



14 August 2019

Jason Potts

Email: foi+request-5473-0363268e@righttoknow.org.au

Dear Mr Potts

Freedom of information request - Decision

I refer to your access request dated 14 June 2019 to the Australian Building and Construction Commission (**ABCC**) under the *Freedom of Information Act 1982* (**FOI Act**). For convenience, I will refer to your access request as the '**FOI request**'.

By email dated 25 June 2019 the ABCC acknowledged receipt of the FOI request. This email also informed you that, pursuant section 15(5) of the FOI Act, the ABCC had 30 days to notify you of its decision, commencing from the date your FOI request was received.

Consultations – section 27A

By further email on 27 June 2019, the ABCC gave notice to you that it had decided to engage in a consultation process with third parties pursuant to section 27A of the FOI Act¹. As a consequence of engaging in this consultation process, the ABCC advised you that section 15(6) of the FOI Act provided the ABCC with an additional 30 days to notify you of its decision in order for consultations to be undertaken.

In making this decision, I also draw attention to the 'consultation' provision below:

27A Consultation—documents affecting personal privacy

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

¹ See also: *FOI Guidelines* (Version 1.6, January 2018), Office of the Australian Information Commissioner, 3.74-3.78.

- (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).

...

(Original emphasis.)

That section is relevant because where a decision is made to give access to a document that was the subject of a consultation process, the FOI Act provides 'review or appeal' rights to a consulted third party. It additionally provides that those review or appeal avenues are to 'run out' before access to the document is provided to the FOI applicant.

A third party has 30 days to apply for a review of the decision from the date of notification of the decision.

Decision

This letter sets out my decision in relation to your FOI request. I am an authorised decision-maker under section 23 of the FOI Act.

In reaching my decision I have considered the following:

- the terms of the FOI request;
- the documents relevant to the FOI request;
- the FOI Act;
- the Guidelines issued and published by the Office of the Australian Information Commissioner under section 93A of the FOI Act (**FOI Guidelines**); and
- the responses from third parties consulted in accordance with the FOI Act.

Having under taken relevant searches, the ABCC identified five documents relevant to the terms of the FOI request (**relevant documents**).

Subject to the review rights available to consulted third parties and to a further matter discussed below regarding the character of access to be given², I have decided that each of the relevant documents are to be made accessible to you.

² See: FOI Act, s 27A(8).

In making that decision, I have decided that exemptions and irrelevant information apply to particular information recorded in each document. Accordingly, I consider that whilst access should be given, your access should reasonably and practicably be facilitated by operation of section 22 of the FOI Act.

Section 22(1) of the FOI Act provides:

22 Access to edited copies with exempt or irrelevant matter deleted

Scope

- (1) This section applies if:
 - (a) an agency or Minister decides:
 - (i) to refuse to give access to an exempt document; or
 - (ii) that to give access to a document would disclose information that would reasonably be regarded as irrelevant to the request for access; and
 - (b) it is possible for the agency or Minister to prepare a copy (an **edited copy**) of the document, modified by deletions, ensuring that:
 - (i) access to the edited copy would be required to be given under section 11A (access to documents on request); and
 - (ii) the edited copy would not disclose any information that would reasonably be regarded as irrelevant to the request; and
 - (c) it is reasonably practicable for the agency or Minister to prepare the edited copy, having regard to:
 - (i) the nature and extent of the modification; and
 - (ii) the resources available to modify the document; and
 - (d) it is not apparent (from the request or from consultation with the applicant) that the applicant would decline access to the edited copy.

...

(Original emphasis.)

Section 93A of the FOI Act directs attention to relevantly issued FOI Guidelines to which an agency (or its authorised officer (s 23)) 'regard must be had' for the purposes of performing functions or exercising powers.

The FOI Guidelines observes that in applying section 22:

...an agency or minister should take a common sense approach in considering whether the number of deletions would be so many that the remaining document would be of little or no value to the applicant. Similarly, the purpose of providing access to government information under the FOI Act may not be served if extensive editing is required that leaves only a skeleton of the former document that conveys little of its content or substance³.

