

# EXPOSURE DRAFT

2008-2009

The Parliament of the  
Commonwealth of Australia

HOUSE OF REPRESENTATIVES/THE SENATE

**EXPOSURE DRAFT (24/03/2009)**

If you have any comments on this exposure draft, they should be sent by 15 May 2009 to the following email address: foiconsultation@pmc.gov.au or to:

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## **Information Commissioner Bill 2009**

**No.     , 2009**

*(Cabinet Secretary)*

**A Bill for an Act to establish the Office of the  
Information Commissioner, and for related  
purposes**

# EXPOSURE DRAFT

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1     **A Bill for an Act to establish the Office of the**  
2     **Information Commissioner, and for related**  
3     **purposes**

4     The Parliament of Australia enacts:

5     **Part 1—Preliminary**  
6

7     **1 Short title**

8             This Act may be cited as the *Information Commissioner Act 2009*.

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## Part 1 Preliminary

### Section 2

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#### 1 **2 Commencement**

- 2 (1) Each provision of this Act specified in column 1 of the table  
3 commences, or is taken to have commenced, in accordance with  
4 column 2 of the table. Any other statement in column 2 has effect  
5 according to its terms.

6

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<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
1. Sections 1 and 2 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent.	
2. Sections 3 to 38	The later of: (a) 1 January 2010; and (b) the day on which the <i>Freedom of Information (Removal of Conclusive Certificates and Other Measures) Act 2009</i> commences.  However, the provision(s) do not commence at all if the event mentioned in paragraph (b) does not occur.	

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- 7 Note: This table relates only to the provisions of this Act as originally  
8 passed by both Houses of the Parliament and assented to. It will not be  
9 expanded to deal with provisions inserted in this Act after assent.

- 10 (2) Column 3 of the table contains additional information that is not  
11 part of this Act. Information in this column may be added to or  
12 edited in any published version of this Act.

#### 13 **3 Definitions**

14 In this Act:

15 **agency** has the meaning given by the *Freedom of Information Act*  
16 *1982*.

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Preliminary **Part 1**

## Section 3

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1            ***Freedom of Information Commissioner*** means the person  
2            appointed under section 17 as the Freedom of Information  
3            Commissioner.

4            ***freedom of information functions*** has the meaning given by  
5            section 10.

6            ***freedom of information matters*** has the meaning given by  
7            subsection 34(1).

8            ***Information Commissioner*** means the person appointed under  
9            section 17 as the Information Commissioner.

10           ***information commissioner functions*** has the meaning given by  
11           section 9.

12           ***information officer*** has the meaning given by section 7.

13           ***partial access*** has a meaning affected by subsection 34(3).

14           ***Privacy Commissioner*** means the person appointed under  
15           section 17 as the Privacy Commissioner.

16           ***privacy functions*** has the meaning given by section 11.

17           ***privacy matters*** has the meaning given by section 35.  
18

# EXPOSURE DRAFT

## Part 2 The Office of the Information Commissioner

### Section 4

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1

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## **Part 2—The Office of the Information Commissioner**

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### **4 Guide to this Part**

6

This Part establishes the Office of the Information Commissioner.

7

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9

This Part also deals with the functions of the statutory office holders (the information officers), their appointment and the staff of the Office of the Information Commissioner.

10

### **Division 1—Establishment**

11

#### **5 Guide to this Division**

12

13

14

The Office of the Information Commissioner consists of the information officers and the staff of the Office of the Information Commissioner (see section 6).

15

16

17

The information officers are the Information Commissioner, the Freedom of Information Commissioner and the Privacy Commissioner (see section 7).

18

#### **6 Establishment—general**

19

20

(1) The Office of the Information Commissioner is established by this section.

21

22

23

(2) The Office of the Information Commissioner consists of:  
(a) the information officers; and  
(b) the staff mentioned in Division 4.

24

#### **7 Establishment—who is an *information officer*?**

25

Each of the following is an *information officer*:

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The Office of the Information Commissioner **Part 2**  
Establishment **Division 1**

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## Section 7

- 1 (a) the Information Commissioner;
- 2 (b) the Freedom of Information Commissioner;
- 3 (c) the Privacy Commissioner.
- 4

# EXPOSURE DRAFT

Part 2 The Office of the Information Commissioner

Division 2 Functions

Section 8

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1

2 **Division 2—Functions**

3 **8 Functions—guide to this Division**

4

5

This Division defines the functions that are conferred on the information officers by Division 3.

