

FREEDOM OF INFORMATION ACT 2000

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part I: Access to information held by public authorities

Right to information

Section 2: Effect of the exemptions in Part II

26. This section deals with the effect of the exemptions in Part II. The effect of the provisions in Part II differs depending on whether they confer absolute exemption or not. Subsection (3) draws a distinction between provisions in Part II which confer an 'absolute exemption', where the need to balance the public interest in disclosure against the public interest in maintaining the exemption does not arise, and other exemptions whose application must be balanced against the public interest in disclosure.
27. *Subsection (1)* provides that public authorities are not under a duty to confirm or deny that they hold the requested information if either the provision of Part II which states that the duty does not arise in relation to that information confers absolute exemption or in all the circumstances of the case, the public interest in maintaining the exclusion of the duty outweighs the public interest in disclosing whether the authority holds the information.
28. *Subsection (2)* provides that public authorities are not under a duty to disclose information if either the information is exempt by virtue of a provision conferring an absolute exemption or, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.