the scope of this Act under section 32(1)(b); 5
6
 - (b) a decision that an access application does not comply with all relevant application requirements under section 33(5); 7
8
9
 - (c) a decision— 10
 - (i) to disclose a document contrary to the views of a relevant third party obtained under section 37; or 11
12
 - (ii) to disclose a document if an agency or Minister should have taken, but has not taken, steps to obtain the views of a relevant third party under section 37; 13
14
15
16
 - (d) a decision refusing to deal with an application under part 4; 17
18
 - (e) a decision refusing access to a document under section 47; 19
20
 - (f) a decision deferring access to a document under section 72; 21
22
 - (g) a decision about whether a processing charge or access charge is payable in relation to access to a document (including a decision not to waive charges); 23
24
25
 - (h) a decision giving access to documents subject to the deletion of information under section 73, 74 or 75; 26
27
 - (i) a decision giving access to documents in a form different to the form applied for by the applicant, unless access in the form applied for would involve an infringement of the copyright of a person other than the State; 28
29
30
31
32
 - (j) a deemed decision. 33
-

<i>review under this Act</i> means internal review or external review.	1 2
<i>revision period</i> see section 18.	3
<i>RTI commissioner</i> see section 147(1).	4
<i>schedule of relevant documents</i> see section 36.	5
<i>strategic review report</i> see section 188.	6
<i>subsidiary</i> see the <i>Government Owned Corporations Act 1993</i> .	7 8
<i>transfer period</i> see section 18.	9