³ FOI Guidelines (n 1), 3.98.



Again, here it is reasonable and practicable for section 22 to apply in respect of recorded exempt and irrelevant information.

Attachment A is a schedule describing each of the relevant documents and my decision with respect to each.

Reasons for decision

I have partially exempted the relevant documents.

In giving these reasons I note some preliminary matters. Any reference to 'documents' should be read as including parts of documents relevant to the particular exemption which is discussed. Further, where an exemption or exemptions is indicated to apply to a document (or part of a document), my findings of fact and reasons for decision are set out below.

Section 47E – certain operations of agencies

Relevant here, section 47E provides for:

A document is conditionally exempt if its disclosure under this Act would, or could reasonably be expected to, do any of the following:

- (a) prejudice the effectiveness of procedures or methods for the conduct of tests, examinations or audits by an agency;
- (b) prejudice the attainment of the objects of particular tests, examinations or audits conducted or to be conducted by an agency;
- (c) have a substantial adverse effect on the management or assessment of personnel by the Commonwealth or by an agency;
- (d) have a substantial adverse effect on the proper and efficient conduct of the operations of an agency.

It is subsections (b), (c) and (d) that I am concerned with. I consider that those subsections applies to particular information contained in Documents 2 and 5.

The relevant FOI Guidelines provides the following (emphasis added):

Prejudice the attainment of testing, examination and/or auditing objectives...

6.110 The agency would be undertaking the testing or examination to meet particular requirements, and have a particular need for the results (the test objectives). The underlying operational requirements for the test objectives is the context for assessing the document against the conditional exemption and should be included in the statement of reasons (s 26) if the exemption is relied upon.

...

Substantial adverse effect on management or assessment of personnel

6.114 For this exemption to apply, the documents must relate to either:

- ***the management of personnel – including the broader human resources policies and activities, recruitment, promotion, compensation, discipline, harassment and occupational health and safety***

- ***the assessment of personnel – including the broader performance management policies and activities concerning competency, in-house training requirements, appraisals and underperformance, counselling, feedback, assessment for bonus or eligibility for progression.***

(Citation omitted.)

As observed, exempt information partially exists in the documents. That exempt information is plainly and reasonably to be characterised as information about the ABCC's assessment and management of its staff. The information specifically pertains to a staff survey that was undertaken, and is in relation to survey responses and the assessment of them. Such matters centrally come within agency processes to obtain information about staff issues, the efforts to understand those issues, and any arrangements it may consider relevant to managing human resource matters.

Having regard to the of character of the recorded information, the confidential nature of the information and the fact that it is not in the public domain, I have serious concerns regarding disclosure⁴. It may be contrasted, for example, to the 'attached' information forming a part of Document 5. In the circumstances there, one of the considerations includes the fact that it is information that is publically available, and when that fact is balanced with other matters, disclosure is comparatively more appropriate⁵.

It must also be observed that the processes of managing staff is not singular in character. Taken objectively, and supported by some degree of common sense and experience, such processes requires some degree of sensibility: the willing, unreserved or frank contribution by staff to offer their views to agency managers. However, the capacity for *willing, unreserved or frank* exposure of issues may more practically be encouraged where agencies provide confidential channels or opportunities for anonymity. Within available confidential bounds, or under anonymity, the *willing and frank* views of staff could be ventilated; I consider voluntary surveys to be such a practical method.

Taking all relevant matters into account then, I consider the information to be exempt under subsections 47E(b), (c) and (d). Disclosure of the recorded information would have significant adverse effect on, or prejudicial to, the management of staffing processes or any procedures the ABCC may undertake to comprehend issues arising under confidential survey circumstances. The effect would include the greater reluctance of employees to cooperate and communicate on such matters. That inhibition in turn adversely affects the agency's capacity to understand and manage issues relevant to its staff and greater human resource capability.

