

South Australia

Freedom of Information (Exempt Agency) Regulations 2008

under the *Freedom of Information Act 1991*

Contents

1	Short title
3	Interpretation
4	Exempt agencies
5	Exempt agencies in respect of certain information—education agencies
6	Exempt agency in respect of certain functions and information—South Australian Skills Commission
7	Exempt agencies in respect of certain information—investigation into City of Burnside
8	Exempt agency in respect of certain information—SACE Board
9	Exempt agency in respect of certain information—Small Business Commissioner
10	Exempt agency in respect of certain information—Department of Treasury and Finance
11	Exempt agency in respect of certain information—CTP Regulator
12	Exempt agency—Parliamentary Budget Advisory Service
13	Exempt agencies in respect of certain functions—functions relating to Parliamentary Budget Advisory Service
14	Exempt agency in respect of certain information—Parliamentary Budget Advisory Service
15	Exempt agency in respect of certain functions—Public Advocate

Legislative history

1—Short title

These regulations may be cited as the *Freedom of Information (Exempt Agency) Regulations 2008*.

3—Interpretation

- (1) In these regulations—
Act means the *Freedom of Information Act 1991*.
- (2) For the avoidance of doubt, where a provision of these regulations declares an agency to be an exempt agency in respect of a specified class of information, the agency is, from the commencement of the provision, so exempt regardless of whether the information was created or received by the agency before or after that commencement.

4—Exempt agencies

For the purposes of the definition of *exempt agency* in section 4(1) of the Act, the following agencies are declared to be exempt agencies:

- (b) the reviewer appointed under Schedule 4 of the *Independent Commissioner Against Corruption Act 2012*;

- (c) the Generation Lessor Corporation, the Distribution Lessor Corporation and the Transmission Lessor Corporation established under the *Public Corporations Act 1993*;
- (d) the commission of inquiry established under the *Commission of Inquiry (Children in State Care and Children on APY Lands) Act 2004*;
- (e) each agency established by or under the *Health and Community Services Complaints Act 2004*;
- (f) the investigator appointed pursuant to instrument of appointment dated 22 July 2009 under section 272 of the *Local Government Act 1999* to carry out an investigation into the City of Burnside.

5—Exempt agencies in respect of certain information—education agencies

- (1) For the purposes of the definition of *exempt agency* in section 4(1) of the Act, the following agencies are declared to be exempt agencies in respect of comparative student performance information:
 - (a) the Minister responsible for the administration of the *SACE Board of South Australia Act 1983*;
 - (b) the Minister responsible for the administration of the *Education Act 1972*;
 - (ba) the Minister responsible for the administration of the *Education and Early Childhood Services (Registration and Standards) Act 2011*;
 - (c) the Department of Education and Children's Services.
- (2) In this regulation—

children of compulsory education age has the same meaning as in the *Education Act 1972*;

comparative student performance information means information of any of the following classes (whether presented in a statistical form or otherwise):

- (a) aggregated information relating to the results of any assessments undertaken by senior secondary students or children of compulsory education age;
- (b) aggregated information relating to the tertiary entrance ranks of senior secondary students;
- (c) aggregated information relating to exemptions granted to children of compulsory education age under the *Education Act 1972* from a requirement under that Act that the children be enrolled in an approved learning program;

senior secondary students means—

- (a) before the day that section 6 of the *Senior Secondary Assessment Board of South Australia (Review) Amendment Act 2008* comes into operation—a student undertaking senior secondary education (within the meaning of the *Senior Secondary Assessment Board of South Australia Act 1983*); and
- (b) on and from the day that section 6 of the *Senior Secondary Assessment Board of South Australia (Review) Amendment Act 2008* comes into operation—a student (within the meaning of the *SACE Board of South Australia Act 1983*).

6—Exempt agency in respect of certain functions and information—South Australian Skills Commission

For the purposes of the definition of *exempt agency* in section 4(1) of the Act, the South Australian Skills Commission established under section 15 of the *South Australian Skills Act 2008* is declared to be an exempt agency in respect of—

- (a) functions set out in section 19(1)(d) of the *South Australian Skills Act 2008* regarding complaint handling and dispute resolution, including mediation and advocacy services; and
- (b) information formerly held by the Training Advocate (formerly in existence under the *Training and Skills Development Act 2008*) relating to functions in respect of which the Training Advocate was an exempt agency under regulation 6 of these regulations as in force immediately before the commencement of this regulation.

