



New South Wales

# Government Information (Public Access) (Consequential Amendments and Repeal) Act 2009 No 54

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New South Wales

# **Government Information (Public Access) (Consequential Amendments and Repeal) Act 2009 No 54**

Act No 54, 2009

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An Act to amend various laws as a consequence of the enactment of the *Government Information (Public Access) Act 2009*; to repeal the *Freedom of Information Act 1989*; and for other purposes. [Assented to 26 June 2009]

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**The Legislature of New South Wales enacts:**

**1 Name of Act**

This Act is the *Government Information (Public Access) (Consequential Amendments and Repeal) Act 2009*.

**2 Commencement**

- (1) This Act commences on a day or days to be appointed by proclamation.
- (2) An amendment made by Schedule 2.15 to an uncommenced provision of the *Education Act 1990* does not have effect until the commencement of the provision being amended.

**3 Repeal of Freedom of Information Act 1989 No 5**

The *Freedom of Information Act 1989* is repealed.

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## **Schedule 1      Amendment of Freedom of Information Act 1989 No 5**

**[1]    Part 4 Amendment of records**

Transfer the Part to the *Privacy and Personal Information Protection Act 1998* (with the following amendments) after Part 6 as Part 6A of that Act with sections numbered consecutively starting from section 59A and with cross-references to sections of that Part in those transferred provisions renumbered accordingly.

**[2]    Part 4, Division 1, heading**

Omit the heading.

**[3]    Section 38A**

Insert before section 39:

**38A    Interpretation**

(1) In this Part:

*GIPA Act* means the *Government Information (Public Access) Act 2009*.

(2) Words and expressions used in this Part that are defined in the GIPA Act have the same meanings as in that Act.

**[4]    Section 39 Right to apply for amendment of agencies' records**

Omit "an agency's document". Insert instead "a record held by an agency".

**[5]    Section 39 (a)**

Omit "document". Insert instead "record".

**[6]    Section 40 Applications for amendment of agencies' records**

Omit "agency's document" from section 40 (c).

Insert instead "record held by the agency".

**[7]    Section 40 (d) and (e)**

Omit "document", wherever occurring. Insert instead "record".

**[8]    Section 42 Incomplete applications**

Omit "agency's document". Insert instead "record held by the agency".

**[9] Section 45 Notices of determination**

Omit section 45 (2) (b) (iv). Insert instead:

- (iv) the rights of review under the GIPA Act conferred by this Part in relation to the determination, and

**[10] Section 45 (3)**

Omit the subsection. Insert instead:

- (3) An agency is not required to include in a notice any matter that is of such a nature that its inclusion in the notice would result in the disclosure of information for which there is an overriding public interest against disclosure.

**[11] Section 47**

Omit Divisions 2 and 3 of Part 4. Insert instead:

**47 Right of review under GIPA Act**

A person who is aggrieved by a determination of an agency under this Part is entitled to a review of the determination under Part 5 of the GIPA Act as if the determination were a reviewable decision under that Part.

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## **Schedule 2    Amendment of other legislation**

### **2.1    Aboriginal Land Rights Act 1983 No 42**

#### **Section 248 Aboriginal Land Councils to be public authorities etc for certain purposes**

Omit “*Freedom of Information Act 1989*”.

Insert instead “*Government Information (Public Access) Act 2009*”.

### **2.2    Administrative Decisions Tribunal Act 1997 No 76**

#### **[1]    Section 58 Duty of administrator to lodge material documents with Tribunal where decision reviewed**

Omit “(Application of Act to exempt documents under *Freedom of Information Act 1989*)” from section 58 (7) (c).

Insert instead “(Effect of *Government Information (Public Access) Act 2009*)”.

#### **[2]    Section 124**

Omit the section. Insert instead:

#### **124    Effect of Government Information (Public Access) Act 2009**

##### **(1)    General rule**

Except as provided by this section, nothing in this Act requires or authorises any person or body to disclose information to another person or body if there is an overriding public interest against the disclosure of the information under the *Government Information (Public Access) Act 2009*.

##### **(2)    Disclosure to person or body other than Tribunal**

The provisions of the *Government Information (Public Access) Act 2009* continue to apply to the disclosure of information to any person or body other than to the Tribunal as if this Act had not been enacted.