On a comparatively wider matter, whilst I will speak of the concern I have for employees of the ABCC in the 'personal privacy' conditional exemption provision below, it is notable that the Information Commissioner (IC) has considered circumstances that support the finding of not disclosing the personal information of staff under other provisions of the FOI Act⁶. Whether such exemptions apply will depend upon facts. However, in *'NN' and Department of Human Services* the IC considered the relevance of certain submitted matters (at [21]-[28]), matters which are provided for under the FOI Guidelines⁷, for instance:

⁴ See: *Re Marko Ascic v Australian Federal Police* [1986] FCA 260 (1 August 1986) a [14] per Muirhead J, whom was citing with approval Deane J's observations in *Tillmanns Butcheries Pty Ltd v Australasian Meat Industry Employees' Union* (1979) 42 FLR 331, 348.

⁵ Consider: *Crawley and Centrelink* [2006] AATA 572 (30 June 2006) at [12]; *Attorney General's Department and Australian Iron and Steel Pty Ltd v Cockcroft* (1986) 10 FCR 180, 190 (per Bowen CJ and Beaumont J). Also: *Re Marko Ascic v Australian Federal Police* [1986] FCA 260 (1 August 1986) a [7]-[13], which differs to the facts here.

⁶ Compare for example: *'NN' and Department of Human Services* [2018] AICmr 1 (8 January 2018) at [15]-[39].

⁷ *Ibid*, at [18]-[27].

the management of personnel – including the broader human resources policies and activities, recruitment, promotion, compensation, discipline, harassment and occupational health and safety

(Emphasis added.)

However, having made my findings above, I am now required to consider whether access to the conditionally exempt information would be contrary to the public interest (section 11A of the FOI Act).

The public interest

I have considered the public interest in promoting the objects of the FOI Act, particularly in increasing scrutiny, discussion, comment and review of the ABCC's activities. I also have taken into account whether disclosure would inform the public on matters of public importance or would result in some benefit to the public. On the balance, I have also considered the following factors⁸:

- whether disclosure could reasonably be expected to prejudice the ABCC's ability to obtain confidential information.
- Whether disclosure could reasonably be expected to prejudice the ABCC's efforts to obtain relevant information in the future.
- Whether disclosure could reasonably be expected to prejudice the management function of the ABCC.

I acknowledge that there is a public interest in documents of the ABCC being made available to the public for the purpose of encouraging public debate and to promote oversight of the ABCC's activities.

However, when regard is properly had to the particular information, I do not consider that disclosure will inform discussion regarding public expenditure⁹.

Even if it may be said that disclosure may inform 'the community of the Government's operations, including, in particular, the policies, rules, guidelines, practices and codes of conduct followed by the Government in its dealings with members of the community'¹⁰, I have on balance serious reservations about the adverse impact on the processes the ABCC undertakes to assess or manage its staff.

Taking into account the above matters, I consider on balance that the giving of access to the exempt information is contrary to the public interest. Accordingly, I have decided that the documents are exempt in part under subsections 47E(b), (c) and (d) of the FOI Act. I further decide section 22 is applicable for the practicable purpose of giving access.

Section 47C – deliberative processes

Relevantly, subsection (1) provides:

A document is conditionally exempt if its disclosure under this Act would disclose matter (deliberative matter) in the nature of, or relating to, opinion, advice or recommendation obtained, prepared or recorded, or consultation or deliberation that has taken place, in the course of, or for the purposes of, the deliberative processes involved in the functions of:

- (a) an agency;

⁸ *FOI Guidelines* (n 1), 6.22.

⁹ *FOI Act*, s 11B(3).

¹⁰ *FOI Guidelines* (n 1), 6.22.

(b) ...

(c) ...

Section 47C provides that a document is conditionally exempt if its disclosure would disclose deliberative matter which is given description under section 47C(1), having regard to the exceptions in subsections (2) and (3).

Subject to the public interest consideration to be undertaken (section 11B), this conditional exemption differs from others in that no type of harm is required to result from disclosure. The consideration is whether the document includes content of a specific type, namely deliberative matter.

I consider that this section applies to particular information contained in Documents 2 and 5. Further, I consider that this *conditional exemption* applies with respect to the recorded information discussed above in relation to section 47E. I also consider neither of the exceptions provided for under subsections 47C(2) and (3) are applicable.

