



APPENDIX A

Guide for Exemption Applications

1 Applying for an exemption

How do I make an application for an exemption?

- 1.1 You apply for an exemption by sending an application in writing to the Chief Executive of the Takeovers Panel. We recommend that you follow the guide for an exemption application set out in Appendix B to ensure that you have provided all the necessary information in support of your application.

How much will it cost?

- 1.2 We will charge the rates prescribed by the [Takeovers Regulations 2000](#) for the work undertaken on the application. You will be sent a monthly account for our fees incurred until the work is complete. You will be charged regardless of whether the exemption is granted or declined by the Panel.
- 1.3 Exemption notices for individual exemptions are prepared by the Panel executive and may be reviewed by external legal counsel. If your application for an individual exemption is granted, part of our invoice to you will be made up of the external legal counsel's fees for reviewing the exemption notice.
- 1.4 We may also seek reimbursement of the costs incurred for publication of class exemptions in the Statutory Regulations series and for notification in the Gazette.

How long will it take?

- 1.5 The time to process your exemption application will depend on the nature and quality of your application, and the resources available within the Panel. Applications that involve difficult or novel questions of policy will take longer to process than applications which fall squarely within the policy of previous exemptions. It would be unusual for an exemption to be processed, signed and notified in the Gazette in less than four weeks and you should usually allow for up to six weeks (or more for complex exemptions).
- 1.6 When making your application, please specify the latest date by which the Panel's decision is required. If the application needs to be considered urgently, please provide reasons for the urgency. We will do our best to meet reasonable timeframes.

2 Overview of the exemption process

The Panel executive processes your application

- 2.1 Your application will be processed by the Panel executive who will prepare their advice for the Panel to consider. At this stage, the Panel executive may ask you to provide further information. This stage of the process can move quickly if you provide complete information with your application and respond to queries promptly.
- 2.2 The Panel executive will keep you informed as to the executive's likely approach to your exemption application, including whether the executive is likely to recommend to the Panel that it grant the exemption sought.

The Panel considers your application

- 2.3 A division of the Panel (or the full Panel for class exemptions) will consider the executive's analysis and recommendation and then will make its decision. The Panel executive will advise you of the Panel's decision. You should be aware that the Panel does not necessarily follow the executive's recommendation.



The Panel executive usually drafts the exemption notice

- 2.4 If your exemption application is approved, the Panel executive will draft the exemption notice, using your draft as a base. External legal counsel may peer review the draft notice. Where an application for a class exemption of general application is approved, the Panel executive instructs the Parliamentary Counsel Office to draft the exemption notice.
- 2.5 A minimum of two weeks should be allowed for the drafting process, but complex notices and class notices may take longer. You will be invited to comment on a draft notice before the final form of the notice is settled.

Signature and publication

- 2.6 Once the exemption notice is finalised, it is signed by the Chairman or another Member of the Panel. The exemption is effective once the notice is signed. The Panel executive will send you a copy of the signed exemption notice.

Publication

- 2.7 As soon as practicable the Panel must give notice of the exemption in the *Gazette* and publish the exemption on its website. However, the Panel may defer notifying and publishing an exemption on the ground of commercial confidentiality. If you consider that the notification and publication of an exemption granted by the Panel should be deferred on the ground of commercial confidentiality, please advise the Panel executive of this in your exemption application and provide reasons.
- 2.8 Please note that in accordance with the Legislation Act 2012, the exemption must be presented to the House of Representatives within 16 sitting days after the notice has been signed. At the present time, the Panel does not have the ability to defer this obligation. However, the Panel notes that the Secondary Legislation Bill 2019 (119–2), sch 36 includes an amendment that provides for an exemption from this obligation while the Panel is satisfied on reasonable grounds that it is proper to defer compliance for reasons of commercial confidentiality.