

Queensland



FREEDOM OF INFORMATION AMENDMENT BILL 1993



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1993

A BILL

FOR

An Act to amend the Freedom of Information Act 1992

Whereas—

(1) The Westminster system of government is based on the responsibility of Cabinet to Parliament and Parliament to the electorate;

(2) The purpose of the convention of Ministerial responsibility under the Westminster system is to secure the collective responsibility of Ministers to Parliament;

(3) The collective responsibility of Ministers is only possible if Cabinet debate is candid and unrestricted;

(4) An object of Parliament in enacting the *Freedom of Information Act 1992* was to ensure that the convention of Ministerial responsibility was preserved;

(5) It is, therefore, the intention of Parliament to make provision, by amendments included in the amendments made by this Act, to remove any doubt that Cabinet documents and discussions are to receive a level of confidentiality appropriate to preserving the convention of Ministerial responsibility intended by Parliament;

The Parliament of Queensland enacts—**Short title**

Clause1. This Act may be cited as the *Freedom of Information Amendment Act 1993*.

Amended Act

Clause2. The *Freedom of Information Act 1992* is amended as set out in this Act.

Amendment of s.26 (Transfer of applications)

Clause3. Section 26—

insert—

‘(6) If—

- (a) an application is made to an agency for access to more than 1 document; and
- (b) 1 or more of the documents is a document to which subsection (2) applies;

this section applies to each of the documents as if separate applications had been made to the agency for each of the documents.’.

Amendment of s.36 (Cabinet matter)

Clause 4.(1) Section 36(1)—

omit, insert—

‘36.(1) Matter is exempt matter if—

- (a) it has been submitted to Cabinet for its consideration; or
- (b) it is was prepared for submission to Cabinet for its consideration and is proposed, or has at any time been proposed, by a Minister to be submitted to Cabinet for its consideration; or
- (c) it was prepared for briefing a Minister about an issue proposed, or that has at any time been proposed, to be considered by Cabinet; or
- (d) it forms part of an official record of Cabinet; or
- (e) it is a draft of matter mentioned in paragraph (a), (b), (c) or (d); or
- (f) it is a copy of, or contains an extract from, matter or a draft of matter mentioned in paragraph (a), (b), (c) or (d); or
- (g) its disclosure would involve the disclosure of any deliberation or decision of Cabinet, other than matter that has been officially published by decision of Cabinet.’.

(2) Section 36(2)—

omit ‘factual or statistical’, insert ‘statistical, scientific or technical’.

(3) Section 36(4)—

insert—

‘**“matter”** includes matter that was prepared before the commencement of the *Freedom of Information Amendment Act 1993*.’.

Amendment of s.37 (Executive Council matter)

Clause 5.(1) Section 37(1)—

omit, insert—

‘37.(1) Matter is exempt matter if—

- (a) it has been submitted to Executive Council for its consideration; or
- (b) it is was prepared for submission to Executive Council for its consideration and is proposed, or has at any time been proposed, by a Minister to be submitted to Executive Council for its consideration; or
- (c) it was prepared for briefing the Governor or a Minister about an issue proposed, or that has at any time been proposed, to be considered by Executive Council; or
- (d) it forms part of an official record of Executive Council; or
- (e) it is a draft of matter mentioned in paragraph (a), (b), (c) or (d); or
- (f) it is a copy of, or contains an extract from, matter or a draft of matter mentioned in paragraph (a), (b), (c) or (d); or
- (g) its disclosure would involve the disclosure of any deliberation or decision of Executive Council, other than matter that has been officially published by decision of the Governor in Council.’.

(2) Section 37(2)—

omit ‘factual or statistical’, insert ‘statistical, scientific or technical’.

(3) Section 37—

insert—

‘(4) In this section—

“matter” includes matter that was prepared before the commencement of the *Freedom of Information Amendment Act 1993*.’.

Amendment of s.52 (Internal review)

Clause6.(1) Section 52(6) (after ‘an agency’)—

insert ‘or a delegate of the Minister’.

(2) Section 52(6) (after ‘the agency’)—

insert ‘or the delegate’.

(3) Section 52(7)(a)(i) (after ‘the agency’)—

insert ‘or a delegate of the Minister’.

Amendment of s.74 (Commissioner to notify)

Clause7. Section 74—

insert—

‘**(2)** The Commissioner is not obliged to inform a person mentioned in subsection (1)(b) if, in the Commissioner’s opinion, informing the person may cause the person undue distress or otherwise adversely affect the physical or mental wellbeing of the person.’.

Amendment of s.83 (Conduct of reviews)

Clause8. Section 83—

insert—

‘**(5)** If—

- (a) the Commissioner has decided under section 74(2) 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 substantial concern to the person.’.

Amendment of s.89 (Decisions of Commissioner)

Clause 9.(1) Section 89(4)—

renumber as section 89(5).

(2) Section 89—

insert—

‘(4) If—

- (a) a document is to be released because of the review; and
- (b) the Commissioner has notified a person under section 83(5) and the person did not become a participant in the review;

the Commissioner must take reasonable steps to notify the person of the release.’.