



Province of Alberta

# **FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT**

Revised Statutes of Alberta 2000  
Chapter F-25

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Office Consolidation

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### Note

All persons making use of this consolidation are reminded that it has no legislative sanction, that amendments have been embodied for convenience of reference only. The official Statutes and Regulations should be consulted for all purposes of interpreting and applying the law.

### Amendments Not in Force

This consolidation incorporates only those amendments in force on the consolidation date shown on the cover. It does not include the following amendments:

2020 c35 s12 amends s1(g)(i).

### Regulations

The following is a list of the regulations made under the *Freedom of Information and Protection of Privacy Act* that are filed as Alberta Regulations under the Regulations Act

	<b>Alta. Reg.</b>	<i>Amendments</i>
<b>Freedom of Information and Protection of Privacy Act</b>		
Freedom of Information and Protection of Privacy .....	186/2008 .....	<i>146/2009, 31/2012, 89/2013, 49/2015, 56/2019, 81/2019, 98/2020, 248/2020, 22/2021</i>
Freedom of Information and Protection of Privacy (Ministerial) .....	56/2009 .....	<i>164/2009, 8/2010, 209/2013, 205/2014, 187/2016, 243/2020</i>

# **FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT**

## Chapter F-25

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HER MAJESTY, by and with the advice and consent of the  
Legislative Assembly of Alberta, enacts as follows:

### Definitions

1 In this Act,

- (a) “adjudicator” means a person designated under section 75;
- (b) “applicant” means a person who makes a request for access to a record under section 7(1);
- (b.1) “biometric information” means information derived from an individual’s unique measurable characteristics;
- (c) “Commissioner” means the Information and Privacy Commissioner appointed under Part 4;
- (d) “educational body” means
  - (i) a university as defined in the *Post-secondary Learning Act*,
  - (ii) a polytechnic institution as defined in the *Post-secondary Learning Act*,
  - (iii) a comprehensive community college as defined in the *Post-secondary Learning Act*,
  - (iv) Banff Centre as defined in the *Post-secondary Learning Act*,
  - (v) a board as defined in the *Education Act*,
  - (vi) a charter school as defined in the *Education Act*, or
  - (vii) a Francophone regional authority as defined in the *Education Act*;
- (e) “employee”, in relation to a public body, includes a person who performs a service for the public body as an appointee, volunteer or student or under a contract or agency relationship with the public body;
- (f) “head”, in relation to a public body, means

- (i) if the public body is a department, branch or office of the Government of Alberta, the member of the Executive Council who presides over it,
  - (ii) if the public body is an agency, board, commission, corporation, office or other body designated as a public body in the regulations, the person designated by the member of the Executive Council responsible for that body to act as the head of that body or, if a head is not so designated, the person who acts as the chief officer and is charged with the administration and operation of that body,
  - (iii) if the public body is a local public body, the person or group of persons designated under section 95(a) as the head, and
  - (iv) in any other case, the chief officer of the public body;
- (g) “health care body” means
- (i) the board of an approved hospital as defined in the *Hospitals Act* other than an approved hospital that is
    - (A) owned or operated by a regional health authority under the *Regional Health Authorities Act*, or
    - (B) repealed 2008 cH-4.3 s15,
  - (ii) the operator of a nursing home as defined in the *Nursing Homes Act* other than a nursing home that is owned and operated by a regional health authority under the *Regional Health Authorities Act*,
  - (ii.i) the Health Quality Council of Alberta,
  - (iii) a provincial health board established under the *Regional Health Authorities Act*,
  - (iv) repealed 2008 cH-4.3 s15,
  - (v) a regional health authority under the *Regional Health Authorities Act*,
  - (vi) a community health council established under the *Regional Health Authorities Act*, or
  - (vii) a subsidiary health corporation as defined in the *Regional Health Authorities Act*;

- (h) “law enforcement” means
- (i) policing, including criminal intelligence operations,
  - (ii) a police, security or administrative investigation, including the complaint giving rise to the investigation, that leads or could lead to a penalty or sanction, including a penalty or sanction imposed by the body conducting the investigation or by another body to which the results of the investigation are referred, or
  - (iii) proceedings that lead or could lead to a penalty or sanction, including a penalty or sanction imposed by the body conducting the proceedings or by another body to which the results of the proceedings are referred;
- (i) “local government body” means
- (i) a municipality as defined in the *Municipal Government Act*,
  - (ii) an improvement district under the *Municipal Government Act*,
  - (iii) a special area as defined in the *Special Areas Act*,
  - (iv) a regional services commission under Part 15.1 of the *Municipal Government Act*,
  - (iv.1) a growth management board under Part 17.1 of the *Municipal Government Act*,
  - (v) a board established under the *Drainage Districts Act*,
  - (vi) a board established under the *Irrigation Districts Act*,
  - (vii) a management body established under the *Alberta Housing Act*,
  - (viii) a Metis settlement established under the *Metis Settlements Act*,
  - (ix) the Metis Settlements General Council established under the *Metis Settlements Act*,
  - (x) any
    - (A) commission,
    - (B) police service, or

