

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 12 months after 1 December 1982
Section 8(1)(b)	1 January each year
Section 9(2)(b)	Prepare by specified day
Section 12(2)	1 December 1977
Section 15(5)(a)	Notify applicant 14 days
Section 15(5)(b)	Notify applicant 30 days
Section 15(6)	Extend period by 30 days

Section 15A(2)(d)	30 days 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 – 30 days
Section 27(1)(c)	Reasonable opportunity of making submissions
Section 27(2)(b)	Access to document – 30 days
Section 27A(1)(b)	Reasonable opportunity of making submissions
Section 27A(2)(b)	Access to document – 30 days
Section 28	Not later than 12 months after 1 December 1982
Section 29(1)(f)	Applicant to notify within 30 days
Section 29(6)	Notify applicant no later than 30 days
Section 29(7)	Decision is to be taken to have been made by 30 days
Section 30A(1A)	Notify applicant by no later than 30 days
Section 30A(1B)	Decision is to be taken to have been made by 30 days
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 30 days
Section 54(1A)(a)	Application for internal review except for following item – 30 days
Section 54(1A)(b)	(i) 30 days after applicant notified; or (ii) 15 days after access
Section 54(1F)	Internal review – 30 days or such further period as the agency allows
Section 54(2)	Review decision – as soon as practicable
Section 55(3)	30 days – apply to AAT
Section 55(4)(a)	Apply to the AAT – 60 days
Section 55(4)(b)	Decision deemed by section 56(1) or (3) – 60 days
Section 55(4)(c)	Section 57(3) applicable – 60 days
Section 56(1)	Deemed refusal – 30 days or another 30 days

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

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Freedom of Information (Miscellaneous Provisions) Regulations

Provision	Time limit
Regulation 6(a)	Quarterly reports – 21 days
Regulation 6(b)	Annual reports – 31 days

Freedom of Information (Fees and Charges) Regulations

Provision	Time limit
Regulation 6(2)	income support benefits – 3 months
Regulation 6(3)	income support benefits – 3 months

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 Note section 9(3) and 9(9) re new agencies Agencies in existence before 18 November 1986 Agencies coming into existence on or after 18 November 1986 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

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)