



OFFICE OF THE OFFICIAL SECRETARY
TO THE GOVERNOR-GENERAL

30 January 2025

Via email: foi+request-12720-cd8dc1c6@righttoknow.org.au

Dear Tyler,

Re: Application under the *Freedom of Information Act 1982*
Ref: FOI2025008

I refer to your email of 13 January 2025 to the FOI Coordinator of the Office of Parliamentary Counsel (OPC), in which you make a request under the Commonwealth *Freedom of Information Act 1982* (FOI Act):

“Is it possible for OPC (and if necessary, other relevant offices if any such as the Office of the Official Secretary of the Governor-General) to provide the following on Act No. 89 of 2009, Foreign States Immunities Amendment Act 2009?

I am looking for:

- 1. A copy of the Act as passed with signature of the Royal Assent.*
- 2. Documents submitted to the Governor-General for royal assent to the Act (including the certificate from either the House of Representatives or the Senate, and the certificate signed by the Attorney-General recommending assent).”**

As OPC’s FOI Coordinator has advised you, point 2 of your request (in bold above) was transferred to the Office of the Official Secretary to the Governor-General on 22 January 2025, as the requested documents were not in the possession of OPC. This response relates ONLY to point 2 of your request, OPC will provide a separate response to the remainder of the request.

I am the authorised decision maker under section 23 of the FOI Act and this letter sets out my decision on your request for access.

Material taken into account

In making my decision, I have had regard to the following:

- the terms of your request;
- advice from Agency officers with responsibility for matters relating to the documents to which you sought access;
- the relevant provisions of the FOI Act; and
- the Commonwealth’s guidelines on FOI.

Application of the FOI Act

The FOI Act has a limited application to the Official Secretary to the Governor-General. Section 6A provides that the Act does not apply to any request for access to a document of the Official Secretary unless the document relates to matters of an administrative nature. In *Kline v Official Secretary to the Governor-General* [2013] HCA 52 the High Court said:

‘the exception of a class of document which relates to "matters of an administrative nature" connotes documents which concern the management and administration of office resources.’

Further, the High Court held the phrase does not apply to documents that relate to the discharge of the Governor-General's 'substantive powers and functions'.

24A - Requests may be refused if documents cannot be found, do not exist or have not been received

Document lost or non-existent

- (1) An agency or Minister may refuse a request for access to a document if:
 - (a) all reasonable steps have been taken to find the document; and
 - (b) the agency or Minister is satisfied that the document:
 - (i) is in the agency's or Minister's possession but cannot be found; or
 - (ii) does not exist.

Decision

The Office has been unable to identify any documents within the scope of your request.

Accordingly, I advise that I must reject your request under section 24A of the FOI Act on the basis that the document(s) sought cannot be found, do not exist or have not been received.

Further information provided outside the Office's FOI obligations

Copies of a Bill are received from the originating House. The Bill copies are received under cover of a letter from the Clerk and Speaker of the House of Representatives, or the President of the Senate, together with a copy of the Second Reading Speech relating to the Bill, and the Attorney-General's certificate. The second reading speech is available on the Parliament of Australia website, at:
https://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/Bills_Search_Results/Result?bld=r4190. The other documents are subject to record keeping normal administrative practice, which involves destruction after their retention period has expired.

Review rights

You are entitled to seek review of this decision. Your rights are set out at Attachment A to this letter.

Yours sincerely

A handwritten signature in black ink that reads "JBarnes". The signature is written in a cursive, slightly slanted style.**Jeff Barnes**

Deputy Official Secretary to the Governor-General

ATTACHMENT A — INFORMATION ON RIGHTS OF REVIEW

1. APPLICATION FOR INTERNAL REVIEW OF DECISION

You can request internal review within 30 days of you receiving this decision. An internal review will be conducted by a different officer from the original decision-maker.

No particular form is required but it would assist the decision-maker if you could set out in the application the grounds on which you consider that the decision should be reviewed. Applications for internal review can be made:

- via email to FOIcontactofficer@gg.gov.au
- by mail to The Official Secretary to the Governor-General, Government House, CANBERRA ACT 2600

If you choose to seek an internal review, you will afterward have a right to apply for Information Commissioner review (IC review) of the internal review decision.

OR

2. INFORMATION COMMISSIONER REVIEW OR COMPLAINT

You also have the right to seek IC review of this decision. For FOI applicants, an application for IC review must be made in writing within 60 days of the decision. For third parties who object to disclosure of their information, an application for IC review must be made in writing within 30 days of the decision.

If you are not satisfied with the way we have handled your FOI request, you can lodge a complaint with the OAIC. However, the OAIC suggests that complaints are made to the agency in the first instance.

While there is no particular form required to make a complaint to the OAIC, the complaint should be in writing and set out the reasons for why you are dissatisfied with the way your request was processed. It should also identify this office as the agency about which you are complaining.

You can make an IC review application or make an FOI complaint in one of the following ways:

- online at <https://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/>
- via email to foidr@oaic.gov.au
- by mail to GPO Box 5218 Sydney NSW 2001, or
- by fax to 02 9284 9666.

More information about the Information Commissioner reviews and complaints is available at its website: www.oaic.gov.au/freedom-of-information/foi-review-process.