



Decision and Reasons for Decision

Citation:	<i>D74 and National Heavy Vehicle Regulator [2026] QICmr 93 (5 June 2026)</i>
Application Number:	318824
Applicant:	D74
Respondent:	National Heavy Vehicle Regulator
Decision Date:	5 June 2026
Catchwords:	ADMINISTRATIVE LAW - RIGHT TO INFORMATION - information provided under compulsion - section 569 of the <i>Heavy Vehicle National Law</i> (Qld) - schedule 3, section 10(3) of the <i>Right to Information Act 2009</i> (Qld) - ongoing proceedings - schedule 3, section 10(1)(e) of the <i>Right to Information Act 2009</i> (Qld) - section 47(3)(a) of the <i>Right to Information Act 2009</i> (Qld)

DECISION

1. I vary¹ the reviewable decision² of the National Heavy Vehicle Regulator (**NHVR**) and find that access to all of the information in issue may be refused under section 47(3)(a) of the RTI Act on the basis that it is exempt under schedule 3, section 10(3) of the RTI Act or under schedule 3, section 10(1)(e) of the RTI Act.³
2. My reasons for the decision follow.



Joanne Kummrow
Information Commissioner

Date: 5 June 2026

¹ I have made this decision under section 110(1)(b) of the *Right to Information Act 2009* (Qld) (**RTI Act**).

² Defined in paragraph 4pub of the reasons that follow.

³ On 1 July 2025 key parts of the *Information Privacy and Other Legislation Amendment Act 2023* (Qld) came into force, affecting significant changes to the RTI Act. As the access application was made prior to 1 July 2025, references in this decision are to the RTI Act as in force prior to 1 July 2025 in accordance with transitional provisions in Chapter 7, Part 9 of the RTI Act.

REASONS FOR DECISION

Background

3. The applicant applied⁴ to the NHVR under the RTI Act for access to information relevant to the prosecution of a transport company registered by the NHVR.
4. The NHVR located nine emails with 16 attached documents and one 13 page document in response to the application (**Located Documents**).⁵ In its original decision, the NHVR decided to refuse access to the documents under section 47(3)(a) and (b) of the RTI Act. On internal review, the NHVR affirmed its original decision.⁶
5. The applicant applied to the Office of the Information Commissioner (**OIC**)⁷ for external review of the NHVR's internal review decision.
6. In reaching this decision, I have taken into account evidence, submissions, legislation and other material as set out in these reasons (including footnotes). I have had regard to the *Human Rights Act 2019* (Qld) (**HR Act**), particularly the right to seek and receive information⁸ and have acted in accordance with section 58(1) of the HR Act.⁹

Information in issue

7. In the internal review decision, the NHVR dealt with the Located Documents in two bundles (Bundle 1 and 2) and described each as follows:

The documents in Bundle 1 comprise information given in response to a notice issued by an authorised officer under s 569(1) of the Heavy Vehicle National Law (Queensland) ('HVNL') requesting documents described in paragraphs (c) to (f) of s 569(1) in the course of an investigation of a contravention or possible contravention of the HVNL.

...

Bundle 2 consists of one document of 13 pages which is a summary of facts compiled by the NHVR prosecutor and agreed to by [a transport company] ('Summary of Facts').

8. In these reasons, I have adopted the terms **Bundle 1** and **Bundle 2** when referring to the Located Documents.

Relevant law

9. A person has a right, under the RTI Act, to be given access to documents of an agency.¹⁰ This right of access is subject to certain limitations, including grounds for refusing access to information set out in section 47 of the RTI Act. It is Parliament's

⁴ Access application dated 7 January 2025.

⁵ On external review NHVR provided a total of 213 pages of documents for review.

⁶ Internal review decision dated 9 July 2025. This is the reviewable decision.

⁷ External review application dated 6 August 2025.

⁸ Section 21 of the HR Act.

⁹ OIC's approach to the HR Act set out in this paragraph has been endorsed by the Queensland Civil and Administrative Tribunal in *Lawrence v Queensland Police Service* [2022] QCATA 134 at [23].

