



Applying the Legislation

Schedule of relevant documents and charges estimate notice

Section 36 of the *Right to Information Act 2009*

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1.0 Overview

This Guideline explains the requirements under section 36 of the *Right to Information Act 2009 (RTI Act)* for agencies¹ to provide applicants with a schedule of relevant documents and a charges estimate notice (CEN) before the end of the processing period.

This section only applies to applications under the RTI Act because there is no requirement to supply either a schedule of documents or a CEN in the *Information Privacy Act 2009*.

2.0 Schedule of relevant documents

Agencies must supply a schedule of relevant documents to an applicant before the end of the processing period.² The applicant may waive the requirement and the waiver does not have to be in writing.³

Schedule of relevant documents is defined in section 36(7) of the RTI Act as a schedule that:

- provides a brief description of the classes of documents relevant to the application in the possession, or under the control, of the agency or Minister; and
- sets out the number of documents in each class.

¹ In this Guideline references to an 'agency' include Ministers, unless otherwise specified.

² See section 18 of the RTI Act for definition of "processing period".

³ Section 36(1)(b)(i) of the RTI Act. See 2.3 below for more detail.



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The schedule does not need to describe each document. Rather, the agency sorts the documents into classes, briefly describes the class, and sets out how many documents are in each class.

For example, a schedule of relevant documents for an application might be as follows:

Class	Description	No.
Emails	Emails between departmental officers about the street upgrade	10
Briefing memos	Memos from departmental officers to the Director-General about the street upgrade	5
Petitions	Petitions from members of the public supporting the street upgrade	130
	Petitions from members of the public objecting to the street upgrade	140
Reports	Reports on the impact of the street upgrade on native wildlife	5

2.1 Other purposes of a schedule of relevant documents

Apart from the requirement in section 36 of the RTI Act, detailed schedules of documents are often created for other purposes.

For example, the Information Commissioner may ask an agency for schedules to be prepared as part of an external review process. Decision makers may also create schedules as they process an application, indicating which documents should be released, whether consultation is required or where disclosure would, on balance, be contrary to the public interest.

Redax plug-in

Agencies using a Redax plug-in for Adobe Acrobat can use the Redax Report function to assist in generating a schedule of documents.

2.2 What if the documents contain exempt or contrary to public interest information?



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An agency is not required to include any exempt information or contrary to public interest information in the schedule.⁴

2.3 Waiver of the requirement to supply a schedule of relevant documents

An applicant may waive the requirement for an agency to supply a schedule of relevant documents. There is no requirement for applicants to make this waiver in writing; however, agencies should keep a record of any phone calls or other communication in which the applicant has made the waiver.

An applicant should be advised of the option to waive the requirement to supply a schedule early on in their process, so that the agency does not waste processing time working on a schedule when the applicant does not require one.

3.0 Charges estimate notice (CEN)

A CEN is a written estimate of the likely processing and access charges. CENs must be given to the applicant before the end of the processing period. Extra time requested under section 35 of the RTI Act (the *further specified period*) does not count as part of the processing period. See the [How to Calculate Timeframes](#) guideline for more information.

Agencies must give a CEN regardless of whether or not charges are payable. In order to issue a CEN, the agency must:

- decide if any processing or access charges are payable for the application; and
- estimate the amount of those charges.

3.1 Requirements of a CEN⁵

A CEN must advise the applicant of:

- the agency's estimate of any processing or access charges
- how the agency arrived at the amount of the estimated charges
- the outcome of any request from the applicant to have the charges waived, including reasons if the decision was to refuse the waiver
- the day the decision was made
- their review rights on any decision that processing and/or access charges are payable (including a decision not to waive charges); and
- the name and designation of the person making the decision.

⁴ Section 36 of the RTI Act, definition of 'schedule of relevant documents'.

⁵ Section 36(7) of the RTI Act.



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A CEN must also:

- tell the applicant that they may consult with the agency with a view to narrowing the application and reducing the charges
- advise the applicant that they must—either verbally or in writing—confirm, narrow or withdraw their application within 20 business days of the date of the CEN (or a longer period if the applicant and agency agree to extend it)
- tell the applicant that if they narrow their application within the 20 business days (or a longer period if the agency agrees to extend it), the agency must give them a new CEN. The agency should indicate that the second CEN will be the final one.

3.1.1 Processing and access charges

The **processing charge** is based on the time it takes an agency to process an access application. The processing charge may include costs for the time taken to search and retrieve relevant documents and the decision making process under the RTI Act.⁶

An **access charge** is the cost in relation to giving the applicant access to a document, for example it may include the cost of photocopies.