6 **9 Functions—what are the information commissioner functions?**

7

The *information commissioner functions* are as follows:

8

9

10

- (a) to report to the Minister on any matter that relates to the Commonwealth Government's policy and practice with respect to:

11

12

13

14

15

- (i) the collection, use, disclosure, management, administration or storage of, or accessibility to, information held by the Government; and

16

17

18

- (ii) the systems used, or proposed to be used, for the activities covered by subparagraph (i);

- (b) any other function conferred by another Act (or an instrument under another Act) on the Information Commissioner other than a freedom of information function or a privacy function.

19

**10 Functions—what are the freedom of information functions?**

20

The *freedom of information functions* are as follows:

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- (a) promoting awareness and understanding of the *Freedom of Information Act 1982* and the objects of that Act (including all the matters set out in sections 3 and 3A of that Act);

- (b) assisting agencies under section 8E of the *Freedom of Information Act 1982* to publish information in accordance with the information publication scheme under Part II of that Act;

- (c) the functions conferred by section 8F of the *Freedom of Information Act 1982*;

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- 1 (d) providing information, advice, assistance and training to any  
2 person or agency on matters relevant to the operation of the  
3 *Freedom of Information Act 1982*;
- 4 (e) issuing guidelines under section 93A of the *Freedom of*  
5 *Information Act 1982*;
- 6 (f) making reports and recommendations to the Minister about  
7 proposals for legislative change to the *Freedom of*  
8 *Information Act 1982* or administrative action in relation to  
9 the operation of that Act;
- 10 (g) monitoring, investigating and reporting on compliance by  
11 agencies with the *Freedom of Information Act 1982*;
- 12 (h) reviewing decisions under Part VII of the *Freedom of*  
13 *Information Act 1982*;
- 14 (i) undertaking investigations under Part VIIB of the *Freedom of*  
15 *Information Act 1982*;
- 16 (j) collecting information and statistics from agencies and  
17 Ministers about the freedom of information matters (see  
18 section 34) to be included in annual reports under section 33;
- 19 (k) any other function conferred on the Information  
20 Commissioner by the *Freedom of Information Act 1982*;
- 21 (l) any other function conferred on the Information  
22 Commissioner by another Act (or an instrument under  
23 another Act) and expressed to be a freedom of information  
24 function.

25 **11 Functions—what are the *privacy functions*?**

- 26 (1) The *privacy functions* are functions conferred on the Information  
27 Commissioner by an Act (or an instrument under an Act), if the  
28 functions:
- 29 (a) relate to the privacy of an individual; and  
30 (b) are not freedom of information functions.
- 31 (2) The functions mentioned in subsection (1) include, but are not  
32 limited to, the provisions in the following table.  
33

# EXPOSURE DRAFT

**Part 2** The Office of the Information Commissioner

**Division 2** Functions

Section 11

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**Provisions that confer privacy functions**

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<b>Item</b>	<b>Legislation</b>	<b>Provision</b>
1	<i>Privacy Act 1988</i>	Division 2 of Part IV
2	<i>Crimes Act 1914</i>	Division 5 of Part VIIC
3	<i>Data-matching Program (Assistance and Tax) Act 1990</i>	Sections 12 to 14, and the Schedule
4	<i>National Health Act 1953</i>	Section 135AA
5	<i>Telecommunications Act 1997</i>	Section 309

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2 **Division 3—Information Officers**

3 **12 Information officers—guide to this Division**

4

This Division:

5

(a) confers functions and powers on the information officers (see Subdivision A); and

6

7

(b) allows the Information Commissioner to delegate his or her powers (subject to certain exceptions) (see Subdivision B); and

8

9

10

(c) provides for the appointment of the information officers (see Subdivision C).

11

12 **Subdivision A—Functions and powers**

13 **13 Information officers—functions and powers of the Information**  
14 **Commissioner**

15

(1) The Information Commissioner has the following functions:

16

(a) the information commissioner functions;

17

(b) the freedom of information functions;

18

(c) the privacy functions.

19

(2) The Information Commissioner has power to do all things necessary or convenient to be done for or in connection with the performance of functions conferred by this section.

20

21

22 **14 Information officers—functions and powers of the Freedom of**  
23 **Information Commissioner**

24

(1) The Freedom of Information Commissioner has the freedom of information functions.