- (C) policing committee,
  - as defined in the *Police Act*,
- (xi) any municipal library board, library system board, federation board or intermunicipal library board continued or established under the *Libraries Act*, or
- (xii) any board, committee, commission, panel, agency or corporation that is created or owned by a body referred to in subclauses (i) to (xi) and all the members or officers of which are appointed or chosen by that body, but does not include EPCOR Utilities Inc. or ENMAX Corporation or any of their respective subsidiaries
  - (A) that own a gas utility as defined in the *Gas Utilities Act*,
  - (B) that own a generating unit, transmission facility or electric distribution system as defined in the *Electric Utilities Act*, or
  - (C) whose primary business activity consists of providing electricity services as defined in the *Electric Utilities Act*;
- (j) “local public body” means
  - (i) an educational body,
  - (ii) a health care body, or
  - (iii) a local government body;
- (k) “Minister” means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act;
- (l) “offence” means an offence under an enactment of Alberta or Canada;
- (m) “officer of the Legislature” means the Auditor General, the Ombudsman, the Chief Electoral Officer, the Ethics Commissioner, the Information and Privacy Commissioner, the Child and Youth Advocate or the Public Interest Commissioner;
- (n) “personal information” means recorded information about an identifiable individual, including

- (i) the individual's name, home or business address or home or business telephone number,
  - (ii) the individual's race, national or ethnic origin, colour or religious or political beliefs or associations,
  - (iii) the individual's age, sex, marital status or family status,
  - (iv) an identifying number, symbol or other particular assigned to the individual,
  - (v) the individual's fingerprints, other biometric information, blood type, genetic information or inheritable characteristics,
  - (vi) information about the individual's health and health care history, including information about a physical or mental disability,
  - (vii) information about the individual's educational, financial, employment or criminal history, including criminal records where a pardon has been given,
  - (viii) anyone else's opinions about the individual, and
  - (ix) the individual's personal views or opinions, except if they are about someone else;
- (o) "prescribed" means prescribed by the regulations;
- (p) "public body" means
- (i) a department, branch or office of the Government of Alberta,
  - (ii) an agency, board, commission, corporation, office or other body designated as a public body in the regulations,
  - (iii) the Executive Council Office,
  - (iv) the office of a member of the Executive Council,
  - (v) the Legislative Assembly Office,
  - (vi) the office of the Auditor General, the Ombudsman, the Chief Electoral Officer, the Ethics Commissioner, the Information and Privacy Commissioner, the Child and Youth Advocate or the Public Interest Commissioner, or

- (vii) a local public body,  
but does not include
- (viii) the office of the Speaker of the Legislative Assembly and the office of a Member of the Legislative Assembly, or
- (ix) the Court of Appeal of Alberta, the Court of Queen's Bench of Alberta or The Provincial Court of Alberta;
- (q) "record" means a record of information in any form and includes notes, images, audiovisual recordings, x-rays, books, documents, maps, drawings, photographs, letters, vouchers and papers and any other information that is written, photographed, recorded or stored in any manner, but does not include software or any mechanism that produces records;
- (r) "third party" means a person, a group of persons or an organization other than an applicant or a public body;
- (s) "trade secret" means information, including a formula, pattern, compilation, program, device, product, method, technique or process
  - (i) that is used, or may be used, in business or for any commercial purpose,
  - (ii) that derives independent economic value, actual or potential, from not being generally known to anyone who can obtain economic value from its disclosure or use,
  - (iii) that is the subject of reasonable efforts to prevent it from becoming generally known, and
  - (iv) the disclosure of which would result in significant harm or undue financial loss or gain.

RSA 2000 cF-25 s1; RSA 2000 cH-5 s114;  
RSA 2000 c16(Supp) s46; 2003 cP-19.5 s139; 2003 c21 s2;  
2006 c5 s15; 2008 cH-4.3 s15; 2011 cC-11.5 s30; 2011 cH-7.2 s26;  
2012 cE-0.3 s269; 2012 cP-39.5 s58; 2013 c17 s10; 2017 c29 s112;  
2018 c11 s12; 2018 c19 s67; 2019 c15 s18

### **Purposes of this Act**

**2** The purposes of this Act are

- (a) to allow any person a right of access to the records in the custody or under the control of a public body subject to limited and specific exceptions as set out in this Act,
- (b) to control the manner in which a public body may collect personal information from individuals, to control the use that a public body may make of that information and to control the disclosure by a public body of that information,
- (c) to allow individuals, subject to limited and specific exceptions as set out in this Act, a right of access to personal information about themselves that is held by a public body,
- (d) to allow individuals a right to request corrections to personal information about themselves that is held by a public body, and
- (e) to provide for independent reviews of decisions made by public bodies under this Act and the resolution of complaints under this Act.