The relevant FOI Guidelines provides the following at paragraphs 6.63-6.64 (emphasis added):

Deliberative matter' is a shorthand term for 'opinion, advice and recommendation' and 'consultation and deliberation' that is recorded or reflected in a document. **There is no reason generally to limit the ordinary meanings given to the words 'opinion, advice or recommendation, consultation or deliberation'.**

The agency must assess all the material to decide if it is deliberative matter that relates to, or is in the nature of, the deliberative processes of the agency or minister.

(Citations omitted.)

The FOI Guidelines further provides (at paras 6.68-6.69):

A consultation undertaken for the purposes of, or in the course of, a deliberative process includes any discussion between the agency, minister or government and another person in relation to the decision that is the object of the deliberative process.

The agency should create the consultation document with the intention of initiating a two way exchange between at least two parties. If the other person does not respond or participate, the consultation document may still be deliberative matter.

(Citations omitted and emphasis added.)

'Deliberate' brings to bear relevant matters of *weighing* or to carefully consider¹¹. *Deliberative processes* are:

its thinking processes be they directed to gathering information, analysing information or discussing strategies. They remain its deliberations whether or not a decision is reached. Its decisions are its conclusions as to the courses of action that it adopts be they conclusions as to its final strategy on a matter or its conclusions as to the manner in which a matter is to proceed.¹²

¹¹ Consider: *Re Dimitrious Kavvadias v Commonwealth Ombudsman* [1984] FCA 179 (per Sheppard J).

¹² *Toomer and Department of Agriculture, Fisheries and Forestry and Ors* [2003] AATA 1301 at [88] and [111]-[114] (per DP Forgie); *Utopia Financial Services Pty Ltd and Australian Securities and Investments Commission* [2017] AATA 269 at [69]-[70] (per DP Forgie).

As observed in the earlier discussion about section 47E, particular recorded information specifically pertains to staff survey that was undertaken, and is in relation to survey responses and the assessment of them. That particular recorded information is relevant to the consideration here. I also observed that in relation to 'management' processes, such processes requires some degree of willing, unreserved or frank contribution by staff to offer their views to agency managers. And, that the capacity for willing, unreserved or frank exposure of issues may more practically be encouraged where agencies provide confidential channels or opportunities for anonymity.

I consider that the obtainment of the particular objects in those processes are matters that are reasonably and properly characterised as deliberative matters. Those deliberative matters come within the deliberative processes of the ABCC for purpose of managing agency human resources as connected to those processes. For instance, the ABCC clearly undertakes confidential survey processes to obtain views and opinions of staff participants. But the deliberative nature does not end there. The agency then undertakes extended but connected processes to analyse and assess the fruits of surveys. Such a processes of analysis contribute to decision-making processes in respect of personnel management.

But, in addition to those observations, a further character of the particular information is to be made. The particular survey process, which includes the collation and production to the ABCC for its specific consideration, is one that is engaged between the Australian Public Service Commission (**APSC**) and the ABCC. Having regard to the nature in which the particular information was created and what it records, it is, in my view, a process that squarely is to be regarded as 'discussion between the agency, minister or government and another person in relation to the decision that is the object of the deliberative process'.

Ultimately, and relevantly, the exempt material were gathered by the ABCC as a basis for intended deliberations about personnel management matters.

Having made my findings above, I am now required to consider whether access to the conditionally exempt information would be contrary to the public interest (section 11A of the FOI Act).

The public interest

I have considered the public interest in promoting the objects of the FOI Act, particularly in increasing scrutiny, discussion, comment and review of the ABCC's activities. I also have taken into account whether disclosure would inform the public on matters of public importance or would result in some benefit to the public. On the balance, I have also considered the following factors¹³:

- whether disclosure could reasonably be expected to prejudice the ABCC's ability to obtain confidential information.
- Whether disclosure could reasonably be expected to prejudice the ABCC's efforts to obtain relevant information in the future.
- Whether disclosure could reasonably be expected to prejudice the management function of the ABCC.

I acknowledge that there is a public interest in documents of the ABCC being made available to the public for the purpose of encouraging public debate and to promote oversight of the ABCC's activities.