##### **(3)    Disclosure to Tribunal**

If a provision of this Act requires or authorises any person or body to disclose information to the Tribunal in relation to any proceedings before it and there is an overriding public interest

against the disclosure of the information under the *Government Information (Public Access) Act 2009*:

- (a) the *Government Information (Public Access) Act 2009* does not prevent the disclosure of the information to the Tribunal, and
- (b) the Tribunal is to do all things necessary to ensure that the information is not disclosed to any person other than a member of the Tribunal as constituted for the purpose of the proceedings unless the person or body disclosing the information to the Tribunal consents to the further disclosure.

(4) **Certificates by Director-General or Deputy Director-General (General Counsel) of the Department of Premier and Cabinet concerning Cabinet information**

The Director-General or Deputy Director-General (General Counsel) of the Department of Premier and Cabinet may certify that information is Cabinet information. Any such certificate:

- (a) is conclusive of that fact, and
- (b) authorises any person who would otherwise be required under this Act to lodge a document containing that information with (or disclose the information to) the Tribunal to refuse to lodge the document with (or disclose the information to) the Tribunal.

(5) **Definitions**

In this section:

***Cabinet information*** means information that is Cabinet information under the *Government Information (Public Access) Act 2009*.

***disclose*** has the same meaning as it has in the *Government Information (Public Access) Act 2009*.

[3] **Schedule 2 Composition and functions of Divisions**

Omit “*Freedom of Information Act 1989*” from clause 2 (1) of Part 4.

[4] **Schedule 2, Part 4, clause 2 (1)**

Insert in alphabetical order:

*Government Information (Public Access) Act 2009*

**[5] Schedule 2, Part 4, clause 5**

Omit the clause. Insert instead:

**5 Government Information (Public Access) Act 2009 (Reviewable decisions and other functions)**

Applications made under Division 4 of Part 5 of the *Government Information (Public Access) Act 2009* are to be determined by 1 Division member of the General Division of the Tribunal who is a judicial member.

**2.3 Annual Reports (Departments) Act 1985 No 156**

**Section 6 Inclusion of other reports in annual reports**

Omit “*Freedom of Information Act 1989*” from section 6 (2).

Insert instead “*Government Information (Public Access) Act 2009*”.

**2.4 Annual Reports (Departments) Regulation 2005**

**Schedule 1 Report of operations**

Omit “*Freedom of Information Act 1989*” from Column 2 in the matter relating to “Land disposal”.

Insert instead “*Government Information (Public Access) Act 2009*”.

**2.5 Annual Reports (Statutory Bodies) Act 1984 No 87**

**Section 5A Inclusion of other reports in annual reports**

Omit “*Freedom of Information Act 1989*” from section 5A (2).

Insert instead “*Government Information (Public Access) Act 2009*”.

**2.6 Annual Reports (Statutory Bodies) Regulation 2005**

**Schedule 1 Report of operations**

Omit “*Freedom of Information Act 1989*” from Column 2 in the matter relating to “Land disposal”.

Insert instead “*Government Information (Public Access) Act 2009*”.



**2.7 Casino, Liquor and Gaming Control Authority Act 2007  
No 91**

**Section 17 Secrecy**

Omit “*Freedom of Information Act 1989*” from section 17 (8).

Insert instead “*Government Information (Public Access) Act 2009*”.

**2.8 Children and Young Persons (Care and Protection) Act 1998  
No 157**

**[1] Section 14 Records relating to Aboriginals and Torres Strait Islanders**

Omit section 14 (3).

**[2] Section 29 Protection of persons who make reports or provide certain information**

Omit section 29 (5).

**2.9 Coal Mine Health and Safety Act 2002 No 129**

**Section 207 Disclosure of information**

Omit “the *Freedom of Information Act 1989*” from section 207 (d).

Insert instead “a requirement imposed under the *Government Information (Public Access) Act 2009*”.

**2.10 Commission for Children and Young People Act 1998 No 146**

**[1] Section 22 Exemptions for Cabinet information and other privileged material**

Omit “a Cabinet document” from section 22 (1) (a).

Insert instead “Cabinet information”.

**[2] Section 22 (2)**

Omit the subsection. Insert instead:

- (2) For the purposes of this section, a certificate of the Director-General or Deputy Director-General (General Counsel) of the Department of Premier and Cabinet that:
  - (a) any information or question relates to confidential proceedings of Cabinet, or
  - (b) information is Cabinet information,  
is conclusive of that fact.

