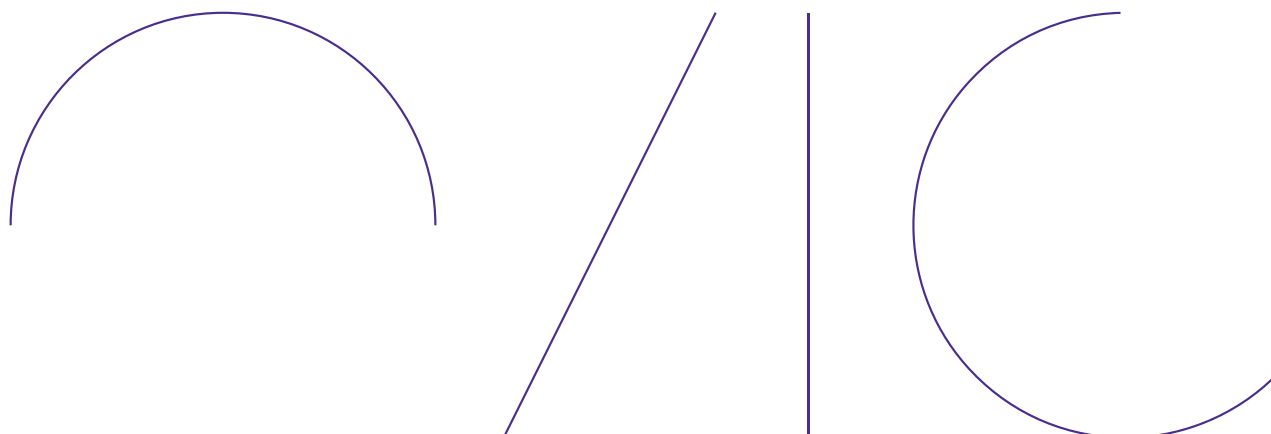




# *Freedom of Information (Access Charges) Regulations 2014*

Freedom of Information Guidelines

FREEDOM OF INFORMATION



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### References to legislation

All legislative references are to the *Freedom of Information Act 1982* (Vic) (**the Act**) unless otherwise stated.

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# Regulation 1 – Objectives

## 1 Objectives

The objectives of these Regulations are to provide for—

- (a) the making of charges of amounts; and
- (b) the fixing of rates—

for and in relation to access to documents and the provision of copies or transcripts of documents under the **Freedom of Information Act 1982**.

## Guidelines

### Outlining the objectives of the Regulations

- 1.1. Under the Act, an agency is entitled to charge an applicant for certain activities involved in searching for and providing access to documents. These charges are known as ‘access charges’.
- 1.2. The objectives of the Regulations are to prescribe the costs involved in providing access to documents (for example, searching or creating a document) and the costs of providing different forms of access (for example, via hardcopy or inspection).

# Regulation 2 – Authorising provisions

## 2 Authorising provisions

These Regulations are made under sections 22(1A) and 66 of the **Freedom of Information Act 1982**.

## Guidelines

### Purpose of Regulation 2

- 1.3. Regulation 2 details the relevant provisions of the Act that enable the regulations with respect to access charges to be made ([section 22\(1A\)](#) and [section 66](#)).
- 1.4. Section 66(1)(a) permits regulations to be made that set the access charges amount when providing access to documents.
- 1.5. Section 22(1A) permits regulations made under section 66 to prescribe:
  - different amounts for documents containing health information relating to the applicant according to the form in which access is given; and
  - amounts by reference to the usual fee of a person for a consultation of a comparable duration.

# Regulation 3 – Commencement

## 3 Commencement

These Regulations come into operation on 28 June 2014.

## Guidelines

### When the regulations commenced

- 1.6. Regulation 3 outlines when the regulations commenced, which was 28 June 2014.

# Regulation 4 – Revocation

## 4 Revocation

The Freedom of Information (Access Charges) Regulations 2004 are revoked.

## Guidelines

1.8. There are no guidelines in relation to Regulation 4.



# Regulation 5 – Definitions

## 5 Definitions

In these Regulations—

**agency** includes Minister;

**the Act** means the **Freedom of Information Act 1982**.

## Guidelines

- 1.9. Regulation 5 provides that a reference to an agency in the Regulations includes a Minister.
- 1.10. Regulation 7 and the Schedule to these Regulations contains references to ‘the agency’. In each instance this also means ‘the Minister’.

