

## Application for amendment of per Information Act 1982 (Cth)

This precedent has been authored for LexisNexis  
**University of Queensland.**

This precedent is a part of a LexisNexis suite of fo

This precedent is current to **January 2015.**

### Introductory note

This precedent is an application for amendme  
Act 1982 (Cth).

### Legislation

Legislation providing for freedom of informati  
and territories under various names.

The Commonwealth Act is the Freedom of Inf  
territory Acts are:

- Freedom of Information Act 1989
- Information Act 2002 (NT);
- Government Information (Public
- Right to Information Act 2009 (Q
- Freedom of Information Act 1991
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The Commonwealth Act has served as the ba  
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now between that Act and those laws. Indeed  
are now significant areas of difference as well

The particular state or territory law in question  
issue, ie if information is sought at state or ter  
territory agency, the relevant state or territory

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## When government records about someone

### Commonwealth

A person may apply to an agency or Minister for access to information kept by that agency or Minister: see section 4(1) of the Cth FOI Act. A prescribed authority may also request information:

- is contained in a document to which the Act applies;
- is personal information about the person to whom it relates:
  - incomplete;
  - incorrect;
  - out of date; or
  - misleading; and
- has been used or is being used for a purpose other than an administrative purpose.

An “agency” means a “Department”, a “prescribed authority” or a “prescribed body” under section 4(1) of the Cth FOI Act. A prescribed authority is a body established for a public purpose but it does not include a Royal Commission or commission of inquiry: see section 4(1) of the Cth FOI Act.

The discretion to amend is unfettered other than by the general harmony with the objects of the Cth FOI Act.

### States and territories

**Australian Capital Territory:** A provision in a Territory law appears in section 48 of the Freedom of Information Act 1982. The applicant to be an Australian citizen.

**Northern Territory:** By section 16(b) of the Information Privacy Act 1988, a person may request an enforceable under that Act to correct his or her information or out of date. In the event of disagreement by the person holding the information see section 16(c).

**New South Wales:** The Privacy and Personal Information Act 1988, section 15(1) requires a public sector agency to ensure that information is complete and not misleading. It may do so when the person to whom the information relates requests it.

**Queensland:** Under the Information Privacy Act 2009, a person may request an agency to amend, inaccurate, incomplete, out of date or misleading information they contain that individual’s personal information.

**South Australia:** A person to whom access to information is granted may request for the amendment of the agency’s records (if the information is incorrect, incomplete, out of date or misleading).

## Application for IC review of FOI a

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**External review: the Information Commissi**

**Commonwealth**

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The Information Commissioner may review an

- an access refusal decision (see s 54M(1) of the Freedom of Information Act 1982 (Cth) (Cth FOIA))
- an access grant decision (see s 54M(2) of the Freedom of Information Act 1982 (Cth) (Cth FOIA))

including both the original access decision and

An application for the review of an access refusal decision is made to the Information Commissioner regardless of whether the decision was the subject of an internal review.

If no decision is made on internal review within 90 days (be it either access grant or access refusal) is the decision reviewable: section 54M(2) note.

The term "**IC review**" is defined by the Cth FOIA section 54G. The IC review application may be made if the applicant disputes the IC reviewable decision:

The powers, in general, of the Information Commissioner are set out in the Cth FOI Act. The Information Commissioner may, in writing affirming, varying or setting aside the original decision in substitution: section 55K(1).

During an IC review, a party may apply for a stay of the operation of the decision: section 55B.

### States and territories

**Australian Capital Territory:** The Freedom of Information or Freedom of Information Commission (the Commission) provides an "internal review" of this chapter) there is provided by the Administrative Tribunal (ACAT).

**Northern Territory:** An Information Commissioner may review a decision under section 85(1). By section 103 of that Act a person may apply to the organisation on an application for review by the organisation about the decision. Within 90 days of receiving the decision, the Commissioner must decide whether to accept or reject the complaint and give reasons for the decision: section 106(1). The grounds on which the Commissioner may set aside the decision are: section 106(3) and (4).