¹³ FOI Guidelines (n 1), 6.22.



However, when regard is properly had to the particular information, I do not consider that disclosure will inform discussion regarding public expenditure¹⁴.

I have on balance serious reservations about the adverse impact on the processes the ABCC undertakes to assess or manage its staff.

Taking into account the above matters, I consider on balance that the giving of access to the exempt information is contrary to the public interest. Accordingly, I have decided that the documents are exempt in part under section 47C of the FOI Act. I further decide section 22 is applicable for the practicable purpose of giving access.

Section 47F – personal privacy

Personal information and conditional exemption

Section 47F(1) provides:

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

The term ‘personal information’ as expressed above is given the same meaning (under section 4 of the FOI Act) as that under the *Privacy Act 1988* (Cth) (**Privacy Act**). The term under the Privacy Act, section 6 provides:

Information or an opinion about an identified individual, or individual who is reasonably identifiable:

- (a) whether the information or opinion is true or not; and
- (b) whether the information or opinion is recorded in a material form or not.

(I have omitted the “Note” that refers to section 187LA of the *Telecommunications (Interception and Access) Act 1979* (Cth).)

Therefore, section 47F conditionally exempts a document to the extent that its disclosure would involve the ‘unreasonable disclosure of personal information about any person’, being where that information or opinion is about an individual whom is identified or reasonably identifiable, having regard to the character given by (a) and (b).

General character of recorded personal information

DP Forgie made the following point in *Telstra Corporation Limited and Privacy Commissioner*¹⁵ (at [95]):

...when applying the definition of “personal information” under either the FOI Act or the Privacy Act, the questions that are asked must be framed in terms of the definition...The starting point must be whether the information or opinion is about an individual. If it is not, that is an end of the matter and it does not matter whether that information or opinion could be married with other information to identify a particular individual.

¹⁴ FOI Act, s 11B(3).

¹⁵ [2015] AATA 991 (18 December 2015). Compare: *BA’ and Merit Protection Commissioner* [2014] AICmr 9 (30 January 2014) at [57].

It is apparent to me that there is information about individuals recorded in the relevant documents. That recorded information exists in the form of *identified persons*, or where persons are *reasonably identifiable*. In all instances it is *personal information*.

In many instances, the personal information neither belongs to the current Australian Building and Construction Commissioner or the then Australian Public Service Commissioner. In those particular instances, the personal information is in discrete form (appearing once or in very limited instances) and for the most part are recorded for very discrete reasons. For example, in limited instances, certain emails were sent by one person on behalf of another. No greater substance exists in relation to their input. In another instance (limited to only a part of Document 1), identified persons merely appear as invitees to a meeting, and are only identified once (that is, by name); no further responding correspondence is apparent.

It is not apparent from the documents that these particular persons can be reasonably characterised as being productive, crucial, or in some way contributive to the substance of the correspondence in each case¹⁶. As observed, in very limited manner they either sent an email on behalf of another or appear as invitee.

As already noted, 'personal information' will be conditionally exempt from disclosure if it would be 'unreasonable'. In considering whether disclosure would be *unreasonable* subsection 47F(2) of the FOI Act provides that I 'must have regard' to the following:

- the extent to which the information is well known;
- 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;
- the availability of the information from publicly accessible sources;
- any other matter I consider relevant.

I have taken into account the circumstances in which the information was obtained and therefore recorded, and the reasonable expectation of privacy of the individual's concerned. I also have taken into account the objection of individuals to the disclosure of their personal information. The information is not publically accessible.

The FOI Guidelines also expresses that that details of public servant's names should ordinarily be released unless there are 'special circumstances' for them to be exempted.¹⁷

As with any FOI request, there are no restrictions to the use or dissemination of such material once provided to an applicant. The ABCC takes the safety of its employees very seriously, and I find it would be unreasonable to disclose their personal information.

I find that each of the documents contain conditionally exempt information relevant provided for under section 47F of the FOI Act. Having made my findings, I am now required to consider whether access to the conditionally exempt information would be contrary to the public interest (section 11A of the FOI Act).