# Regulation 6 – Charges

## 6 Charges

An applicant who has made a request in accordance with section 17 of the Act is liable to pay a charge set out in or calculated in accordance with the Schedule.

### Note

This charge is in addition to the fee payable under section 17(2A) of the Act.

## Guidelines

### An applicant is liable to pay access charges on a valid request

- 1.11. Regulation 6 provides that if an applicant has made a valid request under [section 17](#), they are liable to pay the charges set out in the Schedule to the Regulations.
- 1.12. Access charges must be calculated and waived in accordance with the principles set out in [section 22](#).

### Access charges versus application fees

- 1.13. As with section 22, the Regulations distinguish between application fees and access charges.
- 1.14. The 'Note' here confirms this distinction, noting that access charges are in addition to application fees under section 17(2A), being a 'fee of 2 fee units'.

### Review of access charges by the Victorian Civil and Administrative Tribunal

- 1.15. Under [section 50\(1\)\(g\)](#), an applicant may apply to the Victorian Civil and Administrative Tribunal (VCAT) for a review of a decision on the amount of a charge that is required to be paid before access to a document is granted.
- 1.16. However, the Information Commissioner must first certify that the matter is one of sufficient importance for VCAT to consider.
- 1.17. Under [section 52\(1\)](#) an application under section 50(1)(g) must be made within 60 days of the day on which notice in writing of a decision on the request is given to the applicant.

# Regulation 7 – Charges for access to document in alternative form

## 7 Charges for access to document in alternative form

If—

- (a) access to a document to which a request relates may be provided in more than one form; and
- (b) the applicant has not requested access to the document in a particular form; and
- (c) the charge calculated in accordance with these Regulations for access to the document in the form given by the agency exceeds the charge calculated in accordance with these Regulations for access to the document in another form in which access could reasonably have been given—

the charge payable by the applicant is to be calculated in accordance with these Regulations for access to the document in the form that could have been given for the lowest reasonable cost.

## Guidelines

### Overarching principle to provide access for the lowest reasonable cost

- 1.18. When calculating access charges, agencies must ensure they consider the object of the Act in [section 3](#) – to promote the disclosure of government held information at the lowest reasonable cost.<sup>1</sup>
- 1.19. Regulation 7 operates where an applicant does not request a specific form of access, and access could be provided in more than one form as detailed in [section 23](#).
- 1.20. Regardless of the form of access an agency chooses, it must only charge for access in the form that would be the lowest reasonable cost to the applicant.

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<sup>1</sup> [Mickelborough v Victoria Police](#) (Review and Regulation) [2016] VCAT 732, [10]-[11].

## Example

An applicant made a request for documents without specifying a particular form. The agency has determined to provide access to documents by way of inspection. The documents amount to 200 pages.

The agency has calculated the cost of inspection will be \$68.80 (as of 1 July 2022), being three hours of supervision time, calculated per item 2 of the Schedule (1.5 fee units per hour).

However, the agency has also determined that if it were to provide black and white copies of the document, the cost would only be \$40.00, calculated per item 3 of the Schedule (\$0.20 per page).

As such, the agency is only entitled to charge the applicant \$40.00 despite providing access via supervision.

## Regulation 8 – Notice of charge

### 8 Notice of charge

For the purposes of section 22(3) of the Act, the greater amount is \$50.

### Guidelines

#### Regulation 8 clarifies the greater amount in section 22(3)

1.21. Section 22(3) states:

*If in the opinion of an agency a charge may exceed \$25 or such greater amount as is prescribed by regulation the agency shall notify the applicant of its opinion and inquire whether the applicant wishes to proceed with the request.*

1.22. Regulation 8 prescribes a “greater amount” being \$50. As such, the lower amount of \$25 should be ignored.

1.23. Therefore, if an agency estimates the access charge may exceed \$50, section 22(3) requires the agency to notify the applicant of the estimated access charge and confirm whether the applicant wishes to proceed with the request before undertaking further work on the request.

### More information

[Section 23 – Forms of access](#)

# Regulation 9 – Calculation of deposit

## 9 Calculation of deposit

For the purposes of section 22(4) of the Act, the deposit the applicant will be required to pay is—

- (a) \$25, if the amount of the charge does not exceed \$100; or
- (b) 50% of the charge, if the amount of the charge exceeds \$100.