¹⁰ Section 23 of the RTI Act.

intention that the RTI Act is to be administered with a pro-disclosure bias¹¹ and that the grounds for refusing access to information are to be interpreted narrowly.¹²

10. Relevantly, access may be refused to exempt information.¹³ Schedule 3 of the RTI Act sets out the categories of exempt information, the disclosure of which Parliament has already determined would be contrary to the public interest.¹⁴
11. Schedule 3, section 10(3) of the RTI Act provides that information will be exempt if it consists of information given in the course of an investigation of a contravention or possible contravention of the law (including revenue law); and the information was given under compulsion under an Act that did not give a person the right to remain silent.
12. Schedule 3, section 10(1)(e) of the RTI Act provides that information will be exempt if its disclosure could reasonably be expected to prejudice a person's fair trial or the impartial adjudication of a case.

Submissions

13. In the external review application, the applicant outlined that their partner had died following an accident while employed by the transport company. The applicant submitted that they had commenced a common law claim for damages for loss of dependency against the employer and the requested documents would contribute to the administration of justice in that claim.
14. In its internal review decision, the NHVR outlined that:

The information was given under compulsion because s 569(2) of the HVNL provides that a person of whom a requirement is made under subsection (1) must comply with the requirement, unless the person has a reasonable excuse.

The HVNL abrogates the privilege against self-incrimination because:

- *s 569(4) provides that it is not a reasonable excuse for the person to fail to comply with a requirement made under s 569(1) that complying with the requirement might tend to incriminate the person or make the person liable to a penalty; and*
- *s 588(3) provides that a document produced by an individual in compliance with a requirement made by an authorised officer under s 569(1)(c) to (f) is not inadmissible in evidence against the individual in a criminal proceeding on the ground that the document might incriminate the individual.*

However, the privilege of self-incrimination is considered to be 'deeply ingrained in the common law'. In light of the importance of the privilege against self-incrimination, I do not consider this is an appropriate case in which to give access under s 48(3).

¹¹ Section 44 of the RTI Act.

¹² Section 47(2)(a) of the RTI Act.

¹³ Section 47(3)(a) of the RTI Act.

¹⁴ Section 48(2) of the RTI Act.

15. On external review, the NHVR submitted to OIC that enforcement action proceedings in connection with the subject matter of the Located Documents remains ongoing.¹⁵ This means that the contents or substance of the Located Documents is currently before the courts.

Findings

16. Having examined the Located Documents, I am satisfied that the information in Bundle 1 meets the requirements for exemption under schedule 3, section 10(3) of the RTI Act because:
- it was given by the transport company to the NHVR in the course of an investigation into possible contravention of the law
 - it was given by the transport company under compulsion in response to a Notice issued by the NHVR under section 569 of the Heavy Vehicle National Law; and
 - provision of the information to the NHVR was subject to sections of the Heavy Vehicle National Law which abrogate the privilege against self-incrimination.
17. With respect to the information in Bundle 2, I am satisfied it relates to ongoing enforcement action by the NHVR. Further, given the evidentiary nature of information within that Bundle, I accept its disclosure could reasonably be expected to prejudice the impartial adjudication of any legal proceedings. I find the information in Bundle 2 meets the requirements for exemption under schedule 3, section 10(1)(e) of the RTI Act as its disclosure could reasonably be expected to prejudice a person's fair trial or the impartial adjudication of a case. Namely, that a legal proceeding involving the transport company is currently before the courts and the information in Bundle 2 concerns those proceedings.
18. I acknowledge the applicant has raised the public interest administration of justice factor in support of their external review application. However, where the requirements of an exemption are established under the RTI Act, as is the case here, the RTI Act does not allow for consideration of public interest factors. This is because Parliament has already decided that the disclosure of exempt information in Schedule 3 of the RTI Act would be contrary to the public interest.¹⁶
19. On the basis of the above, I find that access to the Located Documents may be refused under section 47(3)(a) of the RTI Act as Bundle 1 comprises exempt information under schedule 3, section 10(3) of the RTI Act and Bundle 2 comprises exempt information under schedule 3, section 10(1)(e) of the RTI Act.
20. The above are the reasons for my decision set out at paragraph 1.

¹⁵ Submission dated 2 June 2026.

¹⁶ Section 48(2) of the RTI Act.