



*Right to Information Act 2009*

# **Right to Information Regulation 2009**

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## Queensland

# Right to Information Regulation 2009

## Contents

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		Page
<b>Part 1</b>	<b>Preliminary</b>	
1	Short title . . . . .	3
2	Commencement . . . . .	3
<b>Part 2</b>	<b>Requirements for evidence of identity</b>	
3	Evidence of identity—Act, s 24(5), definition evidence of identity	3
<b>Part 3</b>	<b>Fees and charges</b>	
4	Amount of application fee—Act, sch 5, definition application fee	4
5	Amount of processing charge—Act, s 56 . . . . .	4
6	Amount of access charge—Act, s 57 . . . . .	5
<b>Part 4</b>	<b>Requirements for annual reports</b>	
7	Report to Speaker and parliamentary committee on operations of OIC— Act, s 184 . . . . .	7
8	Report to Assembly on Act's operation—Act, s 185 . . . . .	8
<b>Part 5</b>	<b>Declarations</b>	
9	Public authority—Act, s 16(1)(c) . . . . .	9
10	Principal office—Act, sch 5, definition principal officer, paragraph (e)	10
<b>Part 6</b>	<b>Repeal of Freedom of Information Regulation 2006</b>	
11	Repeal . . . . .	10
<b>Part 7</b>	<b>Transitional provisions</b>	
<b>Division 1</b>	<b>Transitional provision for Right to Information Regulation 2009</b>	
12	Transitional provision . . . . .	10
<b>Division 2</b>	<b>Transitional provision for Right to Information Amendment Regulation (No. 1) 2013</b>	
13	Former s 8(2) does not apply to reports for 2012—2013 and 2013—2014 financial years . . . . .	11



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# Right to Information Regulation 2009

## Part 1 Preliminary

### 1 Short title

This regulation may be cited as the *Right to Information Regulation 2009*.

### 2 Commencement

This regulation commences on 1 July 2009.

## Part 2 Requirements for evidence of identity

### 3 Evidence of identity—Act, s 24(5), definition *evidence of identity*

- (1) For section 24(5) of the Act, the evidence of identity prescribed for a person is a document verifying the person's identity, including, for example—
  - (a) a passport; or
  - (b) a copy of a certificate or extract from a register of births; or
  - (c) a driver licence; or
  - (d) a statutory declaration from an individual who has known the person for at least 1 year; or
  - (e) if the person is a prisoner within the meaning of the *Corrective Services Act 2006*—a copy of the person's identity card from the department administering that Act that is certified by a corrective services officer within the meaning of that Act.

[s 4]

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- (2) If a document under this section, other than a document mentioned in subsection (1)(e), is a photocopy of an original document, the document must be certified by a qualified witness as being a correct copy of the original document.
- (3) In this section—
- qualified witness* means—
- (a) a lawyer or notary public; or
  - (b) a commissioner for declarations; or
  - (c) a justice of the peace.

## Part 3 Fees and charges

### 4 Amount of application fee—Act, sch 5, definition *application fee*

The application fee in relation to an access application is \$49.70.

### 5 Amount of processing charge—Act, s 56

- (1) The processing charge under section 56 of the Act for an access application for a document is—
- (a) if the agency or Minister spends no more than 5 hours processing the application—nil; or
  - (b) if the agency or Minister spends more than 5 hours processing the application—\$7.70 for each 15 minutes or part of 15 minutes spent processing the application.

*Example—*

If the agency or Minister spends 3 hours processing an access application for a document there is no processing charge.

If the agency or Minister spends 6 hours processing an access application for a document the process charge is—

$$\frac{6 \text{ hours} \times 60 \text{ (to convert to minutes)}}{15 \text{ (to determine the number of 15 minute blocks)}} \times \$7.70$$

- (2) However, if the document is not found in the place where, according to the filing system (the *relevant filing system*) of the agency or of the office of the Minister it ought to be located, any time (other than the time that would have been spent by the agency or Minister in searching for or retrieving the document, if the document had been found in that place) is disregarded in calculating the processing charge.
- (3) Also, if the relevant filing system ought reasonably to have indicated, but does not indicate, the place where the document is located, any time (other than the time that would have been spent by the agency or Minister in searching for or retrieving the document, if the relevant filing system had indicated the place where the document is located and the document had been found in that place) is disregarded in calculating the processing charge.
- (4) In this section—  
*processing*, for an access application for a document, means—
  - (a) searching for or retrieving the document; and
  - (b) making, or doing things related to making, a decision on the application.

## 6 Amount of access charge—Act, s 57

- (1) The access charge under section 57 of the Act in relation to an access application for a document is the total of—
  - (a) the actual cost incurred by the agency or Minister for any of the following—
    - (i) any engagement of another entity to search for and retrieve the document;

- (ii) any relocation of the document necessary to allow access to be given to the document;

*Example—*

A document may be transported from Cairns to Brisbane to give access to an applicant who lives in Brisbane.