## Guidelines

### Calculating the required deposit for access charges

- 1.24. If an agency estimates an access charge may exceed \$50 (per Regulation 8), section 22(3) requires the agency to notify the applicant of the estimated access charge and confirm whether the applicant wishes to proceed with the request before undertaking further work on the request.
- 1.25. Section 22(4) requires the notice under section 22(3) to inform the applicant that they will be required to pay a deposit on account of the estimated access charge.
- 1.26. The deposit amount is determined by Regulation 9 as follows:
  - \$25 if the estimated access charge is \$100 or less; or
  - 50% of the total estimated access charge if the charge exceeds \$100.
- 1.27. Before making a decision on the request, an agency can only require payment of a deposit amount, not the full estimated access charge: section 22(2).<sup>2</sup>

## More information

[Section 22 – Charges for access to documents](#)

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<sup>2</sup> [Freedom of Information Act 1982 \(Vic\)](#), section 22(2).

# Schedule

Item No.	Service charged for	Charge
1.	<p><i>Charge for search time</i></p> <p>If the request relates to a document other than a document in relation to which a charge is applicable under item 7—a charge in respect of the search time.</p>	1.5 fee units per hour or part of an hour.
2.	<p><i>Charge for supervision</i></p> <p>If access to the document to which the request relates is given—</p> <ul style="list-style-type: none"><li>(a) in the form of an opportunity to inspect the document under the supervision of an officer; or</li><li>(b) in the case of a document that is an article or thing from which sound or visual images are capable of being produced—in the form of arrangements for the applicant to hear or view those sounds or visual images under the supervision of an officer—</li></ul> <p>a charge in respect of the supervision time.</p>	1.5 fee units per hour (to be calculated per quarter hour or part of a quarter hour).
3.	<p><i>Charge for providing black and white photocopy</i></p> <p>If access to the document to which the request relates is given in the form of provision of a black and white photocopy of the document, a charge in respect of providing the photocopy to the applicant.</p>	20 cents per A4 page.
4.	<p><i>Charge for providing copy of document other than black and white photocopy</i></p> <p>If—</p> <ul style="list-style-type: none"><li>(a) the request relates to a document other than a document in relation to which a charge is applicable under item 3; and</li><li>(b) access is given in the form of provision of a copy of the document—</li></ul> <p>a charge in respect of providing the copy to the applicant.</p>	The reasonable costs incurred by the agency in providing the copy.
5.	<p><i>Charge for arrangements to hear or view sound or visual images</i></p> <p>If—</p> <ul style="list-style-type: none"><li>(a) the request relates to a document which is an article or thing from which sounds or visual images are capable of being produced; and</li></ul>	The reasonable costs incurred by the agency in making the arrangements.

- (b) access is given in the form of arrangements to hear or view those sounds or visual images—  
a charge in respect of the arrangements to hear or view those sounds or visual images in addition to a charge in respect of the supervision time under item 2.
6. *Charge for providing written transcript*  
If—
- (a) the request relates to a document by which words are recorded in a manner in which they are capable of being reproduced in the form of sound or in which words are contained in the form of shorthand writing or in codified form; and
  - (b) access is given in the form of the provision of a written transcript (with or without deletions) of the words recorded or contained in the document—
- a charge in respect of providing a written transcript.
- The reasonable costs incurred by the agency in providing the written transcript.
7. *Charge for providing written document*  
If the request is in respect of information that is not available in discrete form in documents of the agency and the agency could produce a written document by—
- (a) the use of a computer or other equipment that is ordinarily available to the agency for retrieving or collating stored information; or
  - (b) making a transcript from a sound recording held in the agency—
- a charge in respect of providing a written document.
- The reasonable costs incurred by the agency in providing the written document.
8. *Costs of suitably qualified health service provider providing explanation of health information if agency is a qualified health service provider*  
If the request is in respect of an explanation of the contents of health information and the agency (being a suitably qualified health service provider) explains the health information.
- The reasonable costs incurred by the agency in providing the explanation calculated by reference to the time taken to provide the explanation, not exceeding—
- (a) 1.9 fee units per quarter hour (or part of a quarter hour) spent in providing the explanation; or
  - (b) 6 fee units—
- whichever is the lesser.
9. *Costs of providing explanation of health information if agency is not a qualified health service provider*



If the request is in respect of an explanation of the contents of health information and a suitably qualified health service provider (not being the agency) explains the health information.