7—Exempt agencies in respect of certain information—investigation into City of Burnside

For the purposes of the definition of *exempt agency* in section 4(1) of the Act, the following agencies are declared to be exempt agencies in respect of information relating to the investigation into the City of Burnside carried out by the investigator referred to in regulation 4(f):

- (a) any agency assisting in the investigation;
- (b) the Department of Primary Industries and Resources;
- (c) the Minister for State/Local Government Relations;
- (d) the Department of Planning and Local Government.

8—Exempt agency in respect of certain information—SACE Board

- (1) For the purposes of the definition of *exempt agency* in section 4(1) of the Act, the SACE Board is declared to be an exempt agency in respect of the following classes of information:
 - (a) information relating to the results of students in SACE assessments;
 - (b) comparative school performance information;
 - (c) information comprising, relating to or used in the application of standards of marking (however described) in the assessment of students;
 - (d) information contained in a report prepared by a person or body appointed or established by the SACE Board to determine grade levels, or to ensure consistency in grading, and any information used in the preparation of such a report;
 - (e) information comprising, or relating to, an examination paper for an examination that has not yet occurred at the time of an application under the Act relating to the information;
 - (f) information relating to the assessment of students with disabilities;
 - (g) information relating to the alternative assessment of students on compassionate or other grounds;

- (h) information used, or to be used, by the SACE Board to determine recipients of prizes, awards or commendations (however described);
 - (i) information received by the SACE Board in the course of, or in relation to, a dispute resolution process (whether relating to a particular student or class of students, and however described);
 - (j) information identifying a member of the SACE Board or a person exercising a power or performing a function under the *SACE Board of South Australia Act 1983*.
- (2) In this regulation—

comparative school performance information means information of either of the following classes (whether presented in a statistical form or otherwise):

- (a) aggregated information relating to the results of any assessments undertaken by students at a particular school or group of schools;
- (b) aggregated information relating to the tertiary entrance ranks of students at a particular school or group of schools;

SACE Board means the SACE Board of South Australia continued under the *SACE Board of South Australia Act 1983*.

9—Exempt agency in respect of certain information—Small Business Commissioner

For the purposes of the definition of ***exempt agency*** in section 4(1) of the Act, the Small Business Commissioner is declared to be an exempt agency in respect of information other than—

- (a) financial and administrative information relating to the operations of the Small Business Commissioner; and
- (b) statistical information that does not identify any particular person or business.

10—Exempt agency in respect of certain information—Department of Treasury and Finance

For the purposes of the definition of ***exempt agency*** in section 4(1) of the Act, the Department of Treasury and Finance is declared to be an exempt agency in respect of information formerly held by the RESI Corporation (formerly in existence under the *Electricity Corporations Act 1994*).

11—Exempt agency in respect of certain information—CTP Regulator

For the purposes of the definition of ***exempt agency*** in section 4(1) of the Act, the CTP Regulator established under the *Compulsory Third Party Insurance Regulation Act 2016* is declared to be an exempt agency in respect of the following classes of information:

- (a) information relating to a claim or action under Part 4 of the *Motor Vehicles Act 1959*;
- (b) information gained under Part 3 of the *Compulsory Third Party Insurance Regulation Act 2016* that is confidential information within the meaning of section 17(1) of that Act.

12—Exempt agency—Parliamentary Budget Advisory Service

For the purposes of the definition of *exempt agency* in section 4(1) of the Act, the Parliamentary Budget Advisory Service (to be established as an attached office under the *Public Sector Act 2009*) is declared to be an exempt agency.

13—Exempt agencies in respect of certain functions—functions relating to Parliamentary Budget Advisory Service

For the purposes of the definition of *exempt agency* in section 4(1) of the Act, each agency that provides information to, or receives information from, the Parliamentary Budget Advisory Service (referred to in regulation 12) in connection with the advisory services provided by the Parliamentary Budget Advisory Service is declared to be an exempt agency in respect of those functions.

14—Exempt agency in respect of certain information—Parliamentary Budget Advisory Service

For the purposes of the definition of *exempt agency* in section 4(1) of the Act, any agency that holds information formerly held by the Parliamentary Budget Advisory Service relating to advisory services provided by the Parliamentary Budget Advisory Service is declared to be an exempt agency in respect of that information.