1994 cF-18.5 s2;1995 c17 s3

**Scope of this Act****3** This Act

- (a) is in addition to and does not replace existing procedures for access to information or records,
- (b) does not affect access to records
  - (i) deposited in the Provincial Archives of Alberta, or
  - (ii) deposited in the archives of a public bodythat were unrestricted before the coming into force of this Act,
- (c) does not limit the information otherwise available by law to a party to legal proceedings,
- (d) does not affect the power of any court or tribunal in Canada to compel a witness to testify or to compel the production of documents, and
- (e) does not prohibit the transfer, storage or destruction of a record
  - (i) in accordance with an enactment of Alberta or Canada, or

- (ii) in accordance with a bylaw, resolution or other legal instrument by which a local public body acts or, if a local public body does not have a bylaw, resolution or other legal instrument in respect of the transfer, storage or destruction of a record, as authorized by the governing body of the local public body.

RSA 2000 cF-25 s3;2006 c17 s2

#### **Records to which this Act applies**

**4(1)** This Act applies to all records in the custody or under the control of a public body, including court administration records, but does not apply to the following:

- (a) information in a court file, a record of a judge of the Court of Appeal of Alberta, the Court of Queen's Bench of Alberta or The Provincial Court of Alberta, a record of a master of the Court of Queen's Bench of Alberta, a record of a justice of the peace other than a non-presiding justice of the peace under the *Justice of the Peace Act*, a judicial administration record or a record relating to support services provided to the judges of any of the courts referred to in this clause;
- (b) a personal note, communication or draft decision created by or for a person who is acting in a judicial or quasi-judicial capacity including any authority designated by the Lieutenant Governor in Council to which the *Administrative Procedures and Jurisdiction Act* applies;
- (c) a quality assurance record within the meaning of section 9 of the *Alberta Evidence Act*;
- (d) a record that is created by or for or is in the custody or under the control of an officer of the Legislature and relates to the exercise of that officer's functions under an Act of Alberta;
- (e) information that is collected by or for or is in the custody or under the control of the Ethics Commissioner and relates to the disclosure statements of deputy ministers and other senior officers that have been deposited with the Ethics Commissioner;
- (e.1) information that is collected by or for or is in the custody or under the control of the Ethics Commissioner and relates to the disclosure statements of designated senior officials that have been deposited with the Ethics Commissioner under Part 4.3 of the *Conflicts of Interest Act*;

- (f) a record that is created by or for or is in the custody or under the control of the Ethics Commissioner and relates to any advice relating to conflicts of interest whether or not the advice was given under the *Conflicts of Interest Act*;
- (g) a question that is to be used on an examination or test;
- (h) teaching materials
  - (i) of an employee of a post-secondary educational body,
  - (ii) of a post-secondary educational body, or
  - (iii) of both an employee of a post-secondary educational body and the post-secondary educational body;
- (i) research information of an employee of a post-secondary educational body;
- (j) material that has been deposited in the Provincial Archives of Alberta or the archives of a public body by or for a person or entity other than a public body;
- (j.1) published works collected by a library of a public body in accordance with the library's acquisition of materials policy;
- (k) a record relating to a prosecution if all proceedings in respect of the prosecution have not been completed;
- (l) a record made from information
  - (i) in the Personal Property Registry,
  - (ii) in the office of the Registrar of Motor Vehicle Services,
  - (iii) in the office of the Registrar of Corporations,
  - (iv) in the office of the Registrar of Companies,
  - (v) in a Land Titles Office,
  - (vi) in the office of the Registrar of Vital Statistics, or
  - (vii) in a registry operated by a public body if that registry is authorized or recognized by an enactment and public access to the registry is normally permitted;
- (m) a personal record or constituency record of an elected member of a local public body;