The usual fee of the suitably qualified health service provider for a consultation of a comparable duration.

10. *Summary of health information*

If the request is in respect of an accurate summary of health information and that summary does not exist before the request is made.

The reasonable costs incurred by the agency in preparing the summary calculated by reference to the time taken to prepare the summary, not exceeding—

- (a) 1.9 fee units per quarter hour (or part of a quarter hour) spent in preparing the summary; or
- (b) 6 fee units—

whichever is the lesser.

## Guidelines

### Purpose of the Schedule

1.28. The Schedule to the Regulations provides the access charge amounts or rates for each item. These items relate to processing costs and costs associated with the form in which access to a document is granted.

### What is a 'fee unit'?

1.29. Some access charges are calculated using the value of a 'fee unit'.

1.30. The value of a fee unit is prescribed by the Department of Treasury and Finance and increases with indexation each year. To calculate the applicable access charge, the current value of the fee unit needs to be multiplied by the amount noted in the Schedule to the Regulations (either 1.5 or 1.9 fee units, depending on the access charge under consideration) and then further multiplied by the amount of time taken to provide access.

1.31. Section 7(4) of the [Monetary Units Act 2004 \(Vic\)](#) provides that, when calculating a fee provided for by an Act, the fee amount may be rounded to the nearest ten cents. This means the total fee payable (access charge amount) may be rounded to the nearest ten cents.

1.32. The current value of a fee unit is published on the website of the [Department of Treasury and Finance](#).

#### Example

If the hypothetical value of a fee unit was \$13.08, the charge for two hours of search time (being 1.5 fee units per hour or part of an hour) would be calculated as follows:

- **Step 1:**  $\$13.08 \times 1.5 = \$19.62$  (this amount is the charge for search time per hour or part of an hour).
- **Step 2:**  $\$19.62 \times 2$  hours search time =  $\$39.24$  (this amount is the total charge for two hours of searching).
- **Step 3:** Round  $\$39.24$  (the charge) to the nearest 10 cents.

The access charge is \$39.20.

## When can 'reasonable costs' be charged?

1.33. [Section 22\(1\)\(d\)](#) permits an agency to charge for the reasonable costs incurred by the agency in the circumstances set out below.

1.34. The calculation of reasonable costs will depend on the context of the situation, with consideration given to the object of the Act in [section 3](#) – to promote the disclosure of government held information at the lowest reasonable cost.

1.35. Reasonable costs may be charged in the following situations:

- in supplying copies of documents (other than black and white photocopy of an A4 page) – Item 4 of the Schedule;
- in making arrangements to hear or view sounds or visual images – Item 5 of the Schedule;
- in providing a written transcript of the words recorded or contained in documents – Item 6 of the Schedule; and
- in providing a written document produced under [section 19](#) – Item 7 of the Schedule.

## What are the reasonable costs that can be charged?

### Postage (under Item 4)

- 1.36. An agency may charge the costs for postage or delivery of the documents. This should be the actual cost of the service.
- 1.37. However, an agency should also consider whether documents can be provided electronically, if privacy and security considerations permit.
- 1.38. If provided electronically no charge should be made.

### USB, CD, or another storage medium (under Item 4)

- 1.39. An agency may charge the costs for providing documents on USB or CD. This should also be the actual cost of the storage medium.

### Retrieval from offsite location (under Item 4)

- 1.40. An agency may charge the costs involved in retrieving hard-copy or soft-copy documents from an offsite location, if documents of that nature are routinely stored offsite.
- 1.41. The applicant should not be placed at a disadvantage in accessing documents due to unreasonable retrieval costs merely because an agency has made a business decision to store documents offsite.
- 1.42. An agency that stores documents at an offsite location must ensure retrieval costs charged to an applicant meet the object of the Act and are reasonable. In many instances this may involve the agency not being able to fully recover the costs involved.
- 1.43. Additionally, where an agency archives documents after a short period of time, for example 12 months after the date of creation, the costs to retrieve the document are unlikely to be considered routine or reasonable. In contrast, if documents seven years old or more are archived offsite, the costs to retrieve this type of document are likely to be considered routine and reasonable.

