



*Right to Information Act 2009*

# **Right to Information Regulation 2009**

**Current as at 1 July 2017**





## 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 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 6, definition *application fee***

The application fee in relation to an access application is \$48.00.

### **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—\$7.45 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—

$$\frac{6 \text{ hours} \times 60 \text{ (to convert to minutes)}}{15 \text{ (to determine the number of 15 minute blocks)}} \times \$7.45$$

- (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—

- (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 6, 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 6, 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.

## 1 Index to endnotes

- 2 Key
- 3 Table of reprints
- 4 List of legislation
- 5 List of annotations

## 2 Key

### Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
<b>AIA</b>	= <b>Acts Interpretation Act 1954</b>	<b>(prev)</b>	= <b>previously</b>
<b>amd</b>	= <b>amended</b>	<b>proc</b>	= <b>proclamation</b>
<b>amd</b>	= <b>amendment</b>	<b>prov</b>	= <b>provision</b>
<b>t</b>			
<b>ch</b>	= <b>chapter</b>	<b>pt</b>	= <b>part</b>
<b>def</b>	= <b>definition</b>	<b>pubd</b>	= <b>published</b>
<b>div</b>	= <b>division</b>	<b>R[X]</b>	= <b>Reprint No. [X]</b>
<b>exp</b>	= <b>expires/expired</b>	<b>RA</b>	= <b>Reprints Act 1992</b>
<b>gaz</b>	= <b>gazette</b>	<b>reloc</b>	= <b>relocated</b>
<b>hdg</b>	= <b>heading</b>	<b>renu</b>	= <b>renumbered</b>
		<b>m</b>	
<b>ins</b>	= <b>inserted</b>	<b>rep</b>	= <b>repealed</b>
<b>lap</b>	= <b>lapsed</b>	<b>(retro</b>	= <b>retrospectively</b>
		<b>)</b>	
<b>notf</b>	= <b>notified</b>	<b>rv</b>	= <b>revised version</b>
<b>d</b>			
<b>num</b>	= <b>numbered</b>	<b>s</b>	= <b>section</b>

<b>Key</b>	<b>Explanation</b>	<b>Key</b>	<b>Explanation</b>
<b>o in c</b>	= <b>order in council</b>	<b>sch</b>	= <b>schedule</b>
<b>om</b>	= <b>omitted</b>	<b>sdiv</b>	= <b>subdivision</b>
<b>orig</b>	= <b>original</b>	<b>SIA</b>	= <b>Statutory Instruments Act 1992</b>
<b>p</b>	= <b>page</b>	<b>SIR</b>	= <b>Statutory Instruments Regulation 2012</b>
<b>para</b>	= <b>paragraph</b>	<b>SL</b>	= <b>subordinate legislation</b>
<b>prec</b>	= <b>preceding</b>	<b>sub</b>	= <b>substituted</b>
<b>pres</b>	= <b>present</b>	<b>unnum m</b>	= <b>unnumbered</b>
<b>prev</b>	= <b>previous</b>		

### 3 Table of reprints

A new reprint of the legislation is prepared by the Office of the Queensland Parliamentary Counsel each time a change to the legislation takes effect.

The notes column for this reprint gives details of any discretionary editorial powers under the **Reprints Act 1992** used by the Office of the Queensland Parliamentary Counsel in preparing it. Section 5(c) and (d) of the Act are not mentioned as they contain mandatory requirements that all amendments be included and all necessary consequential amendments be incorporated, whether of punctuation, numbering or another kind. Further details of the use of any discretionary editorial power noted in the table can be obtained by contacting the Office of the Queensland Parliamentary Counsel by telephone on 3003 9601 or email [legislation.queries@oqpc.qld.gov.au](mailto:legislation.queries@oqpc.qld.gov.au).

From 29 January 2013, all Queensland reprints are dated and authorised by the Parliamentary Counsel. The previous numbering system and distinctions between printed and electronic reprints is not continued with the relevant details for historical reprints included in this table.

<b>Reprint No.</b>	<b>Amendments included</b>	<b>Effective</b>	<b>Notes</b>
1	none	1 July 2009	
1A	2011 SL No. 115	1 July 2011	

<b>Reprint No.</b>	<b>Amendments included</b>	<b>Effective</b>	<b>Notes</b>
1B	2012 SL No. 102	13 July 2012	

<b>Current as at</b>	<b>Amendments included</b>	<b>Notes</b>
1 July 2013	2013 SL No. 122	
15 November 2013	2013 SL No. 221	
1 July 2014	2014 SL No. 128	
1 July 2015	2015 SL No. 53	
1 July 2016	2016 SL No. 85	
1 July 2017	2017 SL No. 109	

## 4 List of legislation

### Regulatory impact statements

For subordinate legislation that has a regulatory impact statement, specific reference to the statement is included in this list.

