



# IMPORTANT UPDATE

## New VCAT Fees for Register Search

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**On 1 June 2013 the VCAT introduced regulations providing for payment of fees for a request to search the register of proceedings under s 144 of the *Victorian Civil and Administrative Tribunal Act 1998*.<sup>1</sup> This will have a direct impact on disclosure of certain information under the *Freedom of Information Act 1982* (Vic) (“FOI Act”).**

**The fee applies to searches of the register to confirm that no reverse FOI applications for review have been received by the VCAT under s 33(3) or 34(3) of the FOI Act. The Principal Registrar has confirmed that they apply in an FOI context.**

Agencies must pay \$51.40 (increasing to \$52.60 on 1 July) per individual name for a search of the register. In terms of a cost effective way of dealing with these changes, our advice is not to contact the VCAT to determine if a reverse FOI application has been made before releasing documents under s 33(3) or s 34(3) FOI Act.

Any risk associated with subsequent disclosure is likely to be minimized by waiting a longer time period than you would usually before disclosing documents without doing a VCAT register search. In considering how you deal with this, remember that:

- An applicant must serve an application for review on an agency (s 72 VCAT Act)
- The VCAT Rules state that the application for review must be served “within 7 days after lodging the application... with the Principal Registrar” (r 4.07).

Based on those provisions, we suggest that after sending notifications of decisions to third parties, agencies allow some time for receipt (if not sent electronically), add 60 days and add an extra 7 days to that period. We suggest that waiting about 72 days should allow agencies to reasonably conclude that no proceeding is in existence. If there was, an applicant complying with the regime would have served the application and the Tribunal may have issued a Notice of Application for Review.

If you have any queries about how this affects your agency, please feel free to contact us.

**Dated: 20 June 2013**

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<sup>1</sup> The *Victorian Civil and Administrative Tribunal (Fees) Regulations 2013* are available at <http://www.legislation.vic.gov.au/> under ‘Statutory Rules’. The VCAT website also provides further guidance on the payment of these fees: <http://www.vcat.vic.gov.au/resources?search=&tid%5B184%5D=184>.