### The 'pay rate' of an officer involved (under Items 5, 6, and 7)

- 1.44. When considering applicable access charges under Items 5, 6, and 7, it is reasonable to calculate the charge based on the 'hourly' pay rate of the officer making the arrangements or providing a written transcript or document.
- 1.45. Charging at the pay rate of an executive level officer or more senior officer may not be 'reasonable', where the work could have been performed by an officer at a lower pay grade.
- 1.46. An agency should charge the equivalent of the hourly pay rate of the officer involved.

1.47. If an agency is aware of the direct oncosts involved in employing the officer, the agency may also include these costs to the 'hourly pay rate'.<sup>3</sup>

1.48. Direct oncosts include payroll tax, superannuation, Workcover, holiday loading, long service leave provision and administrative and operating expenses. It does not include accommodation, corporate overheads, depreciation, and the capital assets charge.<sup>4</sup>

## More information

For a detailed discussion on reasonable costs including examples, read [section 22 – Charges for access to documents](#).

## When is an applicant impecunious?

1.49. Under section 22(1)(i), if an applicant is impecunious and the document contains the applicant's personal affairs information, the agency must waive any charges under section 22(1)(d) (Items 3-7 of the Schedule).

1.50. That is, an agency must waive charges for:

- supplying copies of documents;
- making arrangements to view documents;
- providing a written transcript; or
- producing a document under section 19.

1.51. 'Impecunious' is defined broadly. It means being poor, in want of money, having little money, or being unable reasonably to afford the access charges, rather than having no money at all.<sup>5</sup> The purpose of waiving an access charge is to avoid causing an applicant further financial hardship.

1.52. If an agency waived payment of the application fee based on hardship under section 17(2B), it follows that an agency should also waive any access charges if the requested documents contain the applicant's own personal information.

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<sup>3</sup> [Mickelborough v Victoria Police](#) (Review and Regulation) [2016] VCAT 732, [22]-[28].

<sup>4</sup> [Mickelborough v Victoria Police](#) (Review and Regulation) [2016] VCAT 732, [22]-[28].

<sup>5</sup> *Larson v Officer of Corrections* (Administrative Appeals Tribunal Victoria, Howie PM, 19 June 1990).

- 1.53. Conversely, if an applicant has paid the application fee under section 17(2B), the agency should not take this as evidence the applicant can pay access charges. An applicant may not be able to reasonably afford the access charges, even though the application fee was paid.
- 1.54. The amount of evidence sought by an agency or Minister must be proportional to the amount of the charge involved. In a usual situation where the amounts are not large, a detailed inquiry into the applicant's means may not be justified. In most cases, an inquiry about income, estimated weekly commitments, and available cash in bank or similar accounts may be sufficient to assess hardship.<sup>6</sup>

## Exceptions and waiver of access charges

1.55. Note that there are exceptions for the Schedule and circumstances where access charges must be waived.

1.56. These exceptions are detailed in the far-right column in the table below.

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### Access charges under item numbers 1 to 10 of the Schedule to the Regulations

1	<b>Search time</b>	1.5 fee units per hour or part of an hour of a routine search	Item 1 of the Schedule to the Regulations Sections 22(1)(a) and 22(1)(b)	Cannot impose charge if: <ul style="list-style-type: none"> <li>intended use is of general public interest or benefit – section 22(1)(h)(i)</li> <li>applicant is a member of the Victorian Parliament – section 22(1)(h)(ii)</li> <li>applicant is requesting information relating to their own personal affairs information – section 22(1)(h)(iii)</li> </ul>
2	<b>Supervision time</b>	1.5 fee units per hour (calculated per quarter hour or part of a quarter hour)	Item 2 of the Schedule to the Regulations Section 22(1)(c)	Cannot impose charge if: <ul style="list-style-type: none"> <li>intended use is of general public interest or benefit – section 22(1)(h)(i)</li> </ul>

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<sup>6</sup> ['BW5' and Victorian Institute of Teaching](#) (Freedom of Information) [2020] VICmr 216 (5 August 2020), [32].