¹⁶ It is the distinguishable from matters found by the IC in *Lisa Martin and Department of Home Affairs* [2019] AICmr 47 (27 June 2019) at [44].

¹⁷ *FOI Guidelines* (n 1), 6.153.



The public interest

I acknowledge that there is a public interest in documents of the ABCC being made available to the public for the purpose of encouraging public debate and to promote oversight of its activities. However, I do not consider that disclosure of the documents in whole would facilitate any of these objects. In particular, I do not consider that disclosure of the personal information of particular individuals would shed any light on the workings of the ABCC or enhance public accountability or transparency. Rather, in my view, in addition to the matters under section 47F(2), the following public interest factors contain some persuasive force in the circumstances¹⁸:

- prejudice the protection of an individual's right to privacy
- prejudice an agency's ability to obtain confidential information
- prejudice an agency's ability to obtain similar information in the future, and
- prejudice the management function of an agency

Taking all relevant matter discussed above into account, such as the manner in which the personal information exists, I am disinclined to the view that, on balance, the public interest is served by disclosing personal information of staff.

I am satisfied that disclosure would amount to an unreasonable invasion of the privacy of the individuals concerned who did not expect that their personal information would ever enter the public domain. This includes both ABCC employees and third parties. I consider disclosure of the information would unreasonably interfere with the privacy of the individuals concerned. In relation to third parties, I consider that disclosure of their identities could cause detriment to them. In relation to the personal information of ABCC employees, I consider that disclosure would prejudice the management function of the ABCC because ABCC employees would expect their personal information to be kept confidential.

Taking into account the above matters, on balance, I find that disclosure of the information in the documents is contrary to the public interest. Accordingly, I have decided that the documents are partially exempt under section 47F of the FOI Act (see: **Attachment A**). I further decide section 22 is applicable for the practicable purpose of giving access.

Review rights - Internal review

I am not the principal officer of the ABCC. As a result, you are entitled under section 54 of the FOI Act to seek an internal review of my decision. An internal review will be conducted by a different officer from the original decision-maker.

Your application must be made by whichever date is the later between:

- 30 days of you receiving this notice; or
- 15 days of you receiving the documents to which you have been granted access

You may seek an internal review by writing to: **Freedom of Information (ABCC)**, at either of the following contact addresses:

By post: GPO Box 9927 MELBOURNE VIC 3001 Australia
By email: foi@abcc.gov.au

¹⁸ Ibid, 6.22.

Please note in your application the decision you wish to be reviewed.

If you choose to seek an internal review, you will subsequently have a right to apply to the Australian Information Commissioner for a review of the internal review decision.

Review by the Australian Information Commissioner

Alternatively, under section 54L of the FOI Act, you may seek review of this decision by the Australian Information Commissioner without first going to internal review. Your application must be made within 60 days of you receiving this notice.

The Australian Information Commissioner is an independent office holder who may review decisions of agencies and Ministers under the FOI Act. More information is available on the Australian Information Commissioner's website www.oaic.gov.au

You can contact the Information Commissioner to request a review of a decision online or by writing to the Information Commission at:

GPO Box 2999
Canberra ACT 2601

Contacts

If you have any questions about this matter, please contact the ABCC's FOI Section (foi@abcc.gov.au).

Yours sincerely



Ben Vallence
Australian Building and Construction Commission



ATTACHMENT A – SCHEDULE OF DOCUMENTS

Reference	Date	Decision and exemption
Document 1	23 July 2018 3:38pm	Exempt in part – s 47F Section 22 applicable
Document 2	20 July 2018 11:14am	Exempt in part – s 47C Exempt in part – ss 47E(b), (c) and (d) Exempt in part – s 47F Section 22 applicable
Document 3	10 July 2018 12:27pm	Exempt in part – s 47F Section 22 applicable
Document 4	5 July 2018 9:31am	Exempt in part – s 47F Section 22 applicable
Document 5	8 June 2018 3:34pm	Exempt in part – s 47C Exempt in part – ss 47E(b), (c) and (d) Exempt in part – s 47F Section 22 applicable

