

# Freedom of Information Act 1982

## Time limits

### FOI Memorandum No. 96

The purpose of this memorandum is to provide agencies with a quick reference to the time limits that apply under the *Freedom of Information Act 1982*, the Freedom of Information (Miscellaneous Provisions) Regulations and the Freedom of Information (Fees and Charges) Regulations.

This Memorandum consists of two Parts the first Part of which is a summary of time limits. The second Part sets out in more detail the circumstances in which the various time limits apply.

This Memorandum should not be used as a substitute for other FOI Memorandums, such as New FOI Memorandum No. 19 – Preliminary and Procedural Matters, which deal with matters in a more substantive manner.

JUNE 1995 ATTORNEY-GENERAL'S DEPARTMENT  
CANBERRA

#### PART 1

##### Time Limits – Summary

##### *Freedom of Information Act 1982*

| Provision        | Time limit                                            |
|------------------|-------------------------------------------------------|
| Section 8(1)(a)  | Not later than <b>12 months after 1 December 1982</b> |
| Section 8(1)(b)  | <b>1 January</b> each year                            |
| Section 9(2)(b)  | Prepare by specified day                              |
| Section 12(2)    | <b>1 December 1977</b>                                |
| Section 15(5)(a) | Notify applicant <b>14 days</b>                       |
| Section 15(5)(b) | Notify applicant <b>30 days</b>                       |
| Section 15(6)    | Extend period by <b>30 days</b>                       |

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| Section 15A(2)(d)    | <b>30 days</b> if applicant, not notified of the outcome of a request            |
| Section 16(5)(b)     | No additional period                                                             |
| Section 21(1)        | Defer access for specified time                                                  |
| Section 24(7)        | Period to be disregarded for the purposes of section 15                          |
| Section 26A(2)(b)(i) | Access to document – <b>30 days</b>                                              |
| Section 27(1)(c)     | Reasonable opportunity of making submissions                                     |
| Section 27(2)(b)     | Access to document – <b>30 days</b>                                              |
| Section 27A(1)(b)    | Reasonable opportunity of making submissions                                     |
| Section 27A(2)(b)    | Access to document – <b>30 days</b>                                              |
| Section 28           | Not later than <b>12 months after 1 December 1982</b>                            |
| Section 29(1)(f)     | Applicant to notify within <b>30 days</b>                                        |
| Section 29(6)        | Notify applicant no later than <b>30 days</b>                                    |
| Section 29(7)        | Decision is to be taken to have been made by <b>30 days</b>                      |
| Section 30A(1A)      | Notify applicant by no later than <b>30 days</b>                                 |
| Section 30A(1B)      | Decision is to be taken to have been made by <b>30 days</b>                      |
| Section 31(1)        | Notification under section 29(1) or (6) – periods to be disregarded              |
| Section 36A          | No limit                                                                         |
| Section 43A          | Exemption limited to period before completion of research                        |
| Section 51D          | Notification not later than <b>30 days</b>                                       |
| Section 54(1A)(a)    | Application for internal review except for following item – <b>30 days</b>       |
| Section 54(1A)(b)    | (i) <b>30 days</b> after applicant notified; or (ii) <b>15 days</b> after access |
| Section 54(1F)       | Internal review – <b>30 days</b> or such further period as the agency allows     |
| Section 54(2)        | Review decision – as soon as practicable                                         |
| Section 55(3)        | <b>30 days</b> – apply to AAT                                                    |
| Section 55(4)(a)     | Apply to the AAT – <b>60 days</b>                                                |
| Section 55(4)(b)     | Decision deemed by section 56(1) or (3) – <b>60 days</b>                         |
| Section 55(4)(c)     | Section 57(3) applicable – <b>60 days</b>                                        |
| Section 56(1)        | Deemed refusal – <b>30 days</b> or <b>another 30 days</b>                        |

|                   |                                                           |
|-------------------|-----------------------------------------------------------|
| Section 56(1A)    | Deemed refusal to amend or annotate – <b>30 days</b>      |
| Section 58A(1)    | Conclusive certificate – <b>28 days</b>                   |
| Section 58A(3)(a) | Notify decision forthwith                                 |
| Section 58A(3)(b) | Lay notice before each House within <b>5 sitting days</b> |
| Section 58F(2)(b) | Inform applicant forthwith                                |
| Section 58F(2A)   | Application to the AAT – <b>30 days</b>                   |
| Section 59(2)(b)  | Inform applicant forthwith                                |
| Section 59(2A)    | Application to the AAT – <b>30 days</b>                   |
| Section 59A(2)(b) | Inform applicant forthwith                                |
| Section 59A(2A)   | Application to the AAT – <b>30 days</b>                   |
| Section 62(2)     | Furnish additional statement – <b>28 days</b>             |
| Section 93(1)(a)  | Report on FOI Act – <b>31 October</b> each year           |
| Section 93(1)(b)  | <b>15 sitting days</b> of each House                      |

