

## A-Z Guide

# Official Information Act



The Official Information Act 1982 has several purposes:

- To increase the availability of official information to the people of New Zealand in order to enable them to have more effective participation in the making and administration of laws and policies and to promote the accountability of Ministers of the Crown and officials. This will thereby enhance respect for the law and promote the good government of New Zealand; and
- To allow people proper access to official information about themselves; and
- To protect official information in a manner that is consistent with the public interest and the preservation of personal privacy.

Official information means any information that is held by:

- A Department; or
- A Minister of the Crown in his or her official capacity; or
- An organisation (which are those organisations named in the First Schedule of the Official Information Act 1982 and in Part II of the First Schedule of the Ombudsmen Act 1975, other than the Parliamentary Service or mortality review committees); and
- Official information may include personal information.

The principle of availability is fundamental to the Official Information Act 1982. This means that information shall be made available unless there is good reason for withholding it. The good reasons for withholding official information permitted by the Act include:

- Protection of New Zealand's security and defence; or
- Maintenance of the law; or



- Personal safety; or
- Protection of the New Zealand economy; or
- Protecting the privacy of natural persons; or
- Protection of information where disclosure would release a trade secret or prejudice a commercial position.

A request for information under the Official Information Act 1982 must be made to a Department, or a Minister of the Crown, or the applicable organisation. The request must be specific.

The Employment Relations Act 2000 states that section 4(1B) of the Act does not affect an employer's obligations under the Official Information Act 1982. That section refers to an employer not having to provide access to confidential information in certain situations, where the employer is proposing to make a decision that will have an adverse effect on an employee's continuing employment.

The Employment Relations Act 2000 stipulates that a union and an employer must provide each other, on request, information that is reasonably necessary to support or substantiate claims, or responses to claims, made for the purposes of the bargaining. Section 34(9) of that Act states that an employer is not able to cite the Official Information Act 1982 as a means of withholding this information, unless the employer has a good reason for withholding it, as defined by the Official Information Act 1982. Section 59 of the Employment Relations Act 2000 stipulates that the Ministry of Business, Innovation and Employment shall be given a copy of every collective agreement as soon as practicable after it is entered into, provided that nothing in the Official Information Act prevents this from being done.

Section 69OF of the Employment Relations Act 2000 states that nothing in the Official Information Act 1982 (except section 6) enables an employer who is subject to that Act to withhold information required by subpart 2 of Part 6A of the Employment Relations Act 2000. That subpart creates obligations on an employer to disclose costs in certain situations, relating to the transfer of employees under a proposed restructuring.

Section 148 of the Employment Relations Act 2000 prohibits any statement, admission, document or information provided or disclosed in the course of mediation to the person providing those services, being released under the Official Information Act 1982. Section 222 of the Employment Relations Act 2000 prohibits information held by the Ministry of Business, Innovation and Employment, or the Employment Relations Authority or the Employment Court, in relation to any proceedings brought before any of those bodies, being requested under the Official Information Act 1982.

## Remember

- **Always call AdviceLine to check you have the latest guide**
- **Never hesitate to ask AdviceLine for help in interpreting and applying this guide to your fact situation.**
- **Use our AdviceLine employment advisors as a sounding board to test your views.**
- **Get one of our consultants to draft an agreement template that's tailor-made for your business.**

This guide is not comprehensive and should not be used as a substitute for professional advice.

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