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**[3] Section 22 (3), definition of “Cabinet document”**

Omit the definition.

**[4] Section 22 (3)**

Insert in alphabetical order:

*Cabinet information* means information that is Cabinet information under the *Government Information (Public Access) Act 2009*.

**[5] Section 43 Obtaining and correcting information on relevant employment proceedings under Government Information (Public Access) Act 2009**

Omit “*Freedom of Information Act 1989* to any documents of an agency containing information” from section 43 (1).

Insert instead “*Government Information (Public Access) Act 2009* to any information”.

**[6] Section 43 (3)**

Omit “Part 4 of that Act”.

Insert instead “Part 6A of the *Privacy and Personal Information Protection Act 1998*”.

**[7] Section 43 (4)**

Omit the subsection. Insert instead:

(4) The provisions of the *Government Information (Public Access) Act 2009* and Part 6A of the *Privacy and Personal Information Protection Act 1998* apply for the purposes of this section whether or not the agency is an agency to which those provisions apply.

**[8] Section 43 (5)**

Omit “that Act in its”. Insert instead “any provisions of those Acts in their”.

**2.11 Community Services (Complaints, Reviews and Monitoring) Act 1993 No 2**

**Section 43A Exemption from Freedom of Information Act 1989**

Omit the section.

## **2.12 Conveyancers Licensing Act 2003 No 3**

### **Section 161 Disclosure of information**

Omit “*Freedom of Information Act 1989*” from section 161 (1) (d).

Insert instead “*Government Information (Public Access) Act 2009*”.

## **2.13 Crimes (Administration of Sentences) Act 1999 No 93**

### **[1] Section 247 Application of Government Information (Public Access) Act 2009**

Omit “*Freedom of Information Act 1989*”.

Insert instead “*Government Information (Public Access) Act 2009*”.

### **[2] Section 247 (b) and (c)**

Omit “within the meaning”, wherever occurring.

Insert instead “for the purposes”.

### **[3] Schedule 5 Savings, transitional and other provisions**

Omit clause 81. Insert instead:

#### **81 Exempt documents**

A document that contains matter relating to functions in relation to which the office of Inspector-General of Corrective Services was, by virtue of section 9 of the *Freedom of Information Act 1989*, exempt from the operation of that Act immediately before 1 October 2003 is taken to be, and to always have been, an exempt document within the meaning of the *Freedom of Information Act 1989* and a document containing information for which there is an overriding public interest against disclosure for the purposes of the *Government Information (Public Access) Act 2009*.

## **2.14 Dust Diseases Tribunal Act 1989 No 63**

### **Section 32I Information about claims**

Omit section 32I (7).

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## 2.15 Education Act 1990 No 8

### [1] Section 26B Purpose of obtaining information about students

Omit section 26B (2). Insert instead:

- (2) Information about a student obtained under this Division is prohibited from being disclosed under the *Government Information (Public Access) Act 2009* except in response to an access application under that Act that is made by:
  - (a) the student the subject of the information, or
  - (b) a parent of the student, or
  - (c) any person nominated in writing by the student or a parent of the student.
- (3) Nothing in this Division operates to prevent the provision or disclosure of information as required or permitted by or under any other Act or law (except as provided by subsection (2)).

### [2] Section 26F No offence or liability for disclosure of information

Omit the note at the end of the section.

## 2.16 Education Legislation Amendment Act 2006 No 114

### [1] Section 7 Amendment of Freedom of Information Act 1989 No 5

Omit the section.

### [2] Schedule 5 Amendment of Freedom of Information Act 1989

Omit the Schedule.

## 2.17 Electricity Supply Act 1995 No 94

### [1] Section 43EI Cabinet information and proceedings

Omit “produce a Cabinet document” from section 43EI (1) (b).

Insert instead “disclose Cabinet information”.

### [2] Sections 43EI (1) (c) and 97HD (1) (c)

Omit “a Cabinet document”, wherever occurring.

Insert instead “Cabinet information”.

**[3] Section 43EI (2)**

Omit the subsection. Insert instead:

- (2) For the purposes of this section, a certificate of the Director-General or Deputy Director-General (General Counsel) of the Department of Premier and Cabinet that:
- (a) any information or question relates to confidential proceedings of Cabinet, or
  - (b) information is Cabinet information, is conclusive of that fact.