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### **Freedom of Information (Miscellaneous Provisions) Regulations**

| Provision       | Time limit                         |
|-----------------|------------------------------------|
| Regulation 6(a) | Quarterly reports – <b>21 days</b> |
| Regulation 6(b) | Annual reports – <b>31 days</b>    |

### **Freedom of Information (Fees and Charges) Regulations**

| Provision       | Time limit                                |
|-----------------|-------------------------------------------|
| Regulation 6(2) | income support benefits – <b>3 months</b> |
| Regulation 6(3) | income support benefits – <b>3 months</b> |

## **Part 2**

## Time Limits

### *Freedom of Information Act 1982*

#### **Publication of Certain Documents and Information Part II**

| Provision       | Body or person subject to limit   | Action required                                                                                                                                                                                                                                                                                                                                             |
|-----------------|-----------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Section 8(1)(a) | Responsible Minister of an agency | Publication of information concerning functions and documents of agencies                                                                                                                                                                                                                                                                                   |
| Section 8(1)(b) | Responsible Minister of an agency | Subsequent publication of information concerning functions and documents of agencies                                                                                                                                                                                                                                                                        |
| Section 9(2)(b) | Principal officer of an agency    | Certain documents to be available for inspection and purchase – initial date<br><br>Note section 9(3) and 9(9) re new agencies<br><br>Agencies in existence before 18 November 1986<br><br>Agencies coming into existence on or after 18 November 1986<br><br>Certain documents to be available for inspection and purchase – subsequent dates all agencies |
| Section 10(1)   |                                   |                                                                                                                                                                                                                                                                                                                                                             |

#### **Access to Documents – Part III**

| Provision        | Body or person subject to limit      | Entitlement/Action required                                                                                                                                                                              |
|------------------|--------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Section 12(1)(a) | Applicant                            | Unless document contains personal information applicant not entitled to access document accessible under <i>Archives Act 1983</i>                                                                        |
| Section 12(2)    | Applicant                            | No entitlement to access to specified documents unless the document contains personal information about the applicant or information relating to that person's business, commercial or financial affairs |
| Section 15(5)(a) | Agency or Minister receiving request | Notify applicant request has been received                                                                                                                                                               |

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| Section 15(5)(b)     | Agency or Minister receiving request            | Take all reasonable steps to enable applicant to be notified of a decision on the request                                                                                                                      |
| Section 15(6)        | Agency or Minister receiving request            | Determination in writing that the requirements of sections 26A, 27 or 27A make it appropriate to extend the period under section 15(5)(a)                                                                      |
| Section 15A(2)(d)    | Applicant                                       | Period after which applicant, not notified of the outcome of a request using established personnel procedures, may use FOI Act                                                                                 |
| Section 16(5)(b)     | Agency or Minister to which request transferred | No additional period                                                                                                                                                                                           |
| Section 21(1)(a)     | Agency or Minister receiving request            | Deferment of access where publication required by law                                                                                                                                                          |
| Section 21(1)(b)     | Agency or Minister receiving request            | Deferment of access where document concerned has been prepared for presentation to Parliament or for a particular person or body                                                                               |
| Section 21(1)(c)     | Agency or Minister receiving request            | Deferment of access where premature release would be contrary to public interest                                                                                                                               |
| Section 21(1)(d)     | Agency or Minister receiving request            | Deferment of access if a Minister considers that the document concerned is of such general public interest that the Parliament should be informed of the contents before the document is otherwise made public |
| Section 24(7)        | Agency or Minister receiving request            | Refusal of request – written notice of intention to refuse – computation of 30 day period referred to in section 15                                                                                            |
| Section 26A(2)(b)(i) | Agency or Minister receiving request            | Where access to document likely to affect Commonwealth–State relations – access not to be given before time expires for application to the AAT by the State/Territory under section 58F for review of decision |
| Section 27(1)(c)     | Agency or Minister receiving request            | Request for documents relating to business affairs – before access given                                                                                                                                       |
| Section 27(2)(b)     | Agency or Minister receiving request            | Access to document concerning a person’s business affairs etc – access not to be given before the time expires for an application to the AAT by the person etc in accordance with section 59 for review of     |

