

Freedom of Information

Exemptions

Factsheet

The *Freedom of Information Act 1982* (the Act) provides a general right of access to documents of a government agency, unless an exemption applies.

A full explanation of the information that can be exempt from being released is listed in the Act. As part of processing a freedom of information (FOI) request, the department reviews all documents relevant to your request to determine if they contain exempt material.

Access to documents can be refused if the documents contain information of a particular type. This does not mean that you will not get the document, as the Act allows for an edited copy of the document to be provided in some circumstances. For a full explanation of these exemptions please refer to part IV of the Freedom of Information Act 1982.

What exemptions can be applied to documents?

Documents that may be deemed fully or partially exempt from release under the Act include the following:

Cabinet documents (section 28)

Documents that were considered or prepared for Cabinet, including those prepared for committees and subcommittees of Cabinet, may be considered exempt.

Documents affecting national security, defence or international relations (section 29A)

A document may be an exempt document if disclosure of the document could reasonably be expected to cause damage to:

- the security of the Commonwealth or any State or Territory; or
- the defence of the Commonwealth; or
- the international relations of the Commonwealth.

Documents containing matter communicated by any other State (section 29)

Documents that contain matter communicated by any other State may be exempt if disclosure would be contrary to the public interest, and disclosure would prejudice relations between the State and the Commonwealth or any other State or Territory, or would divulge matter communicated in confidence.

Internal working documents (section 30)

A document may be exempt if its release would disclose matter in the nature of opinion, advice, or recommendation, prepared by an officer in the course of the deliberative processes involved in the functions of the agency and release of the document would be contrary to the public interest.

Law enforcement documents (section 31)

A document is exempt if its disclosure would:

- prejudice the investigation of a breach of the law or prejudice the enforcement of the law;
- prejudice the fair trial of a person, or the impartial adjudication of a particular case;
- disclose, or enable a person to ascertain, the identity of a confidential source of information in relation to the enforcement or administration of the law;
- disclose methods or procedures for preventing, detecting, investigating, or dealing with matters arising out of breaches or evasions of the law; or
- endanger the lives or physical safety of persons engaged in the enforcement of the law, or persons who have provided confidential information in relation to the enforcement or administration of the law.

Documents affecting legal proceedings (section 32)

A document may be an exempt document if it is of such a nature that it would be privileged from production in legal proceedings on the grounds of legal professional privilege or client legal privilege.

Documents affecting personal privacy (section 33)

A document is exempt if its disclosure would involve the unreasonable disclosure of information relating to the personal affairs of any person, including a deceased person. If you are requesting documents that contain the personal information of persons other than yourself this exemption will need to be considered.

Documents relating to trade secrets etc. (section 34)

A document is exempt if its release would disclose information acquired by the department, from a business, commercial, or financial undertaking, and if the information relates to trade secrets (or other matters of a business, commercial, or financial nature) and if the disclosure of the information would be likely to expose the undertaking to disadvantage.

Documents containing material obtained in confidence (section 35)

A document is exempt if its disclosure would divulge any information or matter communicated in confidence, by or on behalf of a person, or a government, to an agency and the disclosure of that information would be reasonably likely to impair the ability of an agency, or a minister, to obtain similar information in the future.

Documents where disclosure is contrary to the public interest (section 36)

A document may be an exempt document if its premature disclosure would be contrary to the public interest as disclosure would be reasonably likely to have a substantial adverse effect on the economy of Victoria.

Certain documents arising out of companies and securities legislation (section 37)

A document may be an exempt document if its disclosure would reveal the deliberations of Ministerial Council for Companies and Securities.

Documents to which secrecy provisions of enactments apply (section 38)

A document is exempt if its release would disclose information that is protected from release under other Acts. For example, sections 191(1) and 209(1) of the *Children, Youth and Families Act 2005* prohibit the disclosure of the identity of any person who has made a report regarding a child who they believe is in need of protection.

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