



*Right to Information Act 2009*

# **Right to Information Regulation 2009**

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## Queensland

# Right to Information Regulation 2009

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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 3A]

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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

### 3A Rounding of amounts expressed as numbers of fee units

- (1) This section applies for working out the amount of a fee expressed in this regulation as a number of fee units.
- (2) For the purpose of the *Acts Interpretation Act 1954*, section 48C(3), the amount is to be rounded—
  - (a) if the result is not more than \$100—to the nearest multiple of 5 cents (rounding one-half upwards); or
  - (b) if the result is more than \$100 but not more than \$1,000—to the nearest multiple of 10 cents (rounding one-half upwards).

*Example—*

If a fee were 35 fee units and the value of a fee unit were \$1.015, the number of dollars obtained by multiplying 35 by \$1.015 would be \$35.525. Because \$35.525 is halfway between \$35.50 and \$35.55, it is rounded upwards, so the amount of the fee would be \$35.55.

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

The application fee in relation to an access application is 52.60 fee units.

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## 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—8.15 fee units 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—

$$\frac{6 \text{ hours} \times 60 \text{ (to convert to minutes)}}{15 \text{ (to determine the number of 15 minute blocks)}} \times 8.15 \text{ fee units}$$

- (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 fee units for each page.

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- (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.

## **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—
  - (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*

- (1) This section applies for schedule 5 of the Act, definition *principal officer*, paragraph (e).
- (2) For a public authority stated in column 1 of the table in schedule 1, the office stated opposite the public authority in column 2 of the table is declared to be the principal office for the public authority.
- (3) In schedule 1, *court services officer* means a public service employee of the justice department who holds an office that—
  - (a) is responsible for providing services to support the administration of the Coroners Court; and
  - (b) is nominated by the chief executive of the justice department as the principal office for the Coroners Court.
- (4) In this section—

*justice department* means the department in which the *Coroners Act 2003* is administered.

## Part 6 Repeal of Freedom of Information Regulation 2006

### 11 Repeal

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

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## **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—

[s 13]

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

## Schedule 1      Declared principal offices for public authorities

### section 10

Column 1	Column 2
Public authority	Declared principal office
the Supreme Court of Queensland	the principal registrar of the Supreme Court of Queensland
the District Court of Queensland	the principal registrar of the District Court of Queensland
a Magistrates Court	the principal registrar of Magistrates Courts
the Industrial Court of Queensland	the registrar under the <i>Industrial Relations Act 2016</i>
the Land Court	the registrar of the Land Court
the Mental Health Court	the registrar of the Mental Health Court
the Childrens Court of Queensland constituted by a Childrens Court judge	the principal registrar of the District Court of Queensland
the Planning and Environment Court	the principal registrar of the District Court of Queensland
the Childrens Court of Queensland constituted by a Childrens Court magistrate	the principal registrar of Magistrates Courts
the Coroners Court	the court services officer
an Industrial Magistrates Court	the registrar under the <i>Industrial Relations Act 2016</i>

## Schedule 1

<b>Column 1</b>	<b>Column 2</b>
<b>Public authority</b>	<b>Declared principal office</b>
QCAT	the principal registrar under the QCAT Act
the Queensland Industrial Relations Commission	the registrar under the <i>Industrial Relations Act 2016</i>
the Mental Health Review Tribunal	the executive officer of the Mental Health Review Tribunal under the <i>Mental Health Act 2016</i>
a development tribunal under the <i>Planning Act 2016</i>	the registrar under the <i>Planning Act 2016</i>
a medical assessment tribunal under the <i>Workers' Compensation and Rehabilitation Act 2003</i>	the secretary appointed to the medical assessment tribunal under the <i>Workers' Compensation and Rehabilitation Act 2003</i> , section 496(a)
the Queensland Independent Remuneration Tribunal	the chairman under the <i>Queensland Independent Remuneration Tribunal Act 2013</i>
Central Queensland University	the vice-chancellor of Central Queensland University
Griffith University	the vice-chancellor of Griffith University
James Cook University	the vice-chancellor of James Cook University
Queensland University of Technology	the vice-chancellor of the Queensland University of Technology
The University of Queensland	the vice-chancellor of The University of Queensland
University of Southern Queensland	the vice-chancellor of the University of Southern Queensland

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<b>Column 1</b>	<b>Column 2</b>
<b>Public authority</b>	<b>Declared principal office</b>
University of the Sunshine Coast	the vice-chancellor of the University of the Sunshine Coast