**[4] Section 43EI (3), definition of “Cabinet document”**

Omit the definition.

**[5] Section 43EI (3)**

Insert in alphabetical order:

*Cabinet information* means information that is Cabinet information under the *Government Information (Public Access) Act 2009*.

**[6] Section 97HD Cabinet information and proceedings**

Omit “produce a Cabinet document” from section 97HD (1) (b).

Insert instead “disclose Cabinet information”.

**[7] Section 97HD (2)**

Omit the subsection. Insert instead:

- (2) For the purposes of this section, a certificate of the Director-General or Deputy Director-General (General Counsel) of the Department of Premier and Cabinet that:
- (a) any information or question relates to confidential proceedings of Cabinet, or
  - (b) information is Cabinet information, is conclusive of that fact.

**[8] Section 97HD (3), definition of “Cabinet document”**

Omit the definition.

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**[9] Section 97HD (3)**

Insert in alphabetical order:

*Cabinet information* means information that is Cabinet information under the *Government Information (Public Access) Act 2009*.

**2.18 Electronic Transactions Act 2000 No 8**

**Section 14B Establishment of ECM system**

Omit “*Freedom of Information Act 1989*” from section 14B (2).

Insert instead “*Government Information (Public Access) Act 2009*”.

**2.19 Electronic Transactions Regulation 2007**

**Clauses 4 (1) and 7 (1)**

Omit “*Freedom of Information Act 1989*, and any regulations under that Act”, wherever occurring.

Insert in alphabetical order “*Government Information (Public Access) Act 2009*, and any regulations under that Act”.

**2.20 Filming Approval Act 2004 No 38**

**Section 12 Register of filming approvals to be publicly available**

Omit “*Freedom of Information Act 1989*” from section 12 (2) (d).

Insert instead “*Government Information (Public Access) Act 2009*”.

**2.21 Gambling (Two-up) Act 1998 No 115**

**Section 29 Secrecy**

Omit section 29 (6).

**2.22 Gaming Machines Act 2001 No 127**

**Section 206 Secrecy**

Omit “*Freedom of Information Act 1989*” from section 206 (6).

Insert instead “*Government Information (Public Access) Act 2009*”.

## **2.23 Health Records and Information Privacy Act 2002 No 71**

### **[1] Section 5 Definition of “personal information”**

Omit section 5 (3) (1). Insert instead:

- (1) information about an individual that is contained in Cabinet information or Executive Council information under the *Government Information (Public Access) Act 2009*,

### **[2] Section 22 Government Information (Public Access) Act 2009 not affected**

Omit “*Freedom of Information Act 1989*” from section 22 (1).

Insert instead “*Government Information (Public Access) Act 2009*”.

### **[3] Section 22 (2)**

Omit the subsection. Insert instead:

- (2) In particular, this Act does not operate to lessen any obligations under the *Government Information (Public Access) Act 2009* in respect of a public sector agency.

### **[4] Section 22 (3)**

Omit “*Freedom of Information Act 1989*”.

Insert instead “*Government Information (Public Access) Act 2009* and the *Privacy and Personal Information Protection Act 1998*”.

### **[5] Schedule 1 Health Privacy Principles**

Omit “*Freedom of Information Act 1989*” from the note to clause 7 (1).

Insert instead “*Government Information (Public Access) Act 2009*”.

### **[6] Schedule 1, clause 8 (3)**

Omit “*Freedom of Information Act 1989*” from the note to the subclause.

Insert instead “*Privacy and Personal Information Protection Act 1998*”.

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## 2.24 HomeFund Commissioner Act 1993 No 9

### [1] Section 21 Cabinet information and proceedings

Omit “confidential proceedings of cabinet or any committee of cabinet” from section 21 (1) (a).

Insert instead “information that is Cabinet information under the *Government Information (Public Access) Act 2009* or to confidential proceedings of Cabinet or any committee of Cabinet”.

### [2] Section 21 (2)

Omit the subsection. Insert instead:

- (2) For the purposes of this section, a certificate of the Director-General or Deputy Director-General (General Counsel) of the Department of Premier and Cabinet that:
  - (a) any information, document, thing or question relates to confidential proceedings of Cabinet or of a committee of Cabinet, or
  - (b) information is Cabinet information, is conclusive of that fact.