Both the processing charge and the access charge are prescribed under the *Right to Information Regulation 2009*.⁷

When preparing your estimated charges, you have a duty to minimise any processing or access charges payable by an applicant.⁸

The RTI Act also provides that no processing charge is payable in relation to a document that contains any personal information of the applicant.⁹ This means that you must exclude from your estimate the time it will take to process documents which contain the applicant's personal information. There is no similar provision in relation to access charges so you should include all documents when estimating the access charges.

The RTI Act states that the amount payable for any processing and/or access charges may not be more than the estimated charges set out in the final CEN.¹⁰ So while the amount of charges payable by an applicant before they are given access to documents may be less than the amount in the final CEN, it cannot be more than the final estimate.

⁶ Section 56 of the RTI Act.

⁷ Sections 5 and 6 of the *Right to Information Regulation 2009*.

⁸ Section 58 of the RTI Act.

⁹ Section 59 of the RTI Act.

¹⁰ Section 61 of the RTI Act.



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For more guidance on processing and access charges see the Guideline: *Fees and charges*.

3.2 What time periods apply for the CEN?

The **revision period** is the period of time given for the agency to manage and issue the CEN or CENs. Unlike other time periods it begins as soon as the CEN is issued, not on the next business day, and it does not end until the applicant accepts a CEN.

The **prescribed period** is the period of time given for an applicant to respond to confirm or narrow the CEN¹¹ and it runs concurrently with the revision period. The prescribed period is 20 business days from the date of the CEN, but the agency can extend it at any time before it ends. If a second CEN is issued there will be a second prescribed period.

3.3 What happens to the processing period when a CEN has been sent?

The revision period is not included in the processing period.¹² This means that the processing period is placed 'on hold' as soon as the revision period begins and it does not end until the applicant accepts a CEN.¹³ This is often referred to as 'stopping the clock'.

If an applicant is considering narrowing the scope of their access application, agencies can use this time (while the clock has stopped) to actively consult with the applicant.

See the [How to calculate timeframes](#) guideline for more information.

3.4 What happens after a CEN is issued to an applicant?

If the applicant does not confirm, narrow or withdraw their access application before the end of the prescribed period, the applicant is taken to have withdrawn their application.¹⁴

Any narrowing of the scope by the applicant must be done after issuing the first CEN and before the agency issues the second and final CEN. This is because agencies can only issue two CENs on an application.¹⁵

3.5 Issuing a second CEN

If the applicant narrows their application, the agency must give the applicant a second CEN before the end of the revision period.¹⁶

¹¹ Section 36(7) of the RTI Act.

¹² Section 18 of the RTI Act, definition of "processing period", part 2(c).

¹³ See sections 18 and 36 of the RTI Act.

¹⁴ Section 36(3) of the RTI Act.

¹⁵ Section 36(5) of the RTI Act.

¹⁶ Section 36(4) of the RTI Act.



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The applicant will have the 20 business day prescribed period to withdraw or confirm their application. If they do neither, the application will be taken to be withdrawn.

Attempts to change or expand the scope

The purpose of the CEN is to allow applicants to confirm their application, narrow their scope, or decide not to proceed. The Act does not provide for applicants to expand their scope or alter their application so they are applying for new documents.

Where an applicant attempts to do so and fails to confirm or narrow their application before the end of the prescribed period, agencies should follow the provisions of the Act.

3.6 Can an applicant seek a review of the CEN?

There are no internal or external review rights for the amount of the charges stated in a CEN.¹⁷ However, the decision about whether a processing charge or access charge is payable (including a decision not to waive charges) is a reviewable decision.¹⁸

CENs must include these review rights, along with information about how to apply for a review and the timeframe for making a review application.¹⁹

3.7 Is an applicant required to pay the estimated processing and access charges?

Applicants do not have to pay the estimated charges when confirming the CEN and agencies cannot ask for a deposit.

The amount and itemisation of the final processing and/or access charges must be included in the agency's written notice of decision.²⁰ The final charges payable may be less than the amount quoted in the CEN but cannot exceed the estimated charges.²¹

For more guidance on payment of the processing and access charges see the Guideline: *Fees and charges*.

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

¹⁷ Section 81 and section 86 of the RTI Act.

¹⁸ See definition of 'reviewable decision' under Schedule 5 of the RTI Act.

¹⁹ Section 36(7)(g) of the RTI Act.

²⁰ Section 54(2) of the RTI Act.

²¹ If the applicant withdraws their application prior to receiving the agency's access decision there is no requirement in the RTI Act for the applicant to pay the charges confirmed in the CEN.



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This guide is introductory only, and deals with issues in a general way. It is not legal advice. Additional factors may be relevant in specific circumstances. For detailed guidance, legal advice should be sought.

If you have any comments or suggestions on the content of this document, please submit them to feedback@oic.qld.gov.au

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