
IPOLA GUIDELINE

Applying the legislation – Right to Information Act 2009

Charges Estimate Notices

This guide does not reflect the current law.

It highlights important changes to the *Right to Information Act 2009*.

This guide does not constitute legal advice and is general in nature only. Additional factors may be relevant in specific circumstances. For detailed guidance, legal advice should be sought.

1.0 Overview

The *Right to Information Act 2009* (Qld) (**RTI Act**) gives people the right to access documents of an agency, subject to some exceptions and limitations.¹ Under the RTI Act and Right to Information Regulation 2009, an applicant may need to pay processing and/or access charges.

2.0 Charges Estimate Notices

A Charges Estimate Notice (**CEN**) is a written estimate of the charges payable for an access application. As set out in section 36, a CEN is only required if the agency considers that the applicant will need to pay an access and/or processing charge. It is not necessary for the agency to give the applicant a schedule of relevant documents along with a CEN.

If no charges are payable, the agency does not need to issue a CEN.

Refer to [Fees and Charges under the RTI Act](#) for information on access and processing charges.

3.0 Financial hardship

Applicants can apply to have the processing and access charges waived if they are in financial hardship. Individuals apply to the relevant agency and non-profit organisations apply to the Information Commissioner.

If the applicant applies for financial hardship status before a CEN is issued and the agency decides to waive the charges, it does not need to issue a CEN. The

¹ References to an agency includes Ministers or any other entity subject to the RTI Act.

applicant must be given a decision that the charges have been waived, but this can be included in the final decision notice.

If the agency decides not to waive the charges, it must include notice of that decision in the CEN.

If the applicant applies for financial hardship after a CEN is issued and the agency decides to waive the charges, the applicant should be given notice of that decision as soon as practicable after the decision is made. The agency does not need to issue a second CEN.

Refer to [Fees and Charges under the RTI Act](#) for more information on financial hardship and fee waiver.

4.0 How many CENs

The applicant can narrow their application after the first CEN. If they do, the agency must issue a second and final CEN.

No more than two CENs can be given on an application.²

5.0 Requirements of a CEN

A CEN must include:

- the estimated processing and/or access charges and the basis on which the estimate was made
- the date the decision that a charge was payable was made and the name and designation of the person making the decision; and
- any rights of review for the decision, how to exercise the right, and the time within which it must be exercised.

For the first CEN, it must also include:

- that the applicant can consult with the agency about narrowing their application to reduce the charge; and
- that if the applicant does not confirm, narrow or withdraw by the end of the prescribed period, they will be taken to have withdrawn the application.

For the second CEN, it must also include that if the applicant does not confirm or withdraw their narrowed application by the end of the prescribed period, they will be taken to have withdrawn the application.

6.0 CEN Timeframes

The RTI Act has two CEN timeframes: one for the agency and one for the applicant.

The *agency's* timeframe is the number of business days between when it issued a CEN and when:

² Given the effect of (f) and (g) of the definition of 'charges estimate notice' in section 36(7) of the RTI Act.

- the applicant confirms a CEN; or
- if the applicant applies for financial hardship after receiving a CEN, on the day the agency gives them a decision to waive the charges.³

The total number of business days are added to the processing period, extending it.

The *applicant's* timeframe is a 'prescribed period',⁴ which sets the time they have to respond to a CEN. It has no effect on the processing period and can be extended if the agency and applicant agree.

Refer to [Timeframes under the RTI Act](#) for more information.

7.0 Outcomes of issuing a CEN

There can be several outcomes after a CEN is issued.

7.1 *Applicant does not respond*

If the applicant does not respond to a CEN by the end of the prescribed period, they are taken to have withdrawn their application and the agency can close its file. This is not a *decision* by the agency, it happens automatically, and no decision notice is required, but agencies could consider advising the applicant to prevent future confusion.

7.2 *Applicant asks for more time*

The applicant's prescribed period is 20 business days from the date of the CEN, but it can be extended if the agency and applicant agree. There is no limit on how long an extension can be or how many times it can be extended, but the extension must be agreed to before the prescribed period ends.

There can be no extension after the end of the prescribed period, because at this point the application is taken to be withdrawn, and the agency no longer has a valid application.

7.3 *Applicant accepts*

If the applicant accepts the amount of the charge by confirming the application, the revision period ends. The agency can process the application and include the total final charge in their decision notice.

7.4 *Applicant narrows*

If the applicant narrows their application, the agency will need to consider the narrowed scope, estimate the total amount of processing and access charges payable for the narrowed application, and issue a second CEN to the applicant.

³ See additional period for the circumstance of issuing a CEN in section 18 of the RTI Act.

⁴ See definition of 'prescribed period' in section 36(7) of the RTI Act.

Agencies should issue the second CEN as soon as is reasonably practicable, but there are no time limits for this process. The agency's CEN timeframe does not end until the applicant accepts a CEN or receives a decision to waive charges.

The applicant can only narrow their application in response to the first CEN. They cannot change or expand it.

7.5 Applicant applies for financial hardship

If the applicant applies for financial hardship after receiving a CEN, the agency must consider the evidence provided by the applicant and make a decision whether or not to waive the charges.

The agency should give notice of their decision to the applicant as soon as is reasonably practicable. If waiver has been refused, the agency should consider extending the prescribed period, so the applicant has the option to respond to the CEN, e.g. by narrowing their application.

If the applicant is a non-profit organisation which applies to the Information Commissioner for financial hardship after the agency has issued a CEN, the agency will need to consider whether it is appropriate to extend the prescribed period so the Information Commissioner can make a decision on their application.

The agency is not required to extend the prescribed period in these circumstances, but outside of unusual circumstances or unreasonable conduct, doing so is compatible with the objects of the Act.

8.0 CEN review rights

The amount of the charge cannot be reviewed. However, applicants have the right to seek a review of the decision that any charge is payable. This could occur, for example, if the agency refuses to waive the charges after the applicant applies for financial hardship, or there are processing charges and the applicant believes that every document contains their personal information, so there should be no processing charges.

Refer to [Review rights under the RTI Act](#) for more information.

For additional IPOLA assistance, please contact the IPOLA team by email IPOLA.Project@oic.qld.gov.au

For information and assistance on current legislation, please refer to the OIC's guidelines, or contact the Enquiries Service on 07 3234 7373 or by email enquiries@oic.qld.gov.au