25

# EXPOSURE DRAFT

## Part 2 The Office of the Information Commissioner

### Division 3 Information Officers

#### Section 15

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- 1 (2) The Freedom of Information Commissioner may also perform the  
2 privacy functions.
- 3 (3) The Freedom of Information Commissioner has power to do all  
4 things necessary or convenient to be done for or in connection with  
5 the performance of functions conferred by this section.
- 6 (4) Subsection (5) applies if:  
7 (a) an Act (or an instrument under an Act) confers a function, or  
8 power, on the Information Commissioner; and  
9 (b) the performance of that function, or the exercise of the  
10 power, is stated to be dependent on the opinion, belief or  
11 state of mind of the Information Commissioner.
- 12 (5) The Freedom of Information Commissioner must perform the  
13 function, or the exercise of the power, upon his or her own opinion,  
14 belief or state of mind.
- 15 (6) If the Freedom of Information Commissioner performs a function,  
16 or exercises a power, expressed by an Act (or an instrument under  
17 an Act) to be given to the Information Commissioner, the function  
18 or power is taken to have been performed or exercised by the  
19 Information Commissioner.
- 20 (7) The performance by the Freedom of Information Commissioner of  
21 a function, or the exercise of a power, expressed under an Act (or  
22 an instrument under an Act) to be given to the Information  
23 Commissioner, does not prevent the performance of the function,  
24 or the exercise of the power, by the Information Commissioner or  
25 the Privacy Commissioner.

#### 26 **15 Information officers—functions and powers of the Privacy** 27 **Commissioner**

- 28 (1) The Privacy Commissioner has the privacy functions.
- 29 (2) The Privacy Commissioner may also perform the freedom of  
30 information functions (whether or not the Privacy Commissioner  
31 holds the qualifications mentioned in subsection 17(3)).

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- 1 (3) The Privacy Commissioner has power to do all things necessary or  
2 convenient to be done for or in connection with the performance of  
3 functions conferred by this section.
- 4 (4) Subsection (5) applies if:  
5 (a) an Act (or an instrument under an Act) confers a function on  
6 the Information Commissioner; and  
7 (b) the performance of that function is stated to be dependent on  
8 the opinion, belief or state of mind of the Information  
9 Commissioner.
- 10 (5) The Privacy Commissioner must perform the function upon his or  
11 her own opinion, belief or state of mind.
- 12 (6) If the Privacy Commissioner performs a function, or exercises a  
13 power, expressed by an Act (or an instrument under an Act) to be  
14 given to the Information Commissioner, the function or power is  
15 taken to have been performed or exercised by the Information  
16 Commissioner.
- 17 (7) The performance by the Privacy Commissioner of a function, or  
18 the exercise of a power, expressed under an Act (or an instrument  
19 under an Act) to be given to the Information Commissioner, does  
20 not prevent the performance of the function, or the exercise of the  
21 power, by the Information Commissioner or the Freedom of  
22 Information Commissioner.

## 23 **Subdivision B—Delegation**

### 24 **16 Information officers—delegation by the Information** 25 **Commissioner**

26 The Information Commissioner may delegate, in writing, all or any  
27 of his or her functions to a member of staff of the Office of the  
28 Information Commissioner, other than the following functions:

- 29 (a) the information commissioner functions conferred by  
30 paragraph 9(a) (reporting to the Minister);  
31 (b) issuing guidelines as mentioned in paragraph 10(e);

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## Part 2 The Office of the Information Commissioner

### Division 3 Information Officers

#### Section 17

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- 1 (c) the function conferred by section 55G of the *Freedom of*  
2 *Information Act 1982* (referring questions of law in a review  
3 to the Federal Court of Australia);  
4 (d) the function conferred by section 55J of the *Freedom of*  
5 *Information Act 1982* (making a decision on an IC review);  
6 (e) the function conferred by section 55P of the *Freedom of*  
7 *Information Act 1982* (correcting errors in IC review  
8 decisions);  
9 (f) the function conferred by section 86 of the *Freedom of*  
10 *Information Act 1982* (obligation to notify on completion of  
11 investigation);  
12 (g) the function conferred by sections 89 and 89A of the  
13 *Freedom of Information Act 1982* (implementation notices  
14 and reports);  
15 (h) the function conferred by section 73 of the *Freedom of*  
16 *Information Act 1982* (discretion not to investigate a  
17 complaint);  
18 (i) issuing guidelines under section 17 of the *Privacy Act 1988*;  
19 (j) making determinations for the purposes of section 52 of the  
20 *Privacy Act 1988*.