## 2.25 Hunter Water Act 1991 No 53

### Section 74 Application of Freedom of Information Act 1989 No 5

Omit the section.

## 2.26 Independent Pricing and Regulatory Tribunal Act 1992 No 39

### [1] Section 22A Making submissions and documents available to public

Omit “is an exempt document within the meaning of the *Freedom of Information Act 1989*” wherever occurring in section 22A (1) and (2).

Insert instead “contains information that the Tribunal would not be required to disclose under the *Government Information (Public Access) Act 2009*”.

### [2] Section 25A Cabinet information and proceedings

Omit “produce a Cabinet document” from section 25A (1) (b).

Insert instead “disclose Cabinet information”.

### [3] Section 25A (1) (c)

Omit “a Cabinet document”. Insert instead “Cabinet information”.



**[4] Section 25A (2)**

Omit the subsection. Insert instead:

- (2) For the purposes of this section, a certificate of the Director-General or Deputy Director-General (General Counsel) of the Department of Premier and Cabinet that:
- (a) any information or question relates to confidential proceedings of Cabinet, or
  - (b) information is Cabinet information, is conclusive of that fact.

**[5] Section 25A (3), definition of “Cabinet document”**

Omit the definition.

**[6] Section 25A (3)**

Insert in alphabetical order:

*Cabinet information* means information that is Cabinet information under the *Government Information (Public Access) Act 2009*.

## **2.27 Innovation Council Act 1996 No 77**

### **Section 13 Power to require certain information**

Omit “*Freedom of Information Act 1989*” from section 13 (2).

Insert instead “*Government Information (Public Access) Act 2009*”.

## **2.28 Local Government Act 1993 No 30**

**[1] Section 10B Further limitations relating to closure of parts of meetings to public**

Omit the note to section 10B (4).

**[2] Chapter 4, Part 2 Access to information**

Omit the Part.

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**[3] Section 22 Other functions**

Omit the matter relating to the *Freedom of Information Act 1989* from the note.

Insert in alphabetical order:

<i>Government Information (Public Access) Act 2009</i>	council required to publish certain information and to grant access to certain documents
<i>Privacy and Personal Information Protection Act 1998</i>	council required to amend certain records that are shown to be incomplete, incorrect, out of date or misleading

**[4] Chapter 13 How are councils made accountable for their actions?**

Omit “*Freedom of Information Act 1989*” from the Introduction to the Chapter.

Insert instead “*Government Information (Public Access) Act 2009*”.

**[5] Chapter 13, Introduction**

Insert “, under the *Privacy and Personal Information Protection Act 1998*,” after “They are also entitled”.

**[6] Section 664 Disclosure and misuse of information**

Omit “*Freedom of Information Act 1989*” from section 664 (1) (d).

Insert instead “*Government Information (Public Access) Act 2009*”.

**[7] Section 739A**

Insert after section 739:

**739A Retention, preservation and destruction of records**

The council must retain, preserve and destroy its records in accordance with any approved standards.

**2.29 Mine Health and Safety Act 2004 No 74**

**Section 178 Disclosure of information**

Omit “the *Freedom of Information Act 1989*” from section 178 (d).

Insert instead “a requirement imposed under the *Government Information (Public Access) Act 2009*”.

## **2.30 Mining Act 1992 No 29**

### **Section 365 Disclosure of information**

Omit “under the *Freedom of Information Act 1989*” from section 365 (1) (f).

Insert instead “in accordance with a requirement imposed under the *Government Information (Public Access) Act 2009*”.

## **2.31 National Parks and Wildlife Act 1974 No 80**

### **[1] Section 151D Register of certain interests to be publicly available**

Omit “by the *Freedom of Information Act 1989*” from section 151D (2) (e).

Insert instead “under the *Government Information (Public Access) Act 2009*”.

### **[2] Section 161 Restriction on release of certain information**

Omit “the documents concerned are exempt documents within the meaning of the *Freedom of Information Act 1989*” from section 161 (2).

Insert instead “information contained in the documents concerned is information for which there is a conclusive presumption of overriding public interest against disclosure for the purposes of the *Government Information (Public Access) Act 2009*”.