15—Exempt agency in respect of certain functions—Public Advocate

For the purposes of the definition of *exempt agency* in section 4(1) of the Act, the Public Advocate established under the *Guardianship and Administration Act 1993* is declared to be an exempt agency in respect of—

- (a) functions exercised as a guardian; and
- (b) investigations of the affairs of persons under section 28 of the *Guardianship and Administration Act 1993*; and
- (c) functions under the *Advance Care Directives Act 2013* relating to dispute resolution; and
- (d) functions under the *Consent to Medical Treatment and Palliative Care Act 1995* relating to dispute resolution.

Legislative history

Notes

- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of these regulations (historical versions) are listed at the end of the legislative history.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or www.legislation.sa.gov.au.

Legislation revoked by principal regulations

The *Freedom of Information (Exempt Agency) Regulations 2008* revoked the following:

Freedom of Information (Exempt Agency) Regulations 1993

Principal regulations and variations

New entries appear in bold.

Year	No	Reference	Commencement
2008	19	<i>Gazette 28.2.2008 p754</i>	28.6.2008: r 2
2008	247	<i>Gazette 4.9.2008 p4246</i>	4.9.2008: r 2
2009	221	<i>Gazette 20.8.2009 p3768</i>	20.8.2009: r 2
2011	280	<i>Gazette 15.12.2011 p5075</i>	Pt 10 (r 13)—1.1.2012: r 2
2012	254	<i>Gazette 13.12.2012 p5545</i>	1.4.2013: r 2
2013	268	<i>Gazette 5.12.2013 p4449</i>	5.12.2013: r 2
2014	249	<i>Gazette 9.10.2014 p6096</i>	9.10.2014: r 2
2014	285	<i>Gazette 18.12.2014 p6878</i>	18.12.2014: r 2
2017	12	<i>Gazette 16.2.2017 p553</i>	16.2.2017: r 2
2017	199	<i>Gazette 11.7.2017 p2854</i>	15.7.2017: r 2
2017	303	<i>Gazette 7.11.2017 p4525</i>	7.11.2017: r 2
2018	172	<i>Gazette 28.6.2018 p2629</i>	28.6.2018: r 2
2021	76	<i>Gazette 10.6.2021 p2145</i>	1.7.2021: r 2
2022	13	<i>Gazette 17.2.2022 p494</i>	17.6.2022: r 2

Provisions varied

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
<i>r 2</i>	<i>omitted under Legislation Revision and Publication Act 2002</i>	4.9.2008
r 3		

r 3(1)	r 3 redesignated as r 3(1) by 221/2009 r 4	20.8.2009
r 3(2)	inserted by 221/2009 r 4	20.8.2009
r 4	varied by 221/2009 r 5	20.8.2009
	(a) deleted by 254/2012 r 4	1.4.2013
	(b) deleted by 249/2014 r 4	9.10.2014
	varied by 199/2017 r 4	15.7.2017
r 5		
r 5(1)	varied by 280/2011 r 13	1.1.2012
	varied by 254/2012 r 5(1)	1.4.2013
r 5(2)		
senior secondary students	varied by 254/2012 r 5(2)	1.4.2013
r 6	inserted by 247/2008 r 4	4.9.2008
	substituted by 76/2021 r 4	1.7.2021
r 7	inserted by 221/2009 r 6	20.8.2009
r 8	inserted by 254/2012 r 6	1.4.2013
r 9	inserted by 268/2013 r 4	5.12.2013
	substituted by 285/2014 r 4	18.12.2014
r 10	inserted by 249/2014 r 5	9.10.2014
r 11	inserted by 12/2017 r 4	16.2.2017
rr 12 and 13	inserted by 303/2017 r 4	7.11.2017
r 14	inserted by 172/2018 r 4	28.6.2018
r 15	inserted by 13/2022 r 3	17.6.2022
<i>Sch 1</i>	<i>omitted under Legislation Revision and Publication Act 2002</i>	4.9.2008

Historical versions

4.9.2008
 20.8.2009
 1.1.2012
 1.4.2013
 5.12.2013
 9.10.2014
 18.12.2014
 16.2.2017
 15.7.2017
 7.11.2017
 28.6.2018
 1.7.2021