#### 21 **Subdivision C—Appointment etc.**

#### 22 **17 Information officers—appointment by Governor-General**

##### 23 *Appointment of the Information Commissioner*

- 24 (1) The Information Commissioner is to be appointed by the  
25 Governor-General by written instrument.

##### 26 *Appointment of the Freedom of Information Commissioner*

- 27 (2) The Freedom of Information Commissioner is to be appointed by  
28 the Governor-General by written instrument.
- 29 (3) A person may only be appointed as the Freedom of Information  
30 Commissioner if he or she has obtained a degree from a university,  
31 or an education qualification of a similar standing, after studies in  
32 the field of law.

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1 *Appointment of the Privacy Commissioner*

- 2 (4) The Privacy Commissioner is to be appointed by the  
3 Governor-General by written instrument.

4 Note: The information officers are all eligible for reappointment: see  
5 subsection 33(4A) of the *Acts Interpretation Act 1901*.

6 **18 Information officers—general terms and conditions of**  
7 **appointment**

- 8 (1) An information officer holds office for the period specified in the  
9 information officer's instrument of appointment. The period must  
10 not exceed 5 years.
- 11 (2) An information officer holds office on a full-time basis.
- 12 (3) An information officer holds office on the terms and conditions (if  
13 any), in relation to matters not covered by this Act, that are  
14 determined by the Governor-General.

15 **19 Information officers—restriction on outside employment**

16 An information officer must not engage in paid employment  
17 outside the duties of his or her office without the Minister's  
18 approval.

19 **20 Information officers—remuneration**

- 20 (1) An information officer is to be paid the remuneration that is  
21 determined by the Remuneration Tribunal. If no determination of  
22 remuneration by the Tribunal is in operation, the information  
23 officer is to be paid the remuneration that is prescribed by the  
24 regulations.
- 25 (2) An information officer is to be paid the allowances that are  
26 prescribed by the regulations.
- 27 (3) This section has effect subject to the *Remuneration Tribunal Act*  
28 *1973*.

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Part 2 The Office of the Information Commissioner

Division 3 Information Officers

## Section 21

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1     **21 Information officers—leave of absence**

- 2             (1) An information officer has the recreation leave entitlements that  
3                 are determined by the Remuneration Tribunal.
- 4             (2) The Minister may grant an information officer leave of absence,  
5                 other than recreation leave, on the terms and conditions as to  
6                 remuneration or otherwise that the Minister determines.

7     **22 Information officers—resignation**

- 8             (1) An information officer may resign his or her appointment by  
9                 giving the Governor-General a written resignation.
- 10            (2) The resignation takes effect on the day it is received by the  
11                Governor-General or, if a later day is specified in the resignation,  
12                on that later day.

13    **23 Information officers—termination of appointment**

- 14            (1) The Governor-General may terminate the appointment of an  
15                information officer for misbehaviour or physical or mental  
16                incapacity.
- 17            (2) The Governor-General must terminate the appointment of an  
18                information officer if any of the following apply:
- 19                (a) the information officer:
- 20                    (i) becomes bankrupt; or
- 21                    (ii) applies to take the benefit of any law for the relief of  
22                        bankrupt or insolvent debtors; or
- 23                    (iii) compounds with his or her creditors; or
- 24                    (iv) makes an assignment of his or her remuneration for the  
25                        benefit of his or her creditors;
- 26                (b) the information officer is absent, except on leave of absence,  
27                    for 14 consecutive days or for 28 days in any 12 months;
- 28                (c) the information officer engages, except with the Minister's  
29                    approval, in paid employment outside the duties of his or her  
30                    office;
- 31                (d) the information officer fails, without reasonable excuse, to  
32                    comply with section 25 (disclosure of interests).

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1 **24 Information officers—acting appointments**

- 2 (1) The Minister may, by written instrument, appoint a person to act as  
3 an information officer:  
4 (a) during a vacancy in the office of the information officer  
5 (whether or not an appointment has previously been made to  
6 the office); or  
7 (b) during any period, or during all periods, when the  
8 information officer:  
9 (i) is absent from duty or from Australia; or  
10 (ii) is, for any reason, unable to perform the duties of the  
11 office.
- 12 (2) A person appointed to act during a vacancy mentioned in  
13 paragraph (1)(a) must not act for more than 12 months.
- 14 (3) A person must not be appointed to act as the Freedom of  
15 Information Commissioner unless he or she is qualified, as  
16 mentioned in subsection 17(3), to be appointed as the Freedom of  
17 Information Commissioner.
- 18 (4) Anything done by or in relation to a person purporting to act under  
19 an appointment is not invalid merely because of any of the  
20 following:  
21 (a) the occasion for the appointment had not arisen;  
22 (b) there was a defect or irregularity in connection with the  
23 appointment;  
24 (c) the appointment had ceased to have effect;  
25 (d) the occasion to act had not arisen or had ceased.