## **2.32 Natural Resources Commission Act 2003 No 102**

### **[1] Section 19 Cabinet information and proceedings**

Omit “produce a Cabinet document” from section 19 (1) (b).

Insert instead “disclose Cabinet information”.

### **[2] Section 19 (1) (c)**

Omit “a Cabinet document”. Insert instead “Cabinet information”.

### **[3] Section 19 (2)**

Omit the subsection. Insert instead:

- (2) For the purposes of this section, a certificate of the Director-General or Deputy Director-General (General Counsel) of the Department of Premier and Cabinet that:
  - (a) any information or question relates to confidential proceedings of Cabinet, or
  - (b) information is Cabinet information, is conclusive of that fact.

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**[4] Section 19 (3), definition of “Cabinet document”**

Omit the definition.

**[5] Section 19 (3)**

Insert in alphabetical order:

*Cabinet information* means information that is Cabinet information under the *Government Information (Public Access) Act 2009*.

**2.33 Ombudsman Act 1974 No 68**

**[1] Section 21B Requirements and inspections relating to matters affected by legal professional privilege on review under Freedom of Information Act 1989**

Omit the section.

**[2] Section 22 Cabinet information and proceedings**

Omit “a cabinet document that is an exempt document under the *Freedom of Information Act 1989* or to confidential proceedings of cabinet or any committee of cabinet” from section 22 (1) (a).

Insert instead “information that is Cabinet information under the *Government Information (Public Access) Act 2009* or to confidential proceedings of Cabinet or any committee of Cabinet”.

**[3] Section 22 (2)**

Omit the subsection. Insert instead:

(2) For the purposes of this section, a certificate of the Director-General or Deputy Director-General (General Counsel) of the Department of Premier and Cabinet that:

(a) information is Cabinet information under the *Government Information (Public Access) Act 2009*, or

(b) any information, document, thing or question relates to confidential proceedings of Cabinet or of a committee of Cabinet,

is conclusive of that fact.

**[4] Section 31AC Ombudsman may furnish information to public authority**

Insert “or the *Health Records and Information Privacy Act 2002*” after “*Privacy and Personal Information Protection Act 1998*” in section 31AC (2) (b).

**[5] Section 34 Disclosure by Ombudsman or officer**

Omit section 34 (1) (b3). Insert instead:

- (b3) for the purpose of any proceedings under Part 5 of the *Government Information (Public Access) Act 2009* arising as a consequence of a decision made by the Ombudsman in respect of an access application under that Act,

**[6] Section 35 Ombudsman, officer or expert as witness**

Omit “or” from section 35 (2) (c).

**[7] Section 35 (2) (d)**

Omit the paragraph. Insert instead:

- (d) under Part 5 of the *Government Information (Public Access) Act 2009* arising as a consequence of a decision made by the Ombudsman in respect of an access application under that Act,

**[8] Schedule 1A Agencies**

Insert in alphabetical order:

Information Commissioner

**2.34 Privacy and Personal Information Protection Act 1998  
No 133**

**[1] Section 4 Definition of “personal information”**

Omit section 4 (3) (i). Insert instead:

- (i) information about an individual that is contained in Cabinet information or Executive Council information under the *Government Information (Public Access) Act 2009*,

**[2] Section 5 Government Information (Public Access) Act 2009 not affected**

Omit “*Freedom of Information Act 1989*” from section 5 (1).

Insert instead “*Government Information (Public Access) Act 2009*”.

**[3] Section 5 (2)**

Omit the subsection. Insert instead:

- (2) In particular, this Act does not operate to lessen any obligations under the *Government Information (Public Access) Act 2009* in respect of a public sector agency.

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**[4] Section 20 General application of information protection principles to public sector agencies**

Omit “*Freedom of Information Act 1989*” from section 20 (5).

Insert instead “*Government Information (Public Access) Act 2009*”.

**[5] Section 43 Disclosure of Cabinet or Executive Council information**

Omit “an exempt document” from section 43 (1).

Insert instead “Cabinet information or Executive Council information”.

**[6] Section 43 (2)**

Omit “The Director-General of The Cabinet Office may certify that a document is an exempt document because it is a Cabinet document.”.

Insert instead “The Director-General or Deputy Director-General (General Counsel) of the Department of Premier and Cabinet may certify that information is Cabinet information.”.

**[7] Section 43 (2) (b)**

Omit “document”. Insert instead “information”.

