

FREEDOM OF INFORMATION ACT 1982 - SECT 27A

Consultation--documents affecting personal privacy

Scope

(1) This section applies if:

(a) a [request](#) is made to an [agency](#) or [Minister](#) for access to a [document](#) containing [personal information](#) about a person (including a person who has died); and

(b) it appears to the [agency](#) or [Minister](#) that the person or the person's legal personal representative (the *person concerned*) might reasonably wish to make a contention (the *exemption contention*) that:

(i) the [document](#) is [conditionally exempt](#) under section 47F; and

(ii) access to the [document](#) would, on balance, be contrary to the public interest for the purposes of subsection 11A(5).

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

(2) In determining, for the purposes of paragraph (1)(b), whether the person concerned might reasonably wish to make an exemption contention because of [personal information](#) in a [document](#), the [agency](#) or [Minister](#) must have regard to the following matters:

(a) the extent to which the information is well known;

(b) whether the person to whom the information relates is known to be (or to have been) associated with the matters dealt with in the information;

(c) the availability of the information from publicly accessible sources;

(d) any other matters that the [agency](#) or [Minister](#) considers relevant.

Opportunity to make submissions

(3) The [agency](#) or [Minister](#) must not decide to give the [applicant](#) access to the [document](#) unless:

(a) the person concerned is given a reasonable opportunity to make submissions in support of the exemption contention; and

(b) the [agency](#) or the [Minister](#) has regard to any submissions so made.

(4) However, subsection (3) only applies if it is reasonably practicable for the [agency](#) or [Minister](#) to give the person concerned a reasonable opportunity to make submissions in support of the exemption contention, having regard to all the

circumstances (including the application of subsections 15(5) and (6) (time limits for processing [requests](#))).

Decision to give access

(5) If the [agency](#) or [Minister](#) decides to give access to the [document](#), the [agency](#) or [Minister](#) must give written notice of the decision to both of the following:

- (a) the person concerned;
- (b) the [applicant](#).

Access not to be given until review or appeal opportunities have [run out](#)

(6) However, the [agency](#) or [Minister](#) must not give the [applicant](#) access to the [document](#) unless, after all the opportunities of the person concerned for review or appeal in relation to the decision to give access to the [document](#) have [run out](#), the decision to give access still stands, or is confirmed.

Note 1: The decision to give access to the [document](#) is subject to [internal review](#) (see Part VI), review by the [Information Commissioner](#) (see Part VII) and review by the [Tribunal](#) (see Part VIIA).

Note 2: For when all opportunities for review or appeal in relation to the decision to give access to the [document](#) have [run out](#), see subsection 4(1).

Notice and stay of decision not to apply unless submission made in support of exemption contention

(7) Subsections (5) and (6) do not apply unless the person concerned makes a submission in support of the exemption contention as allowed under paragraph (3)(a).

Edited copies and [personal information](#)

(8) This section applies:

- (a) in relation to an [edited copy](#) of a [document](#)--in the same way as it applies to the [document](#); and
- (b) in relation to a [document](#) containing [personal information](#)--to the extent to which the [document](#) contains such information.

FREEDOM OF INFORMATION ACT 1982 - SECT 47F

Public interest conditional exemptions--personal privacy

General rule

(1) A [document](#) is [conditionally exempt](#) if its disclosure under this Act would involve the unreasonable disclosure of [personal information](#) about any person (including a deceased person).

(2) In determining whether the disclosure of the [document](#) would involve the unreasonable disclosure of [personal information](#), an [agency](#) or [Minister](#) must have regard to the following matters:

- (a) the extent to which the information is well known;
- (b) whether the person to whom the information relates is known to be (or to have been) associated with the matters dealt with in the [document](#);
- (c) the availability of the information from publicly accessible sources;
- (d) any other matters that the [agency](#) or [Minister](#) considers relevant.

(3) Subject to subsection (5), subsection (1) does not have effect in relation to a [request](#) by a person for access to a [document](#) by reason only of the inclusion in the [document](#) of matter relating to that person.

Access given to [qualified person](#) instead

(4) Subsection (5) applies if:

(a) a [request](#) is made to an [agency](#) or [Minister](#) for access to a [document](#) of the [agency](#), or an official [document](#) of the [Minister](#), that contains information concerning the [applicant](#), being information that was provided by a [qualified person](#) acting in his or her capacity as a [qualified person](#); and

(b) it appears to the [principal officer](#) of the [agency](#) or to the [Minister](#) (as the case may be) that the disclosure of the information to the [applicant](#) might be detrimental to the [applicant](#)'s physical or mental health, or well-being.

(5) The [principal officer](#) or [Minister](#) may, if access to the [document](#) would otherwise be given to the [applicant](#), direct that access to the [document](#), so far as it contains that information, is not to be given to the [applicant](#) but is to be given instead to a [qualified person](#) who:

(a) carries on the same occupation, of a kind mentioned in the definition of [qualified person](#) in subsection (7), as the first-mentioned [qualified person](#); and

(b) is to be nominated by the [applicant](#).

(6) The powers and functions of the [principal officer](#) of an [agency](#) under this section may be exercised by an [officer](#) of the [agency](#) acting within his or her scope of authority in accordance with arrangements referred to in [section 23](#).

(7) In this section:

"qualified person" means a person who carries on, and is entitled to carry on, an occupation that involves the provision of care for the physical or mental health of people or for their well-being, and, without limiting the generality of the foregoing, includes any of the following:

- (a) a medical practitioner;
- (b) a psychiatrist;
- (c) a psychologist;
- (d) a counsellor;
- (e) a social worker.

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