

Privacy and Personal Information Protection Regulation 2005

[2005-426]



New South Wales

Status Information

Currency of version

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Provisions in force

The provisions displayed in this version of the legislation have all commenced.

Authorisation

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1 Name of Regulation

This Regulation is the *Privacy and Personal Information Protection Regulation 2005*.

2 Commencement

This Regulation commences on 1 September 2005.

Note—

This Regulation replaces the *Privacy and Personal Information Protection Regulation 2000* which is repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

(1) In this Regulation:

the Act means the *Privacy and Personal Information Protection Act 1998*.

(2) Notes included in this Regulation do not form part of this Regulation.

4 Meaning of personal information

For the purposes of section 4 (3) (k) of the Act, the following information is not personal information:

- (a) information about an individual that is contained in a document kept in a library, art gallery or museum for the purposes of reference, study or exhibition,
- (b) information about an individual that is contained in a State record under the control of the State Records Authority that is available for public inspection in accordance with the *State Records Act 1998*,
- (c) information about an individual that is contained in archives within the meaning of the *Copyright Act 1968* of the Commonwealth.

5 Exemptions in relation to privacy management plans

(1) A public sector agency (**the relevant agency**) is exempt from the provisions of

section 33 of the Act if:

- (a) the staff of the relevant agency are part of the staff of another public sector agency, or
- (b) the Minister has, by order published in the Gazette, declared that the relevant agency is taken not to be a separate agency for the purposes of section 33 of the Act but is taken to be included in another public sector agency,

and the privacy management plan of that other agency states that the plan extends to the relevant agency.

- (2) The *Privacy and Personal Information Protection (Privacy Management Plan Exemptions) Order 2002* published on 29 November 2002 in Gazette No 237 at page 10135 is taken to have been made under this clause and, accordingly, continues in force unless it is revoked by the Minister.

6 Exemptions in relation to public registers

- (1) The Registrar-General is exempt from the provisions of Part 6 of the Act with respect to the following public registers:
 - (a) the Register within the meaning of the *Real Property Act 1900* (that is, the Torrens Register) and any index that is kept by the Registrar-General in connection with that Register,
 - (b) the General Register of Deeds maintained under section 184C of the *Conveyancing Act 1919*,
 - (c) any index kept under section 198 of the *Conveyancing Act 1919*,
 - (d) the Central Register of Restrictions maintained under Part 24 of the *Conveyancing Act 1919*.
- (2) The Valuer-General is exempt from the provisions of Part 6 of the Act with respect to the Register of Land Values kept under the *Valuation of Land Act 1916*.
- (3) The Attorney General's Department is exempt from the provisions of Part 6 of the Act with respect to the register of justices of the peace kept under section 11 of the *Justices of the Peace Act 2002*.
- (4) The Minister administering the *Water Management Act 2000* is exempt from the provisions of Part 6 of the Act with respect to the Water Access Licence Register kept under section 71 of that Act and the register of approvals kept under section 113 of that Act.
- (5) The Department of Premier and Cabinet is exempt from the provisions of Part 6 of the Act with respect to the register of professional lobbyists that is made available for

inspection on the website of the Department.

- (6) The Election Funding Authority is exempt from the provisions of Part 6 of the Act with respect to a register kept under Part 4 of the *Election Funding, Expenditure and Disclosures Act 1981*.

7 General exemption

The Council of the Law Society and the Council of the Bar Association are exempt from all of the provisions of the Act.

8 Aboriginal Trust Funds Repayment Scheme exemption

- (1) In this clause:

ATFRS agency means the Department of Aboriginal Affairs, the State Records Authority or the Premier's Department.

ATFR Scheme means the Aboriginal Trust Funds Repayment Scheme established by the NSW Government.

- (2) An ATFRS agency is exempt from sections 8–11 and 15–19 of the Act in respect of the collection, holding, use and disclosure of personal information in connection with the implementation and operation of the ATFR Scheme if:
- (a) before collecting, using or disclosing any personal information about a claimant or potential claimant under the ATFR Scheme, the ATFRS agency ensures that the claimant or potential claimant (or if the person is deceased, a relative of the person) is notified of the following:
 - (i) the fact that personal information may be collected, held, used and disclosed,
 - (ii) the purposes for which that information may be collected, held, used and disclosed,
 - (iii) the persons or agencies to which that information may be disclosed,
 - (iv) any rights of the person under the Act relating to that collection, holding, use or disclosure, and
 - (b) the ATFRS agency takes reasonable steps to ensure that personal information affected by the exemption is not unreasonably or unnecessarily disclosed.
- (3) A public sector agency is exempt from sections 17–19 of the Act in respect of a disclosure of personal information to an ATFRS agency in connection with the implementation and operation of the ATFR Scheme.