**New South Wales:** The Government Information Commissioner gives a person aggrieved by a reviewable decision the right to have the decision reviewed by the Information Commissioner. The Commissioner may conduct an internal review except in certain cases: section 92(1). The Commissioner may, after notice of the decision to which the review applies, conduct an internal review. The Commissioner may make such recommendations as the Commissioner thought appropriate: section 92(1).

**Queensland:** The Right to Information Act 2009 (Qld) (RTI Act) enables a person affected by a reviewable decision to apply to the Information Commissioner. Some decisions are

## Application for internal review of

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### Internal review

Usually there will be provision for internal revi

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taken of this, if available.

### Commonwealth

A party who is dissatisfied with a decision may apply for internal review of that decision under section 54 of the Cth FOI Act. Applications for internal review may be made in respect of:

- an "access refusal decision" under section 54A(1) made by the principal officer or the responsible officer;
- an "access grant decision" under section 54B(1) made by the agency's principal officer or the responsible officer.

The primary meaning of an access refusal decision is a decision to refuse to provide a document in accordance with a request: see section 54A(1). The primary meaning of an access grant decision is set out in section 54B(1). A table of decisions in a table which covers documents to which the Act applies in a case may be.

**Time for seeking internal review:** Specified in section 54B(2). An application to review a decision must be made. However, an application may be made at any time, whether or not the time for making an application has expired: section 54B(2).

**Where internal review is not granted:** Reasons for refusal of an internal review. The notice of refusal must be given in writing and must refer to the material on which those reasons are based.

**Where internal review is granted:** An agency or the principal officer (or the responsible officer) must review a decision within 30 days of the date of the decision: subsections 54C(2) and (3).

If no decision is made on internal review within the specified time (be it either access grant or access refusal) is a decision: section 54M(2) note.

### States and territories

**Australian Capital Territory:** Internal review of a decision under the Information Act 1989 (ACT). Thus, by section 54(1) of the Act, a decision is reviewable. See also section 59(1)(b) and (c).

Application must be made within 28 days of notification of the decision.

A fresh decision must be made upon a review of that decision.

Reasons for a decision on review must be given in writing.

**Northern Territory:** A person aggrieved by a decision may apply for a review of that decision under section 38(1) of the Act. The person must comply with section 38(2).

## Request for access under the Freedom of Information Act

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### Information that may be accessed

In seeking access, it is important always to be  
A request for access to information in a docum

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is vague or ill defined. It is necessary to be precise about the exact position(s) they occupy in an agency, and exacting in the description of the document(s) sought. Access to voluminous documents should, as a general rule, be refused, as specific documents are more likely to be effective.

### Commonwealth

The Cth FOI Act provides every person with a right of access to information (section 11(1)):

- a "document of an agency" (other than a document of a Minister)
- an "official document of a Minister"

This right, however, may only be exercised in certain circumstances:

A person's right of access is not generally affected by:

- the reasons the person gives for seeking access;
- the agency's or the Minister's beliefs or opinions as to whether access are in the public interest.

The Cth FOI Act distinguishes between exempt documents and conditionally exempt documents.

### States and territories

State and territory laws are broadly similar to the Cth FOI Act, providing a right of access to exempt documents and conditionally exempt documents.

**Australian Capital Territory:** by the Freedom of Information Act 1982, a legally enforceable right to obtain access (information) to:

- a document of an agency, other than a document of a Minister
- an official document of a Minister

**Northern Territory:** The Information Act 2002 provides a legally enforceable right to access "government information": sections 15 and 16(a). By section 16(a), a person has a right of access to government information held by an organisation for government information held by that organisation relating to that person.

"Government information" is defined as a record held by an organisation: section 4.

The NT FOI Act draws a distinction between information in the public interest to disclose it (section 44) and information in the particular case that it is not in the public interest to disclose it (section 45).

**New South Wales:** The Government Information Act 1989 requires government information held by an agency to be disclosed to a person who requests it, unless it is exempt from disclosure.