



Queensland

*Information Privacy Act 2009*

# Information Privacy Regulation 2009

Current as at 21 June 2024

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Queensland

# Information Privacy 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, ss 43(4) and 44(6), definition evidence of identity .....	3
<b>Part 3</b>	<b>Access charge</b>	
4	Amount of access charge—Act, s 77 .....	4
<b>Part 4</b>	<b>Requirements for annual reports</b>	
5	Report to Speaker and parliamentary committee on operations of OIC—Act, s 193 .....	6
6	Report to Assembly on Act's operation—Act, s 194 .....	7
<b>Part 5</b>	<b>Declaration</b>	
7	Principal office—Act, sch 5, definition principal officer .....	9
<b>Schedule 1</b>	<b>Declared principal offices for public authorities</b> .....	11



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# Information Privacy Regulation 2009

## Part 1 Preliminary

### 1 Short title

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

### 2 Commencement

- (1) This regulation, other than section 5(2), commences on 1 July 2009.
- (2) Section 5(2) commences immediately after the commencement of chapter 5 of the Act.

## Part 2 Requirements for evidence of identity

### 3 Evidence of identity—Act, ss 43(4) and 44(6), definition *evidence of identity*

- (1) For sections 43(4) and 44(6) 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.

- (2) If a document under this section, other than a document mentioned in subsection (1)(e), is a copy 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 Access charge

### 4 Amount of access charge—Act, s 77

- (1) The access charge under section 77 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 83(1)(d) of the Act;

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- (iv) any creation of a written document mentioned in section 83(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.
- (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.
  - (3) Subsection (4) applies for working out the amount of a fee under this section.
  - (4) For the purpose of the *Acts Interpretation Act 1954*, section 48C(3), the amount is to be rounded to the nearest multiple of 5 cents (rounding one-half upwards).

*Example—*

Subsection (1)(b) prescribes a fee of 0.25 fee units. If the value of a fee unit for this regulation were \$1.50, the number of dollars obtained by multiplying \$1.50 by 0.25 would be \$0.375. Because \$0.375 is halfway between \$0.35 and \$0.40, it is rounded upwards, so the amount of the fee for subsection (1)(b) would be \$0.40.

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

### **5 Report to Speaker and parliamentary committee on operations of OIC—Act, s 193**

- (1) For section 193(3) of the Act, details of the following matters must be included in a report under section 193(2) of the Act in relation to the financial year to which the report relates—
  - (a) the number of external review applications reviewed by the information commissioner;
  - (b) for an application for external review that results in a decision under section 123 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;
  - (c) the number of times and the way in which the commissioner has used the entitlement to full and free access to documents under section 113 of the Act;
  - (d) the number of applications made under section 127 of the Act for a declaration that a person is a vexatious applicant and the number of declarations under that section made by the commissioner;
  - (e) approval of waivers or modifications of the privacy principles under chapter 4, part 5 of the Act;
  - (f) compliance notices given under chapter 4, part 6 of the Act.
- (2) Also, for section 193(3) of the Act, the report must include, in relation to the financial year to which the report relates, details of the number of privacy complaints received and the outcome of the information commissioner's dealing with those complaints, including—



- (a) the number of complaints the commissioner has declined to deal with or has declined to continue dealing with; and
- (b) the grounds for declining to deal with the complaints under paragraph (a); and
- (c) the categories of relevant entities to which the complaints relate; and
- (d) the provisions of the privacy principles to which the complaints relate; and
- (e) the number of complaints referred by the commissioner to other entities under section 169 of the Act; and
- (f) the number and type of complaints resolved by agreement after mediation; and
- (g) the number and type of complaints referred to QCAT under chapter 5, part 4 of the Act.

## **6 Report to Assembly on Act's operation—Act, s 194**

- (1) For section 194(2) of the Act, details of the following matters must be included in a report under section 194(1) of the Act in relation to the financial year to which the report relates—
  - (a) the number of valid access applications and valid amendment 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 59 of the Act; and
    - (ii) the number of refusals to deal with an access or amendment application under section 60 of the Act; and
    - (iii) the number of refusals to deal with an access application under section 62 of the Act; and

- (iv) the number of refusals to deal with an amendment application under section 63 of the Act;
- (c) for each agency or Minister—the number of refusals of access under each paragraph of section 47(3) of the Right to Information Act, as applied by section 67 of the Act, and any other particular provision of the Right to Information Act relevant to the refusal;
- (d) for each agency or Minister—
  - (i) the number of deemed decisions under sections 66 and 71 of the Act; and
  - (ii) the number of decisions on internal review taken to have been made under section 97(2) of the Act;
- (e) for each agency or Minister—the number of refusals of amendment under each provision of section 72(1) 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

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- (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 184(1) or (3) of the Act;
  - (j) for each agency or Minister—the amount of charges received under the Act;
  - (k) any other relevant fact indicating an effort by an agency or Minister to further the object of the Act.

(2) In this section—

*valid access application* means an access application that complies with section 43(2) and (3) of the Act.

*valid amendment application* means an amendment application that complies with section 44(4) and (5) of the Act.

## Part 5 Declaration

### 7 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.

# Schedule 1      Declared principal offices for public authorities

## section 7

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