- (iii) any written transcription of the words recorded or contained in a document mentioned in section 68(1)(d) of the Act;
- (iv) any creation of a written document mentioned in section 68(1)(e) of the Act;
- (v) otherwise giving access to the document (except by giving the applicant a black-and-white photocopy of the document in A4 size), for example, by the reproduction of the document; and

*Examples—*

- a licensing fee payable for copying an X-ray
  - a licensing fee payable for reproducing a duplicate document created using licensed software
- (b) if the applicant is given a black-and-white photocopy of the document in A4 size—\$0.25 for each page.
- (2) The access charge in relation to an application for a document must not include the actual cost of—
- (a) if access to the document is given by emailing the document to the applicant—the email; or
- (b) if access to the document is given by giving the document to the applicant on a disc—the disc.



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## **Part 4**                      **Requirements for annual reports**

### **7**            **Report to Speaker and parliamentary committee on operations of OIC—Act, s 184**

For section 184(3) of the Act, details of the following matters must be included in a report under section 184(2) of the Act in relation to the financial year to which the report relates—

- (a) the number of applications by non-profit organisations for financial hardship status under section 67 of the Act;
- (b) the number of external review applications reviewed by the information commissioner;
- (c) for an application for external review that results in a decision under section 110 of the Act—
  - (i) the decision of the commissioner; and
  - (ii) if the decision results in access to a document being refused—the particular provisions of the Act under which access was refused;
- (d) the number of times and the way in which the commissioner has used the entitlement to full and free access to documents under section 100 of the Act;
- (e) the number of applications made under section 114 of the Act for a declaration that a person is a vexatious applicant and the number of declarations made under that section by the commissioner;
- (f) the number of applications for extension of the 10 year period received by the commissioner under schedule 4, part 4, item 1 of the Act and the commissioner's decision for each application.

## **8 Report to Assembly on Act's operation—Act, s 185**

For section 185(2) of the Act, details of the following matters must be included in a report under section 185(1) of the Act in relation to the financial year to which the report relates—

- (a) the number of access applications received by each agency or Minister;
- (b) for each agency or Minister—
  - (i) the number of refusals to deal with an access application under section 40 of the Act; and
  - (ii) the number of refusals to deal with an access application under section 41 of the Act; and
  - (iii) the number of refusals to deal with an access application under section 43 of the Act;
- (c) for each agency or Minister—the number of refusals of access under each paragraph of section 47(3) of the Act and any other particular provision of the Act relevant to the refusal;
- (d) for each agency or Minister—the number of documents included in a disclosure log under section 78 of the Act;
- (e) for each agency or Minister—
  - (i) the number of deemed decisions under section 46 of the Act; and
  - (ii) the number of decisions on internal review taken to have been made under section 83(2) of the Act;
- (f) for each agency or Minister—
  - (i) the number of internal review applications received; and
  - (ii) for each application, whether the decision on the internal review was different from the decision subject to internal review, and how it was different;
- (g) for each agency or Minister—

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- (i) the number of external review applications made in relation to a decision of the agency or Minister; and
  - (ii) the number of external review applications where there was no preceding internal review application to the agency or Minister; and
  - (iii) the number of decisions on external review that affirmed the decision of the agency or Minister; and
  - (iv) the number of decisions on external review that varied the decision of the agency or Minister; and
  - (v) the number of decisions on external review that set aside the decision of the agency or Minister and made another decision in substitution for the decision of the agency or Minister;
- (h) any disciplinary action taken against an officer in relation to the administration of the Act;
  - (i) any proceedings brought for an offence against section 175(1) or (3) of the Act;
  - (j) for each agency or Minister—the amount of fees and charges received under the Act;
  - (k) any other relevant fact indicating an effort by an agency or Minister to further the object the Act.

## Part 5 Declarations

### 9 Public authority—Act, s 16(1)(c)

The Bar Association of Queensland ACN 009 717 739 is declared to be a public authority for section 16(1)(c) of the Act.

**10 Principal office—Act, sch 5, definition *principal officer*, paragraph (e)**

For each of the following public authorities, the office of vice-chancellor of the public authority is declared to be the principal office for the Act, schedule 5, definition *principal officer*, paragraph (e)—

- Central Queensland University
- Griffith University
- James Cook University
- Queensland University of Technology
- The University of Queensland
- University of Southern Queensland
- University of the Sunshine Coast.

## **Part 6 Repeal of Freedom of Information Regulation 2006**

**11 Repeal**

The Freedom of Information Regulation 2006, SL No. 201 is repealed.

## **Part 7 Transitional provisions**

### **Division 1 Transitional provision for Right to Information Regulation 2009**

**12 Transitional provision**

- (1) The repealed *Freedom of Information Regulation 2006* continues to apply in relation to an application under the repealed *Freedom of Information Act 1992* that has not been

finalised before the commencement of this section as if this regulation had not been made.

- (2) For subsection (1), an application has not been finalised until—
  - (a) a decision on the application is made; and
  - (b) either—
    - (i) the time for exercising any review rights or appeal rights in relation to the decision has ended without any rights being exercised; or
    - (ii) any review or appeal in relation to the decision has ended.

## **Division 2                      Transitional provision for Right to Information Amendment Regulation (No. 1) 2013**

### **13            Former s 8(2) does not apply to reports for 2012—2013 and 2013—2014 financial years**

- (1) Former section 8(2) does not apply, and is taken to never have applied, in relation to a report under section 185(1) of the Act for the 2012—2013 or 2013—2014 financial year.

- (2) In this section—

*former section 8(2)* means section 8(2) in force immediately before the commencement of this section.