26 Note: See sections 20 and 33A of the *Acts Interpretation Act 1901*.

27 **25 Information officers—disclosure of interests**

28 An information officer must give written notice to the Minister of  
29 all interests, pecuniary or otherwise, that the information officer  
30 has or acquires and that conflict or could conflict with the proper  
31 performance of the information officer's functions.  
32

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**Part 2** The Office of the Information Commissioner

**Division 4** Staffing of the Office of the Information Commissioner

Section 26

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## **Division 4—Staffing of the Office of the Information Commissioner**

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### **26 Staffing of the Office of the Information Commissioner—guide to this Division**

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This Division provides for the staffing of the Office of the Information Commissioner.

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8

### **27 Staffing of the Office of the Information Commissioner—staff**

9

(1) The staff of the Office of the Information Commissioner must be persons engaged under the *Public Service Act 1999*.

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(2) For the purposes of the *Public Service Act 1999*:

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(a) the information officers and staff of the Office of the Information Commissioner together constitute a Statutory Agency; and

13

14

15

(b) the Information Commissioner is the Head of that Statutory Agency.

16

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### **28 Staffing of the Office of the Information Commissioner—consultants**

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The Information Commissioner may, on behalf of the Commonwealth, engage consultants to assist in the performance of the Information Commissioner's functions.

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## **Part 3—Information Advisory Committee**

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### **29 Information Advisory Committee—guide to this Part**

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This Part establishes an Information Advisory Committee to assist and advise the Information Commissioner on matters relating to the performance of the information commissioner functions.

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### **30 Information Advisory Committee—establishment and functions**

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10

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12

(1) There is to be an Information Advisory Committee, with the function of assisting and advising the Information Commissioner in matters relating to the performance of the information commissioner functions.

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(2) The Committee consists of the following persons:

- (a) the Information Commissioner, as Chair;
- (b) senior offices of agencies nominated in writing by the Secretary to the Cabinet, in consultation with the relevant Ministers.

# EXPOSURE DRAFT

## Part 4 Miscellaneous

### Section 31

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## Part 4—Miscellaneous

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### 31 Miscellaneous—guide to this Part

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This Part deals with a number of other matters relevant to the operation of the Office of the Information Commissioner.

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### 32 Miscellaneous—unauthorised dealing with information

8

(1) A person commits an offence if:

9

(a) the person makes a record of, discloses or otherwise uses information; and

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11

(b) the information was acquired by the person in the course of performing functions or exercising powers conferred for the purposes of an information commissioner function, a freedom of information function or a privacy function.

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Penalty: Imprisonment for 2 years.

16

17

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

18

(2) This section does not apply if:

19

(a) the person records, discloses or otherwise uses the information in the course of performing the same functions or exercising the same powers as those in the course of which the information was acquired; or

20

21

22

(b) the person acquires the information for any other lawful purpose; or

23

24

(c) the person to whom the information relates consents to the recording, disclosure or use of the information.

25

26

27

28

Note: A defendant bears an evidential burden in relation to the matters in subsection (2) (see subsection 13.3(3) of the *Criminal Code*).

29

(3) A person to whom this section applies must not be required to do either of the following unless that disclosure or production is necessary for the purposes of this Act:

30

31

- 1 (a) disclose to a court information that the person acquired in the  
2 course of performing functions or exercising powers under  
3 this Act for the purposes of another Act (or an instrument  
4 under another Act) that confers an information commissioner  
5 function, a freedom of information function or a privacy  
6 function;  
7 (b) produce all or part of a document that contains information of  
8 that kind to a court.
- 9 (4) For the purposes of subsection (3), *court* includes any tribunal,  
10 authority or person having power to require the production of  
11 documents or the answering of questions.

### 33 Miscellaneous—annual report

- 13 (1) The Information Commissioner must, as soon as practicable after  
14 the end of each financial year, prepare and give to the Minister a  
15 report on the operations of the Office of the Information  
16 Commissioner during that year.