				<ul style="list-style-type: none"> <li>applicant is a member of the Victorian Parliament – section 22(1)(h)(ii)</li> <li>applicant is requesting information relating to their own personal affairs information – section 22(1)(h)(iii)</li> </ul>
3	<b>Black and white A4 photocopying</b>	\$0.20 per black and white A4 page	Item 3 of the Schedule to the Regulations Section 22(1)(d)	<p>Charge must be waived if:</p> <ul style="list-style-type: none"> <li>applicant is impecunious and request is for information relating to their own personal affairs information – section 22(1)(i)</li> </ul>
4	<b>Supplying copies other than by A4 black and white photocopying</b>	Reasonable costs incurred by agency in providing a copy	Item 4 of the Schedule to the Regulations Section 22(1)(d)	<p>Charge must be waived if:</p> <p>applicant is impecunious and request is for information relating to their own personal affairs information – section 22(1)(i)</p>
5	<b>Arrangements to hear or view sound or visual image</b>	Reasonable costs incurred by agency in making arrangements (and the cost of supervision time noted above)	Item 5 of the Schedule to the Regulations Section 22(1)(d)	<p>Cannot impose charge if:</p> <ul style="list-style-type: none"> <li>intended use is of general public interest or benefit – section 22(1)(h)(i)</li> <li>applicant is a member of the Victorian Parliament – section 22(1)(h)(ii)</li> <li>applicant is requesting information relating to their own personal affairs – section 22(1)(h)(iii)</li> </ul> <p>Charge must be waived if:</p> <ul style="list-style-type: none"> <li>applicant is impecunious and request is for information relating to their own personal affairs information – section 22(1)(i)</li> </ul>
6	<b>Providing a written transcript</b>	Reasonable costs incurred in providing a written transcript	Item 6 of the Schedule to the Regulations	<p>Charge must be waived if:</p> <p>applicant is impecunious and request is for information relating to their</p>

			Sections 19 and 22(1)(d)	own personal affairs information – section 22(1)(i)
7	<b>Providing a written document not available in a discrete form</b>	Reasonable costs incurred in providing a written document	Item 7 of the Schedule to the Regulations  Sections 19 and 22(1)(d)	Charge must be waived if:  applicant is impecunious and request is for information relating to their own personal affairs information – section 22(1)(i)
8	<b>Providing explanation of health information where agency is a qualified health service provider</b>	Reasonable costs incurred in providing the explanation calculated by reference to the time taken to provide the explanation. The costs must not exceed the lesser of: <ul style="list-style-type: none"> <li>• 1.9 fee units per quarter hour or part of a quarter hour spent providing the explanation; or</li> <li>• 6 fee units</li> </ul>	Item 8 of the Schedule to the Regulations	Cannot impose charge because applicant is requesting information relating to their own personal affairs information – section 22(1)(h)(iii)
9	<b>Providing explanation of health information where agency is not a qualified health service provider</b>	Usual fee of the suitably qualified health service provider for a consultation of a comparable duration	Item 9 of the Schedule to the Regulations	Cannot impose charge because applicant is requesting information relating to their own personal affairs information – section 22(1)(h)(iii)
10	<b>Providing a summary of health information where the summary does not exist before the request is made</b>	Reasonable costs incurred in preparing the summary calculated by reference to the time taken to provide the summary. The costs must not exceed the lesser of: <ul style="list-style-type: none"> <li>• 1.9 fee units per quarter hour or part of a quarter hour spent preparing the summary; or</li> <li>• 6 fee units</li> </ul>	Item 10 of the Schedule to the Regulations	Cannot impose charge because applicant is requesting information relating to their own personal affairs information – section 22(1)(h)(iii)

## Examples of items in the Schedule

### Item 1 – Search time

- 1.57. Section 22(1)(b) fixes the search time charge at an hourly rate.<sup>7</sup> Item 1 of the Schedule fixes the charge amount at 1.5 fee units per hour or part of an hour.
- 1.58. This includes where the searches are for documents held or stored electronically.<sup>8</sup> Documents held or stored electronically are subject to ordinary access provisions of the Act.<sup>9</sup> Electronically stored documents include emails and other printable documents such as word processing documents, PDFs and excel spreadsheets.

#### Example

An agency spends 1 hour and 40 minutes conducting a routine search for documents that fall within the scope of a request.

The access charges will be calculated for 2 hours of search time: section 22(1)(b).

The access charges amount will be 3 fee units (1.5 fee units x 2): Item 1 of the Schedule.

