

## Section 29 International Relations

### Introduction

This document is drafted as practical guidance to assist public authorities in applying the section 29 qualified exemption for international relations. It is not intended to be a comprehensive assessment of the law in this area and a public authority is required to assess each request on the basis of its own individual facts.

Sections 29(1) and 29(2) are prejudice based qualified exemptions and **cannot** be engaged unless a public authority is satisfied that disclosure of the requested information would, or would be likely to, cause prejudice to those relationships and interests detailed within the exemption.

When assessing the application of prejudice based qualified exemptions a public authority must establish the likelihood of any prejudice/harm being caused as a consequence of the disclosure. If a public authority cannot establish this then it will not be able to rely upon the exemption when answering a freedom of information request (see further guidance on applying the prejudice test). If a public authority is satisfied that the disclosure of information would/would be likely to cause prejudice/harm, the public authority must then carry out a public interest test to ensure that the public interest in withholding the information is equal to or greater than the public interest in disclosing the information (see Part 3 of the Freedom of Information Act Code of Practice).

Section 29(3) is a class based qualified exemption and **cannot** be engaged unless the information concerned falls within the class of information described by the exemption.

The first step in applying class based qualified exemptions is to establish whether the information concerned falls within the class of information described by the exemption. If a public authority cannot establish this then it will not be able to rely upon the exemption when answering a freedom of information request. If a public authority is satisfied that the information does fall within this class, it will then have to carry out the public interest test to determine whether the public interest in withholding the information is equal to or greater than the public interest in releasing the information (see part 3 of the Freedom of Information Act 2015 Code of Practice).

A public authority should consider whether other exemptions, in addition to this one, may also apply to the requested information, bearing in mind that other exemptions might be more appropriate (see other exemptions guidance). Different exemptions may apply to different aspects of the requested information, although only one exemption needs to be engaged for information to be withheld.

A public authority may also need to consider whether to neither confirm nor deny that the information is held, if to do so would, in itself, be absolutely exempt or qualified exempt information under this section.<sup>1</sup>

---

<sup>1</sup> s19 of the Act and further guidance on NCND  
Section 29 International relations  
201708  
v.1

### Examples of use of the exemption

- Regarding reports on or exchanged with foreign governments/organisations etc.
- Information on the Isle of Man's activities in relation to Manx citizens or companies abroad or the procedures of overseas offices.
- Information on other states' views or intentions provided in the course of diplomatic and political exchanges.
- Details of visits to the Isle of Man or from the Isle of Man.
- Information supplied by other states.
- Discussions within the Isle of Man Government on approaches to particular states or issues.
- Details of the Isle of Man's position in multilateral or bilateral negotiations.
- International events.

### S29(1) prejudice based exemption

<b>Assess the information</b>	
<b>If information was disclosed, would or would it be likely to prejudice relations between the Isle of Man<sup>2</sup> and -</b>	
the United Kingdom?	
Any other State (including the government of a State and any organ of its government or administration)? The culture of another state can also be taken into account. Ask, how is that state likely to react?	
An international organisation? (An organisation whose members include two or more states).	
An international court?	
Consider how disclosure would prejudice these relations and ask "would" it prejudice them or "would it be likely" to prejudice them?	

### S29(2) prejudice based exemption

<b>Assess the information</b>	
<b>If information was disclosed, would or would it be likely to prejudice –</b>	
Any interests of the Isle of Man abroad?	
The promotion or protection by the Island of any such interest?	

<sup>2</sup> Note that the prejudice is to the Isle of Man not the public authority  
 Section 29 International relations  
 201708  
 v.1

Consider how it would prejudice these interests and ask “would” it prejudice them or “would it be likely” to prejudice them.	
--	--

### Section 29(3) class based exemption

<b>Assess the information</b>	
Is the information obtained from-	
The United Kingdom?	
Any other State?	
An international organisation?	
An international court?	
Has the information been jointly created? <sup>3</sup>	
<b>To establish if the information is confidential information for the purposes of this section ask:</b>	
Do the terms on which the information was obtained require it to be held in confidence?	
Do the circumstances in which the information was obtained make it reasonable for the State, organisation or court to expect that it will be held in confidence? Ask, what would be reasonable in the mind of the confider, taking into account their culture and traditions and the lack of a uniform definition of confidentiality and how long would they expect the information to be confidential for?	

If any of the exemptions are engaged continue and assess whether the public interest in disclosing the information outweighs the public interest in maintaining the exemption.

<b>Public Interest Test<sup>4</sup></b>	
<b>Is the public interest in disclosure outweighed by the damage or likely damage that would be caused to the Isle of Man’s international relations, its interests abroad or its ability to protect and promote those interests?</b>	
<b>Factors in favour of disclosure</b>	<b>Factors in favour of maintaining the exemption</b>
Where the prejudice is likely to be trivial, e.g. where disclosure about the content of a discussion with a foreign official would be	Disclosure is likely to undermine the willingness of the state, international organisation or court that supplied the

<sup>3</sup> Following Derry City Council v Information Commissioner jointly created information cannot be “obtained from” someone else. Each case will need to be assessed on its own merits.

<sup>4</sup> Examples of public interest arguments are listed for illustrative purposes and each request should be looked at on the basis of its own individual facts. Further guidance on carrying out the public interest test can be found in Part 3 of the Freedom of Information Act 2015 Code of Practice.

unlikely to provoke any significant negative reaction or have any significant detrimental effect on other states' willingness to have similar discussions with the Isle of Man in the future.	information to supply other confidential information in the future (or would be likely to have such an effect on the willingness of states, international organisations or courts in general).
Furthering understanding and participation in public debate on the issues of the day.	Disclosure is likely to provoke a negative reaction from the state, international organisation or court that supplied the information, which would damage the Isle of Man's relations with it and/or its ability to protect and promote the Isle of Man's interests.
Promoting accountability and transparency in the spending of public funds.	Disclosure is likely to result in another state, international organisation or court disclosing, contrary to the Isle of Man's interests, confidential information supplied to the Isle of Man.
Evidence of wrongdoing or corruption.	The state, international organisation or court that supplied the confidential information has objected to its disclosure, and whether good relations with it are likely to suffer if the objection were ignored.
Issue is no longer live.	Where disclosure will be likely to weaken the Isle of Man's bargaining position in international negotiations, inhibit other governments' willingness to share sensitive information or inhibit frankness and candour in diplomatic reporting.
Allowing individuals, companies and other bodies to understand decisions made by public authorities affecting their lives.	Disclosure would undermine the Isle of Man's reputation for honouring its international commitments and obligations.
Bringing to light information affecting public health and safety.	Disclosure would be contrary to international law.
<b>Further Information</b>	
The Information Commissioner has published guidance on the application of this exemption. <a href="https://www.inforights.im/media/1165/exempt29q_international_relations.pdf">https://www.inforights.im/media/1165/exempt29q_international_relations.pdf</a>	