

## When to use the Archives, Privacy and Freedom of Information Acts

To see Commonwealth government records which have not previously been made public you will normally need to apply for access under either the *Freedom of Information Act 1982* (the FOI Act) or the *Archives Act 1983* (the Archives Act).

### **Access under the Freedom of Information Act**

Use the FOI Act if you want access to records that are not in the open access period. You only have a right of access to records under the FOI Act in the open access period if they relate to your personal information. You may also use the FOI Act to request the correction of your personal information in government records if it is incomplete, incorrect, out of date or misleading. The FOI Act applies to the records of most Commonwealth government agencies but a significant exclusion applies to the records of the intelligence agencies. Send your application to the agency holding the records. If you are seeking access to your personal information in open access period records, the decision on access will be made by the agency deemed to have control of those records under the FOI Act. Agencies must notify you of a decision within 30 days and you may appeal if access is refused.

### **Access under the Archives Act**

Use the Archives Act if you want access to records that are in the open access period. The National Archives administers the Act and to obtain access you must apply to the National Archives, even if you think the records may still be with the department or agency that created them. There is no application fee and access is provided without charge. You only pay if you want copies of the records. The National Archives may only refuse you access on grounds set out in the Archives Act.

More information about obtaining access under the Archives Act is given in the following fact sheets:

- *Fact sheet 10 - Access to records under the Archives Act*
- *Fact sheet 11 - Viewing records in the research centre*
- *Fact sheet 12 - What to do if we refuse you access*

The Archives Act also provides for accelerated and special access. Accelerated access is public access granted to classes of records before they are in the open access period. It is granted at the discretion of agencies and is rarely given.

Special access is a type of privileged access given to approved individuals. Those who meet the necessary criteria are given access to records that are not available for general public access. For more information ask to see the leaflet about special access.

## **The Privacy Act**

The *Privacy Act 1988* (the Privacy Act) does not provide a right of access to records, but provides that an individual must be granted access to their own personal information on request, subject to specific exceptions (such as where the information is exempt from disclosure under the FOI Act). This is already provided by the FOI and Archives Acts. What the Privacy Act does is impose strict controls on the way government agencies may handle personal information; it also regulates the handling of Tax File Numbers and the practices of credit reporting agencies. The Act imposes legal obligations on agencies and gives you the right to complain to the Australian Information Commissioner about how your personal information is collected, stored, disclosed, amended and used. The Act also reinforces your right (provided by the FOI Act) to request the correction of your personal information if it is incomplete, incorrect, out of date or misleading.

## Avenues by which you may seek access to Commonwealth government records