|                   |                                         |                                                                                                                                                                                                                                                                                                                                           |
|-------------------|-----------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                   |                                         | decision                                                                                                                                                                                                                                                                                                                                  |
| Section 27A(1)(b) | Agency or Minister receiving request    | Access to document containing personal information – before access given                                                                                                                                                                                                                                                                  |
| Section 27A(2)(b) | Agency or Minister receiving request    | Access to document containing personal information – access not to be given before the time expires for an application to the AAT by the person in accordance with section 59A for review of decision                                                                                                                                     |
| Section 28        | Minister administering the FOI Act      | Publish addresses of Information Access Offices                                                                                                                                                                                                                                                                                           |
| Section 29(1)(f)  | Applicant                               | Notify agency or Minister of agreement to pay charge, contend charge wrongly assessed etc or withdraws request                                                                                                                                                                                                                            |
|                   |                                         | Note: failure to give notice within period – applicant is taken to have withdrawn request                                                                                                                                                                                                                                                 |
| Section 29(6)     | Agency or Minister receiving request    | Requirement to take all reasonable steps to enable the applicant to be notified of the decision on the amount of the charge payable                                                                                                                                                                                                       |
| Section 29(7)     | Principal officer of agency or Minister | Where applicant has not received notice of a decision on the amount of the charge payable – decision is to be taken to have been made that the amount of the charge payable is the amount equal to the preliminary assessment                                                                                                             |
| Section 30A(1A)   | Agency or Minister receiving request    | All reasonable steps to enable applicant to be notified of the decision on request under section 30A(1) for application fee to be wholly or partly remitted                                                                                                                                                                               |
| Section 30A(1B)   | Principal officer of agency or Minister | Where applicant has not received notice of a decision on the remission of the application fee – decision is to be taken to have been made that no part of the application fee is to be remitted                                                                                                                                           |
| Section 31(1)     | Applicant                               | Where an applicant receives a notification under section 29(1) or (6) (Charges) before the expiry of the 30 days in section 15(5)(b) – periods to be disregarded for the purposes of processing requests – each day during the period commencing on the day on which the notification is received by the applicant and the ‘relevant day’ |

Where an applicant pays the charge or deposit

Where an applicant has not paid the charge and seeks to have the charge reduced or not imposed under section 29

Where the agency or Minister decides not to impose the charge

Where an applicant has not paid the charge or deposit and applies to the agency under section 54 for internal review – if a decision is made setting aside the decision requiring a charge or deposit

Where an applicant has not paid the charge or deposit and applies to the agency under section 54 for internal review – if a decision is made setting aside the decision requiring a charge or deposit but substituting a new charge or deposit

Where an applicant who has not paid the charge or deposit applies to the AAT under section 55 for a review of the decision to impose a charge – if the AAT sets aside the decision

Where an applicant who has not paid the charge or deposit applies to the AAT under section 55 for a review of the decision to impose a charge – if the AAT sets aside the decision requiring a charge or deposit but substitutes a new charge or deposit

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#### **Exempt Documents – Part IV**

| Provision   | Body or person subject to limit | Entitlement/Action required                       |
|-------------|---------------------------------|---------------------------------------------------|
| Section 36A | Agency or Minister              | Period conclusive certificate may remain in force |
| Section 43A | Agency listed in Schedule 4     | Exemption for documents relating to research      |

#### **Amendment and Annotation of Personal Records – Part V**

| Provision   | Body or person subject to limit | Entitlement/Action required                  |
|-------------|---------------------------------|----------------------------------------------|
| Section 51D | Agency or Minister              | Notification of a decision on an application |