**[8] Section 43 (3)**

Omit the subsection. Insert instead:

(3) In this section:

***Cabinet information*** means information that is Cabinet information under the *Government Information (Public Access) Act 2009*.

***Executive Council information*** means information that is Executive Council information under the *Government Information (Public Access) Act 2009*.

## **2.35 Privacy Code of Practice (General) 2003**

### **Clause 3 Limitations**

Omit “*Freedom of Information Act 1989*” from clause 3 (b).

Insert instead “*Government Information (Public Access) Act 2009*”.

## **2.36 Property, Stock and Business Agents Act 2002 No 66**

### **Section 219 Disclosure of information**

Omit “*Freedom of Information Act 1989*” from section 219 (1) (d).

Insert instead “*Government Information (Public Access) Act 2009*”.

## **2.37 Protected Disclosures Act 1994 No 92**

### **[1] Section 4 Definitions**

Insert at the end of paragraph (g) of the definition of *investigating authority*:

, or

(h) the Information Commissioner.

### **[2] Section 4, definition of “investigation Act”**

Insert at the end of paragraph (e) of the definition:

, or

(f) the *Government Information (Information Commissioner) Act 2009*.

### **[3] Section 12D**

Insert after section 12C:

#### **12D Disclosure to Information Commissioner**

To be protected by this Act, a disclosure by a public official to the Information Commissioner must:

- (a) be made in accordance with the *Government Information (Information Commissioner) Act 2009*, and
- (b) be disclosure of information that shows or tends to show that a public authority or another public official has engaged, is engaged or proposes to engage in conduct of a kind that constitutes a failure to exercise its functions properly in accordance with any provision of the *Government Information (Public Access) Act 2009*.

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## **2.38 Protection of the Environment Operations Act 1997 No 156**

### **Section 320 Disclosure of monitoring data**

Omit “documents under section 27 of the *Freedom of Information Act 1989*” from section 320 (3).

Insert instead “information under section 72 of the *Government Information (Public Access) Act 2009*”.

## **2.39 Protection of the Environment Operations (General) Regulation 2009**

### **Clause 71 Commercial confidentiality**

Omit “a document referring to the information would be an exempt document under clause 7 or 8 of Schedule 1 to the *Freedom of Information Act 1989*” from clause 71 (4).

Insert instead “a document contains information for which there is an overriding public interest against disclosure under the *Government Information (Public Access) Act 2009* because of the public interest considerations in clause 4 of the Table to section 14 of that Act”.

## **2.40 Public Finance and Audit Act 1983 No 152**

### **Section 36 Access to records, information etc**

Omit “a cabinet document that is an exempt document under the *Freedom of Information Act 1989*” from section 36 (6).

Insert instead “information that is Cabinet information under the *Government Information (Public Access) Act 2009*”.

## **2.41 Public Lotteries Act 1996 No 86**

### **Section 80 Secrecy**

Omit “*Freedom of Information Act 1989*” from section 80 (6).

Insert instead “*Government Information (Public Access) Act 2009*”.

## **2.42 Public Sector Employment and Management Act 2002 No 43**

### **[1] Section 156 Cabinet information and proceedings**

Omit “produce a Cabinet document” from section 156 (1) (b).

Insert instead “disclose Cabinet information”.



**[2] Section 156 (1) (c)**

Omit “a Cabinet document”. Insert instead “Cabinet information”.

**[3] Section 156 (2)**

Omit the subsection. Insert instead:

- (2) For the purposes of this section, a certificate of the Director-General or Deputy Director-General (General Counsel) of the Department of Premier and Cabinet that:
  - (a) any information or question relates to confidential proceedings of Cabinet, or
  - (b) information is Cabinet information, is conclusive of that fact.

**[4] Section 156 (3), definition of “Cabinet document”**

Omit the definition.

**[5] Section 156 (3)**

Insert in alphabetical order:

*Cabinet information* means information that is Cabinet information under the *Government Information (Public Access) Act 2009*.

## **2.43 Public Sector Management (Goods and Services) Regulation 2000**

**[1] Clause 24 Information concerning supply and disposal arrangements**

Omit “the provisions of the *Freedom of Information Act 1989* and” from clause 24 (2).

**[2] Clause 24 (3)**

Insert after clause 24 (2):

- (3) This clause does not require the Board to provide information that it would not be required to disclose under the *Government Information (Public Access) Act 2009*.

