



ASIC
Australian Securities &
Investments Commission

**Australian Securities
and Investments Commission**

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28 August 2020

Phillip Sweeney

By email: foi+request-6602-3b2a2597@righttoknow.org.au

Dear Mr Sweeney,

Notice of Freedom of Information Decision – Ref 165-2020

I refer to your email received by the Australian Securities and Investments Commission (**ASIC**) on 17 August 2020 in which you seek access to the following under the *Freedom of Information Act 1982* (Cth) (**FOI Act**):

Australian citizens would expect an agency tasked with enforcing the law would have a well-stocked law library.

All libraries have a catalogue to record what books are held by the library and where they can be located by Dewey Decimal Classification Number (or similar classification).

The FOI Act defines a document as: any paper or other material on which there is writing or a mark, figure or symbol. electronically stored information. a map, a plan, a drawing or a photograph.

The documents I seek are copies of a 'document', including electronically stored information, that would list all the books or other documents that could be classified as 'legal authorities' in ASIC's law library where the main title commences with the letters "Th"

Different ASIC offices may have their own law libraries.

If so, I seek a copy of the catalogue document for each ASIC office.

The 30 day statutory time period for processing your request commenced on the day after the day on which your request was received (s 15(5) of the FOI Act). The due date to issue a decision on your request is therefore 16 September 2020.

Authority to make decision

I am an officer authorised under s 23(1) of the FOI Act to make decisions in relation to FOI requests.

Decision

I have conducted searches of ASIC's records. While no existing documents within the scope of your request were identified, ASIC's Systems Librarian has exported a list of titles from ASIC's catalogue which begin with 'Th' that could be classified as 'legal authorities' and compiled this list into a report for the purposes of satisfying your request.

The following steps were taken to search for and produce the document:

- Searches were conducted by ASIC's Systems Librarian;
- Searches were conducted on 19 August 2020, totalling 30 minutes;

- Location searched was the Library Management System; and
- The report was extracted from the Library Management System and exported into an Excel spreadsheet with Catalogue Title, Author, Item type and Library location.

I am informed that ASIC only has physical collections in Sydney and Melbourne.

This document has been produced in accordance with s 17 of the FOI Act, which requires an agency to produce a written document of information if the requested information is stored electronically and not in a discrete written form. The obligation to produce a written document arises if the agency could produce a written document using a computer or other equipment that is ordinarily available to the agency for retrieving or collating stored information, and producing a written document would not substantially and unreasonably divert the resources of the agency from its other operations.

The FOI Guidelines provide, as examples, a written compilation of information held across various agency databases, the production of a statistical report from an agency's dataset,¹ or information held in an agency computer system rather than in discrete form.²

My decision is to grant access in full to this document. This document is **attached**.

In relation to your request for 'legal authorities', I have consulted with ASIC's Systems Librarian. I am informed that the term 'legal authorities' has been interpreted as the following:

A "legal authority" is any published material that is a source of law such as Acts, Regulations, Legislative instruments etc as well as Law Reports (authorised that are accepted in court). Secondary resources such as books, loose-leaf services and journals are not deemed as a "legal authority".

I note that you have previously requested a copy of the title page of 'Thomas on Powers' by Geraint Thomas, published by Oxford University Press (reference 161-2020). I have been informed by the Systems Librarian that ASIC does not hold this title.

Your review rights

If you are dissatisfied with my decision, you may apply for internal review or Information Commissioner review of the decision.

Internal review

Under section 54 of the FOI Act, you may apply in writing to ASIC for an internal review of my decision by another ASIC officer. The internal review application must be made within 30 days of the date of this letter. This request should be addressed to the Senior Manager, Freedom of Information, by email to foirequest@asic.gov.au

Information Commissioner review

Under section 54L of the FOI Act, you may apply to the Australian Information Commissioner to review my decision. An application for review by the Information Commissioner must be made in writing within 60 days of the date of this letter, and be lodged in one of the following ways:

¹ FOI Guidelines [3.204]

² FOI Guidelines [2.33]

online:

https://forms.business.gov.au/smartforms/servlet/SmartForm.html?formCode=ICR_10

email: foidr@oaic.gov.au

post: GPO Box 5218 Sydney NSW 2001

More information about Information Commissioner review is available on the Office of the Australian Information Commissioner website. Go to <https://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/information-commissioner-review/>.

FOI Complaints

You may lodge a complaint with the Australian Information Commissioner in relation to the conduct of ASIC in the handling of this request. A complaint to the Information Commissioner must be made in writing. Complaints can be lodged in one of the following ways:

online: https://forms.business.gov.au/smartforms/servlet/SmartForm.html?formCode=ICCA_1

email: foidr@oaic.gov.au

post: GPO Box 5218 Sydney 2001

More information about complaints is available on the Office of the Australian Information Commissioner at <https://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/make-an-foi-complaint/>.

If you are not sure whether to lodge an Information Commissioner review or an Information Commissioner complaint, the Office of the Australian Information Commissioner has more information at: <https://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/>

Questions about this decision

If you wish to discuss this decision, I can be contacted by phone or email as below.

Yours sincerely

Haydar Tuncer
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Australian Securities and Investments Commission
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Email: haydar.tuncer@asic.gov.au