## Review of Decisions – Part VI

| Provision         | Body or person subject to limit         | Entitlement/Action required                                                                                                      |
|-------------------|-----------------------------------------|----------------------------------------------------------------------------------------------------------------------------------|
| Section 54(1A)(a) | Applicant                               | Application for internal review except for following item                                                                        |
| Section 54(1A)(b) | Applicant                               | Application for internal review of a decision referred to in section 54(1)(b), (ba) or (f)                                       |
| Section 54(1F)    | Third party                             | Application for internal review of a decision to grant access                                                                    |
| Section 54(2)     | Agency                                  | Arrange for a person (not being the person who made the decision) to review the decision                                         |
| Section 55(3)     | Applicant                               | Applicant may apply to AAT where there has been no response to an application for internal review                                |
| Section 55(4)(a)  | Applicant                               | Period in which applicant may apply to the AAT under section 55(1) other than where paragraphs (b) or (c) apply                  |
| Section 55(4)(b)  | Applicant                               | Where the decision is one deemed by section 56(1) or (3) (delayed decision) to have been made                                    |
| Section 55(4)(c)  | Applicant                               | Where section 57(3) is applicable (complaint made to the Ombudsman)                                                              |
| Section 56(1)     | Principal officer of agency or Minister | Refusal to grant access – deemed to have made on the last day of the period, a decision refusing to grant access to the document |

|                   |                                                                           |                                                                                                                                                                                             |
|-------------------|---------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Section 56(1A)    | Principal officer of agency or Minister                                   | Taken to have made a decision on the last day of the period refusing to amend or annotate the record of personal information                                                                |
| Section 58A(1)    | Appropriate Minister                                                      | Requirement to make a decision to revoke or not to revoke a conclusive certificate where the AAT has determined that there do not exist reasonable grounds for the claim in the certificate |
| Section 58A(3)(a) | Appropriate Minister                                                      | Requirement to cause a notice in writing of a decision (under section 58A(1)(b)) not to revoke a conclusive certificate to be given to the applicant                                        |
| Section 58A(3)(b) | Appropriate Minister                                                      | Requirement to cause a copy of a notice in writing of a decision (under section 58A(1)(b)) not to revoke a conclusive certificate, to be laid before each House of Parliament               |
| Section 58F(2)(b) | Agency or Minister                                                        | Requirement to inform the applicant that a third party application has been made                                                                                                            |
| Section 58F(2A)   | State or Territory third party                                            | Period in which an application to the AAT, to review a decision that a document is not an exempt document, must be made                                                                     |
| Section 59(2)(b)  | Agency or Minister                                                        | Requirement to inform the applicant that a third party application has been made                                                                                                            |
| Section 59(2A)    | Person, organisation or proprietor third party                            | Period in which an application to the AAT, to review a decision that a document is not an exempt document, must be made                                                                     |
| Section 59A(2)(b) | Agency or Minister                                                        | Requirement to inform the applicant that a third party application has been made                                                                                                            |
| Section 59A(2A)   | Person third party                                                        | Period in which an application to the AAT, to review a decision that a document is not an exempt document, must be made                                                                     |
| Section 62(2)     | Person responsible for furnishing a statement of reasons under section 26 | Requirement (AAT declaration) for person to furnish to applicant an additional statement of reasons containing further and better particulars                                               |

### **Miscellaneous Part VIII**

| Provision        | Body or person subject to limit    | Action required                                                                        |
|------------------|------------------------------------|----------------------------------------------------------------------------------------|
| Section 93(1)(a) | Minister administering the FOI Act | Prepare a report on the operation of the FOI Act during the year ended on each 30 June |
| Section 93(1)(b) | Minister administering the         | Cause the report to be laid before each House of                                       |

FOI Act

Parliament

### **Freedom of Information (Miscellaneous Provisions) Regulations**

| Provision       | Body or person subject to limit | Action required                                                                                                                        |
|-----------------|---------------------------------|----------------------------------------------------------------------------------------------------------------------------------------|
| Regulation 6(a) | Each agency and each Minister   | Time in which required to furnish information the Minister administering the FOI Act requires for the preparation of quarterly reports |
| Regulation 6(b) | Each agency and each Minister   | Time in which required to furnish information the Minister administering the FOI Act requires for the preparation of annual reports    |

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### **Freedom of Information (Fees And Charges) Regulations**

| Provision       | Body or person subject to limit | Limitation                                                                                                                                                                                                                                                                                        |
|-----------------|---------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Regulation 6(2) | Applicant                       | Period after which charges in regulation 4 do not apply for application for information relating to a claim for, or a decision in relation to, income support benefits (qualification where information has been modified)                                                                        |
| Regulation 6(3) | Applicant                       | Period after which an application fee (original application or application for internal review) in regulation 5 does not apply for application for information relating to a claim for, or a decision in relation to, income support benefits (qualification where information has been modified) |