17 Note: See also section 34C of the *Acts Interpretation Act 1901*, which  
18 contains extra rules about annual reports.

- 19 (2) The Information Commissioner must cause a copy of the report to  
20 be laid before each House of the Parliament within 15 sitting days  
21 of that House after the report is completed.

22 *What must be included in the report*

- 23 (3) The report must include the following:  
24 (a) the freedom of information matters (see section 34);  
25 (b) the privacy matters (see section 35).

### 34 Miscellaneous—what are the *freedom of information matters*?

- 27 (1) The *freedom of information matters* are as follows:  
28 (a) an identification of the guidelines, if any, mentioned in  
29 paragraph 10(e) during the year;  
30 (b) the number of requests under the *Freedom of Information Act*  
31 *1982* to which subsection (2) applies;

# EXPOSURE DRAFT

## Part 4 Miscellaneous

### Section 34

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- 1 (c) particulars of the results of requests under section 48 of the  
2 *Freedom of Information Act 1982* received during the year;
- 3 (d) particulars of the total charges collected during the year in  
4 dealing with requests and other applications whenever  
5 received;
- 6 (e) the number of applications made under Part VI of the  
7 *Freedom of Information Act 1982* during the year for the  
8 internal review of decisions, and particulars of the results of  
9 those reviews;
- 10 (f) the number of applications made under Part VII of the  
11 *Freedom of Information Act 1982* during the year to the  
12 Information Commissioner for the review of decisions, and  
13 particulars of the results of those reviews;
- 14 (g) the number of complaints made under Part VIIB of the  
15 *Freedom of Information Act 1982* during the year to the  
16 Information Commissioner, and particulars of the results of  
17 investigations undertaken as a result of those complaints.
- 18 (2) This subsection applies to a request if the request is covered by a  
19 provision of the following table.  
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<b>Requests to which this subsection applies</b>			
<b>Item</b>	<b>When was the request received?</b>	<b>Under what provision of the <i>Freedom of Information Act 1982</i> was the request made?</b>	<b>Action on the request during the year</b>
1	During the year	Section 15	Not applicable
2	At any time	Section 15	Access other than partial access was granted to the document or all of the documents to which the request related
3	At any time	Section 15	Access was refused to the document or all of the documents to which the request related
4	At any time	Section 15	Partial access was granted
5	During the year	Section 48	Not applicable

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(3) Without limiting subsection (2), and for the purposes of that subsection, *partial access* is granted in respect of a request if either or both of the following conditions are satisfied in relation to the request:

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(a) access was granted to an edited copy (within the meaning of section 22 of the *Freedom of Information Act 1982*) of the document (or any of the documents) requested;

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(b) the request related to 2 or more documents and access was refused to one or more of the documents.

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### **35 Miscellaneous—what are the *privacy matters*?**

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(1) The *privacy matters* are as follows:

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(a) a statement of the performance of the privacy functions conferred by paragraphs 28(1)(a) and (f) of the *Privacy Act 1988*;

(b) a statement about the operation of approved privacy codes under the *Privacy Act 1988* that contain procedures, covered by subsection (2), including the following:

(i) action taken by adjudicators to monitor compliance with the codes;

(ii) details about the number of complaints made under codes, their nature and outcome.

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(2) This subsection covers procedures for making and dealing with complaints in relation to acts or practices that may be an interference with the privacy of an individual.

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### **36 Miscellaneous—privileges and immunities of the Crown**

27

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The Office of the Information Commissioner has the privileges and immunities of the Crown.

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### **37 Miscellaneous—information officer etc. not to be sued**

30

31

(1) This section applies to a person if:

(a) the person is an information officer; or

# EXPOSURE DRAFT

## Part 4 Miscellaneous

### Section 38

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1 (b) the person is acting under the direction or authority of an  
2 information officer.

3 (2) The person is not liable to an action, suit or proceeding in relation  
4 to an act done or omitted to be done in good faith in the exercise or  
5 purported exercise of any power or authority conferred for the  
6 purposes of an information commissioner function, a freedom of  
7 information function or a privacy function.

### 8 **38 Miscellaneous—power to make regulations**

9 The Governor-General may make regulations prescribing matters:

- 10 (a) required or permitted by this Act to be prescribed; or  
11 (b) necessary or convenient to be prescribed for carrying out or  
12 giving effect to this Act.