- 1.59. Reminder, a charge under Item 1 cannot be made if the:
- Intended use is of general public interest or benefit – section 22(1)(h)(i).
  - Applicant is a member of the Victorian Parliament – section 22(1)(h)(ii).
  - Applicant is requesting information relating to their personal affairs – section 22(1)(h)(iii).
- 1.60. When calculating access charges, agencies must ensure they consider the object of the Act in [section 3](#) – to promote the disclosure of government held information at the lowest reasonable cost.

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<sup>7</sup> [Freedom of Information Act 1982 \(Vic\)](#) section 22(1)(b).

<sup>8</sup> [Monash University v EBT \[2022\] VSC 651](#).

<sup>9</sup> [Monash University v EBT \[2022\] VSC 651](#).



## Item 2 – Supervising inspection of documents

- 1.61. Under [section 22\(1\)\(c\)](#) a charge may be made for the time spent supervising the inspection by the applicant of the material to which access is granted. This may be inspection of a document or viewing sound or visual images under the supervision of an officer of the agency.
- 1.62. Item 2 of the Schedule fixes the charge amount at 1.5 fee units per hour, calculated per quarter hour or part of a quarter hour.

### Example

Access is granted to view 70 minutes of CCTV footage by inspection under the supervision of a Council officer at Council's offices.

The supervision time will be 1.5 fee units for the first 60 minutes plus  $\frac{1}{4}$  of 1.5 fee units for the remaining 10 minutes of CCTV footage.

- 1.63. Reminder, a charge under item 2 cannot be made if the:
- Intended use is of general public interest or benefit – section 22(1)(h)(i).
  - Applicant is a member of the Victorian Parliament – section 22(1)(h)(ii).
  - Applicant is requesting information relating to their personal affairs – section 22(1)(h)(iii).
- 1.64. When calculating access charges, agencies must ensure they consider the object of the Act – to promote the disclosure of government held information at the lowest reasonable cost.

## Item 3 – Black and white A4 photocopy

- 1.65. Item 3 of the Schedule fixes the cost of black and white photocopying at 20 cents per A4 page.

### Example

Access is granted a document totalling 200 hundred pages. The applicant requested a copy of the document.

The cost of providing a black and white A4 copy of the document will be  $200 \times \$0.20 = \$40.00$ .

- 1.66. Reminder, a charge under Item 3 must be waived if the applicant is impecunious **and** the request is for information relating to their personal affairs – section 22(1)(i).

- 1.67. When calculating access charges, agencies must ensure they consider the object of the Act in [section 3](#) – to promote the disclosure of government held information at the lowest reasonable cost.

#### Item 4 - Supplying copies other than by A4 black and white photocopying

- 1.68. [Section 22\(1\)\(d\)](#) and Item 4 of the Schedule permits an agency to charge for the reasonable costs incurred by the agency in supplying copies of documents (other than black and white photocopy of an A4 page).

##### Example

If an agency provides colour copies of documents, reasonable costs might include:

- if providing hardcopies, a cost per page that reflects the cost of an agency incurs in printing in coloured ink.
- if providing documents on USB or CD, the actual cost of the storage medium.
- if supplying copies of documents digitally, such as by email or through a file share platform, no cost should be charged.

- 1.69. Reminder, a charge under Item 4 must be waived if the applicant is impecunious **and** the request is for information relating to their personal affairs – section 22(1)(i).
- 1.70. When calculating access charges, agencies must ensure they consider the object of the Act in [section 3](#) – to promote the disclosure of government held information at the lowest reasonable cost.

#### Item 5 – Arrangements to hear or view sound or visual image

- 1.71. [Section 22\(1\)\(d\)](#) and Item 5 of the Schedule permits an agency to charge for the reasonable costs incurred by the agency in making arrangements to for viewing documents.

##### Example

Access is granted to view 70 minutes of CCTV footage by inspection. A council officer estimates they will spend 20 minutes making arrangements to book a room with suitable audio-visual equipment at Council's offices for the inspection to take place and checking the officer's available dates and times to supervise the viewing.

The access charges amount in the decision notice will be made up of the following charges:

- Item 2 of the Schedule: 1.5 fee units for the first 60 minutes plus  $\frac{1}{4}$  of 1.5 fee units for the remaining 10 minutes of CCTV footage; and
- Item 5 of the Schedule:  $\frac{1}{3}$  of the hourly rate of the council officer for 20 minutes making arrangements to view the CCTV footage.

