



Australian Government
Attorney-General's Department

Our ref: FOI20/094; CM20/6298

29 July 2020

Mr Rodney Culleton

By email: culleton00099@gmail.com

Dear Mr Culleton

Freedom of Information Request FOI20/094 – Decision Letter

The purpose of this letter is to give you a decision about your request for access to documents which you submitted to the Attorney-General's Department (the department) under the *Freedom of Information Act 1982* (the FOI Act).

Your Request

On 29 June 2020, you made a request to the Department of the Treasury seeking access to:

- 1. I request the instrument the Australian Financial Security Authority Act, relies on for Royal Assent within the meaning of section fifty-eight of the Constitution and the second clause preceding the Constitution to make Commonwealth law and create a Commonwealth entity.*
- 2. I request the instrument the Federal Court Act 1976, relies on for Royal Assent within the meaning of section fifty-eight of the Constitution and the second clause preceding the Constitution to make Commonwealth law and create a Commonwealth entity.*
- 3. I request the instrument the provisions of the Bankruptcy Act 1966, made or amended post 1973, relies on for Royal Assent within the meaning of section fifty-eight of the Constitution and the second clause preceding the Constitution to make Commonwealth law.*
- 4. I request the instrument/information providing for the Bankruptcy Act 1966, in all its provisions, were assented to be Commonwealth law, in accord with the second clause preceding the Constitution, that the Treasury may assure that a valid bankruptcy venue was attended, and that bankrupt proceedings occur, pursuant to the Constitution.*
- 5. I request the instrument/information providing for the Federal Court Act 1976 had received the Royal Assent to become Commonwealth law, in accord with the second clause preceding the Constitution, that the Treasury may assure that a valid bankruptcy venue was attended, and that bankrupt proceedings occur, pursuant to the Constitution against a sworn Federal Senator of the Commonwealth Parliament, including but not limited to, any other person being a subject of the Commonwealth of Australia.*

On 3 July 2020, the Attorney-General's Department (the department) accepted the transfer your request from the Department of the Treasury.

A decision in relation to your request is due on 29 July 2020.

My Decision

I am an officer authorised under section 23(1) of the FOI Act to make decisions in relation to freedom of information requests made to the department.

In making my decision, I have taken the following into account:

- the terms of your request;
- advice provided to me by officers with responsibility for matters to which your request relates;
- the provisions of the FOI Act; and
- the Guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act (the Guidelines).

Section 24A of the FOI Act relevantly provides that an agency or Minister may refuse a request for access to a document if all reasonable steps have been taken to find the document and the agency is satisfied that the document:

- is in the agency's possession but cannot be found; or
- does not exist.

When considering a decision to refuse access under section 24A of the FOI Act, the Guidelines relevantly provide at [3.89] that an agency or minister should take comprehensive steps to locate documents, having regard to:

- the subject matter of the documents;
- the current and past file management systems and the practice of destruction or removal of documents;
- the record management systems in place;
- the individuals within an agency or minister's office who may be able to assist with the location of documents; and
- the age of the documents.

To identify the documents for your request, I instructed departmental staff to search departmental records keeping systems. The electronic holdings in these systems were interrogated via use of particular search terms developed with reference to the scope of your request.

Having regard to the above, I am satisfied that reasonable steps to locate the documents to which you have sought access were undertaken. I am also satisfied that the documents do not exist within the department's records holdings. I have therefore decided to refuse access pursuant to section 24A of the FOI Act.

Additional Information

For further information about Acts that you refer to in your request, you may wish to refer to the Federal Register of Legislation at <https://www.legislation.gov.au/Home>. This register is the authorised whole-of-government website for Commonwealth legislation and related documents. It contains the full text and details of the lifecycle of individual laws and the relationships between them. You may also find the 'frequently asked questions' page of the Office of Parliamentary Counsel (<https://www.opc.gov.au/faq>) helpful, as it contains information on how a bill is drafted and when a bill will receive Royal Assent.

Your review rights under the FOI Act are set out at **Attachment A** to this letter.

If you wish to discuss this decision, you can the FOI case officer for this matter, Euphrasia, who can be reached on (02) 6141 6666 or by email to foi@ag.gov.au.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Antony Catt', with a horizontal line drawn through the middle of the signature.

Antony Catt
Director
Freedom of Information and Privacy Section

Attachments

Attachment A: Review Rights

Attachment A

FOI Review Rights

If you are dissatisfied with the decision of the Attorney-General's Department (the department), you may apply for internal review or Information Commissioner review of the decision.

The department encourages applicants to consider seeking internal review as a first step as it may provide a more rapid resolution of your concerns.

Internal review

Under section 54 of the *Freedom of Information Act 1982* (FOI Act), applications for internal review must be made in writing within 30 days of the date of the decision letter. Applications for internal review must be lodged by email or post.

email: foi@ag.gov.au
post: Freedom of Information and Privacy Section
Strategy and Governance Branch
Attorney-General's Department
3-5 National Circuit
BARTON ACT 2600

An officer of the department other than the officer who made the original decision will complete the internal review within 30 days of receipt of your request.

Providing reasons you believe internal review of the decision is necessary will facilitate the completion of the internal review.

Information Commissioner review

Under section 54L of the FOI Act, you may apply to the Australian Information Commissioner to review this decision. An application for review by the Information Commissioner must be made in writing within 60 days of the date of the decision letter, and can be lodged in one of the following ways:

online: <https://forms.business.gov.au/aba/oaic/foi-review-/>
email: enquiries@oaic.gov.au
post: GPO Box 5218, SYDNEY NSW 2001
in person: Level 3, 175 Pitt Street, SYDNEY NSW 2000

More information about Information Commissioner review is available on the Office of the Australian Information Commissioner website.

Go to <http://www.oaic.gov.au/freedom-of-information/foi-reviews>.