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## 2.44 Regional Development Act 2004 No 58

### Section 14 Disclosure of information

Omit “the *Freedom of Information Act 1989*” from section 14 (d).

Insert instead “a requirement imposed under the *Government Information (Public Access) Act 2009*”.

## 2.45 Retirement Villages Act 1999 No 81

### Section 200 Disclosure of information

Omit “*Freedom of Information Act 1989*” from section 200 (d).

Insert instead “*Government Information (Public Access) Act 2009*”.

## 2.46 State Records Act 1998 No 17

### [1] Section 3 Definitions

Omit the definition of *FOI Act* from section 3 (1).

### [2] Section 56

Omit the section. Insert instead:

#### 56 Access still available under Government Information (Public Access) Act 2009

The fact that a record is not open to public access under this Act does not affect any entitlement to obtain access to information contained in the record under the *Government Information (Public Access) Act 2009*.

**Note.** If a record is not open to public access because it is not the subject of an access direction, an application under this Part for an OPA direction should be made before an application is made under the *Government Information (Public Access) Act 2009*.

### [3] Section 59 Withholding access to ensure proper care of records

Omit section 59 (2).

### [4] Section 59 (3)

Omit “FOI Act”.

Insert instead “*Government Information (Public Access) Act 2009*”.

## **2.47 State Records Regulation 2005**

### **Schedule 2 Provisions excepted from operation of section 21**

Omit “*Freedom of Information Act 1989*, section 43 (Determination of applications)” from the matter under the heading “**Provisions authorising alteration of records**”.

Insert instead “*Privacy and Personal Information Protection Act 1998*, section 59F (Determination of applications)”.

## **2.48 Superannuation Administration Authority Corporatisation Act 1999 No 5**

### **Section 13 FOI exemption**

Omit the section.

## **2.49 Sydney 2009 World Masters Games Organising Committee Act 2005 No 65**

### **Section 36 Disclosure and misuse of information**

Omit “*Freedom of Information Act 1989*” from section 36 (1) (d).

Insert instead “*Government Information (Public Access) Act 2009*”.

## **2.50 Sydney Water Act 1994 No 88**

### **Section 104 Application of Freedom of Information Act 1989**

Omit the section.

## **2.51 Threatened Species Conservation Act 1995 No 101**

### **Section 146 Decision not to disclose location of critical habitat**

Omit the note at the end of the section. Insert instead:

**Note.** Matter that is the subject of a determination referred to in subsection (1) is information for which there is a conclusive presumption of an overriding public interest against disclosure under the *Government Information (Public Access) Act 2009*.

## **2.52 Totalizator Act 1997 No 45**

### **Section 105 Secrecy**

Omit “*Freedom of Information Act 1989*” from section 105 (6).

Insert instead “*Government Information (Public Access) Act 2009*”.

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### **2.53 Transport Administration Act 1988 No 109**

**[1] Sections 17B (4), 31 (2B), 35N (4), 35ZA (4) and 55L (4)**

Omit “*Freedom of Information Act 1989*”, wherever occurring.

Insert instead “*Government Information (Public Access) Act 2009*”.

**[2] Section 35ZG Disclosure of information**

Omit “the *Freedom of Information Act 1989*” from section 35ZG (c).

Insert instead “a requirement imposed under the *Government Information (Public Access) Act 2009*”.

**[3] Schedule 11 Conversion of Public Transport Ticketing Corporation to a SOC**

Omit “the *Freedom of Information Act 1989*” from proposed section 35Y in item [1].

Insert instead “a requirement imposed under the *Government Information (Public Access) Act 2009*”.

### **2.54 Valuers Act 2003 No 4**

**Section 38 Disclosure of information**

Omit “*Freedom of Information Act 1989*” from section 38 (1) (d).

Insert instead “*Government Information (Public Access) Act 2009*”.

### **2.55 Workers Compensation Regulation 2003**

**Schedule 6 Maximum costs—compensation matters**

Omit “*Freedom of Information Act 1989*” from clause 17 (d).

Insert instead “*Government Information (Public Access) Act 2009*”.

[Agreement in principle speech made in Legislative Assembly on 17 June 2009  
Second reading speech made in Legislative Council on 24 June 2009]

BY AUTHORITY