1.72. Reminder, a charge under item 5 must be waived if the applicant is impecunious **and** the request is for information relating to their personal affairs – section 22(1)(i).

1.73. A charge under item 5 cannot be made if the:

- Intended use is of general public interest or benefit – section 22(1)(h)(i).
- Applicant is a member of the Victorian Parliament – section 22(1)(h)(ii).
- Applicant is requesting information relating to their personal affairs – section 22(1)(h)(iii).

1.74. When calculating access charges, agencies must ensure they consider the object of the Act – to promote the disclosure of government held information at the lowest reasonable cost.

## Item 6 – Providing a written transcript of the words recorded or contained in documents

1.75. Section 22(1)(d) and Item 6 of the Schedule permits an agency to charge for the reasonable costs incurred by the agency in providing a written transcript of the words recorded or contained in documents.

### Example

An agency recorded a conversation between two staff. Rather than providing access the voice recording, the agency is providing access to a transcript of the recording.

The agency requests a junior officer to produce the transcript and will charge the officer's hourly rate.

Where the task of producing a transcript can be undertaken using ordinary skills and expertise, the agency should only charge the hourly rate of an officer with lowest pay rate who possess the necessary skills to undertake the work. It would be unreasonable to use the pay rate of an executive level officer.

1.76. Reminder, a charge under item 6 must be waived if the applicant is impecunious **and** the request is for information relating to their personal affairs – section 22(1)(i).

1.77. When calculating access charges, agencies must ensure they consider the object of the Act – to promote the disclosure of government held information at the lowest reasonable cost.

## Item 7 – Producing a written document under section 19

1.78. Section 22(1)(d) and Item 7 of the Schedule permit an agency to charge for the reasonable costs incurred by the agency in producing a written document under [section 19](#).

1.79. For example:

- reasonable costs may be calculated based on the pay rate of the officer producing the document. However, charging at the pay rate of an executive level officer may not be considered reasonable.
- reasonable costs may be the costs of external consultants used to retrieve data to produce a document.

1.80. An agency should not use Item 7 when calculating access charges for searching for electronically stored documents and emails.<sup>10</sup> Instead, the agency should charge for search time using Item 1 of the Schedule. Electronically stored documents include printable documents such as word processing documents, PDFs and excel spreadsheets.

### Example

An applicant makes a request for three categories of documents. The agency conducts a search and finds a document falling within the first category of the request, including various emails and files stored on the agency's content management system. There are no documents found for the second and third categories.

The agency can produce a document under section 19 containing the information in the second category. This information can be extracted from various analytics tools used by the agency. The agency is not able to produce a document containing the information in the third category of the request using equipment ordinarily available to the agency for retrieving or collating stored information.

The agency decides to:

- Grant access to the document in the first category. It uses Item 1 of the Schedule to determine the applicable access charges;
- Produce a document under section 19 containing the information in the second category. It uses Item 7 of the Schedule to determine the applicable access charges. For example, the agency's VPS 4 Reporting Officer can produce the document using analytics tools. It

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<sup>10</sup> [Monash University v EBT \[2022\] VSC 651](#).

takes the Officer 2 hours to create the document. The agency could make a charge equivalent to the VPS 4 hourly rate multiplied by 2; and

- Inform the applicant why it is not able to locate the requested document or produce a document under section 19 containing the information in the third category.

- 1.81. Reminder, a charge under Item 7 must be waived if the applicant is impecunious **and** the request is for information relating to their personal affairs – section 22(1)(i).
- 1.82. When calculating access charges, agencies must ensure they consider the object of the Act – to promote the disclosure of government held information at the lowest reasonable cost.

See [section 19](#) for more information on producing a document under section 19.

Items 8, 9 and 10 – Access charges for an explanation or summary of an applicant’s own health information

- 1.83. The Act provides for special forms of access to an applicant’s own health information that align with the forms of access in the [Health Records Act 2001](#).
- 1.84. Items 8-10 of the Schedule set out the access charges amounts for these special forms of access to an applicant’s own health information.
- 1.85. However, as a request for an applicant’s own health information is a request for information relating to the personal affairs of the applicant, section 22(1)(h)(iii) requires the access charges in Items 8-10 of the Schedule to be waived.

## More information

[Section 22 – Charges for access](#)

[Section 23 – Forms of Access](#)

[Section 33 – Document affecting personal privacy](#)

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