### Explanatory notes

All subordinate legislation made on or after 1 January 2011 has an explanatory note. For subordinate legislation made before 1 January 2011 that has an explanatory note, specific reference to the note is included in this list.

### **Right to Information Regulation 2009 SL No. 134**

made by the Governor in Council on 25 June 2009

notfd gaz 26 June 2009 pp 831–7

ss 1–2 commenced on date of notification

remaining provisions commenced 1 July 2009 (see s 2)

exp 1 September 2019 (see SIA s 54)

Note—The expiry date may have changed since this reprint was published. See the latest reprint of the SIR for any change.

amending legislation—

### **Justice (Fees) Amendment Regulation (No. 1) 2011 SL No. 115**

notfd gaz 1 July 2011 pp 589–96

ss 1–2 commenced on date of notification

remaining provisions commenced 1 July 2011 (see s 2)



**Justice Legislation (Fees) Amendment Regulation (No. 1) 2012 SL No. 102**

notfd gaz 13 July 2012 pp 820–5  
 ss 1–2 commenced on date of notification  
 remaining provisions commenced 13 July 2012 (see s 2)

**Justice Legislation (Fees) Amendment Regulation (No. 1) 2013 SL No. 122**

notfd gaz 28 June 2013 pp 739–47  
 ss 1–2 commenced on date of notification  
 remaining provisions commenced 1 July 2013 immediately after the Uniform Civil Procedure and Another Rule Amendment Rule (No. 1) 2013 (see s 2)

**Right to Information Amendment Regulation (No. 1) 2013 SL No. 221**

notfd <www.legislation.qld.gov.au> 15 November 2013  
 commenced on date of notification

**Justice Legislation (Fees) Amendment and Repeal Regulation (No. 1) 2014 SL No. 128 ss 1–2(1), 3 sch**

notfd <www.legislation.qld.gov.au> 27 June 2014  
 ss 1–2 commenced on date of notification  
 remaining provisions commenced 1 July 2014 (see s 2(1))

**Justice Legislation (Fees) Amendment Regulation (No. 1) 2015 SL No. 53 pts 1, 45**

notfd <www.legislation.qld.gov.au> 26 June 2015  
 ss 1–2 commenced on date of notification  
 remaining provisions commenced 1 July 2015 (see s 2)

**Justice Legislation (Fees) Amendment Regulation (No. 1) 2016 SL No. 85 pts 1, 45**

notfd <www.legislation.qld.gov.au> 17 June 2016  
 ss 1–2 commenced on date of notification  
 pt 45 commenced 1 July 2016 (see s 2)

**Justice Legislation (Fees) Amendment Regulation (No. 1) 2017 SL No. 109**

notfd <www.legislation.qld.gov.au> 30 June 2017  
 ss 1–2 commenced on date of notification  
 pt 46 commenced 1 July 2017 (see s 2)

## 5 List of annotations

**Amount of application fee—Act, sch 6, definition application fee**

s 4 amd 2011 SL No. 115 s 3 sch; 2012 SL No. 102 s 3 sch; 2013 SL No. 122 s 3 sch; 2014 SL No. 128 s 3 sch; 2015 SL No. 53 s 102; 2016 SL No. 85 s 100; 2017 SL No. 109 s 111

**Amount of processing charge—Act, s 56**

s 5 amd 2011 SL No. 115 s 3 sch; 2012 SL No. 102 s 3 sch; 2013 SL No. 122 s 3 sch; 2014 SL No. 128 s 3 sch; 2015 SL No. 53 s 103; 2016 SL No. 85 s 101; 2017 SL No. 109 s 112

**Amount of access charge—Act, s 57**

s 6 amd 2014 SL No. 128 s 3 sch

**Report to Assembly on Act's operation—Act, s 185**  
s 8 amd 2013 SL No. 221s 3

**PART 7—TRANSITIONAL PROVISIONS**  
pt hdg amd 2013 SL No.221 s 4

**Division 1—Transitional provision for Right to Information Regulation 2009**  
div hdg ins 2013 SL No. 221 s 5

**Division 2—Transitional provision for Right to Information Amendment Regulation (No. 1) 2013**  
div 2 (s 13) ins 2013 SL No. 221 s 6

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