- (n) a personal record of an appointed or elected member of the governing body of a local public body;
- (o) a personal record or constituency record of a member of the Executive Council;
- (p) a record created by or for the office of the Speaker of the Legislative Assembly or the office of a Member of the Legislative Assembly that is in the custody or control of the Legislative Assembly Office;
- (q) a record created by or for
  - (i) a member of the Executive Council,
  - (ii) a Member of the Legislative Assembly, or
  - (iii) a chair of a Provincial agency as defined in the *Financial Administration Act* who is a Member of the Legislative Assemblythat has been sent or is to be sent to a member of the Executive Council, a Member of the Legislative Assembly or a chair of a Provincial agency as defined in the *Financial Administration Act* who is a Member of the Legislative Assembly;
- (r) a record in the custody or control of ATB Financial other than a record that relates to a non-arm's length transaction between the Government of Alberta and another party;
- (s) a record relating to the business or affairs of Credit Union Central Alberta Limited, a credit union or a dissolved credit union or relating to an application for incorporation as a credit union that is obtained or produced in the course of administering or enforcing the *Credit Union Act* or the regulations under it, other than a record that relates to a non-arm's length transaction between the Government and another party;
- (t) a record of the information referred to in section 120(3) of the *Credit Union Act* or respecting loans made by a credit union that are subsequently assumed by the Credit Union Deposit Guarantee Corporation;
- (u) health information as defined in the *Health Information Act* that is in the custody or under the control of a public body that is a custodian as defined in the *Health Information Act*.

(2) In this section and sections 23(1)(b) and 94(1)(n), “governing body”

- (a) in relation to a university, means the board of governors or the general faculties council as described in the *Post-secondary Learning Act*,
- (b) in relation to a comprehensive community college, means the board of governors or the academic council as described in the *Post-secondary Learning Act*, and
- (c) in relation to a polytechnic institution, means the board of governors or the academic council as described in the *Post-secondary Learning Act*.

(3) In this section, “judicial administration record” means a record containing information relating to a judge of the Court of Appeal of Alberta, the Court of Queen’s Bench of Alberta or The Provincial Court of Alberta or to a master of the Court of Queen’s Bench of Alberta or a justice of the peace other than a non-presiding justice of the peace under the *Justice of the Peace Act*, and includes

- (a) the scheduling of judges and trials,
- (b) the content of judicial training programs,
- (c) statistics of judicial activity prepared by or for a judge, and
- (d) any record of the Judicial Council established under Part 6 of the *Judicature Act*.

(4) For the purposes of subsection (1)(r) and (s), a non-arm’s length transaction is any transaction that has been approved

- (a) by the Executive Council or any of its committees,
- (b) by the Treasury Board or any of its committees, or
- (c) by a member of the Executive Council.

RSA 2000 cF-25 s4;RSA 2000 cH-5 s114;  
RSA 2000 s16(Supp) s46;2003 cP-19.5 s139;  
2003 c21 s3;2006 c17 s3;2007 cV-4.1 s84;  
2011 c20 s8;2017 c20 s3;2017 c22 s22;2018 c19 s67;  
2020 c33 s5

#### Relationship to other Acts

5 If a provision of this Act is inconsistent or in conflict with a provision of another enactment, the provision of this Act prevails unless

- (a) another Act, or

(b) a regulation under this Act

expressly provides that the other Act or regulation, or a provision of it, prevails despite this Act.

1994 cF-18.5 s5;1999 c23 s5

## **Part 1 Freedom of Information**

### **Division 1 Obtaining Access to Records**

#### **Information rights**

**(1)** An applicant has a right of access to any record in the custody or under the control of a public body, including a record containing personal information about the applicant.

**(2)** The right of access to a record does not extend to information excepted from disclosure under Division 2 of this Part, but if that information can reasonably be severed from a record, an applicant has a right of access to the remainder of the record.

**(3)** The right of access to a record is subject to the payment of any fee required by the regulations.

**(4)** The right of access does not extend

- (a) to a record created solely for the purpose of briefing a member of the Executive Council in respect of assuming responsibility for a ministry, or
- (b) to a record created solely for the purpose of briefing a member of the Executive Council in preparation for a sitting of the Legislative Assembly.

**(5)** Subsection (4)(a) does not apply to a record described in that clause if 5 years or more has elapsed since the member of the Executive Council was appointed as the member responsible for the ministry.

**(6)** Subsection (4)(b) does not apply to a record described in that clause if 5 years or more has elapsed since the beginning of the sitting in respect of which the record was created.

**(7)** The right of access to a record does not extend to a record relating to an audit by the Chief Internal Auditor of Alberta that is in the custody of the Chief Internal Auditor of Alberta or any person under the administration of the Chief Internal Auditor of

Alberta, irrespective of whether the record was created by or for or supplied to the Chief Internal Auditor of Alberta.

**(8)** Subsection (7) does not apply to a record described in that subsection

- (a) if 15 years or more has elapsed since the audit to which the record relates was completed, or
- (b) if the audit to which the record relates was discontinued or if no progress has been made on the audit for 15 years or more.

**(9)** The right of access to a record does not extend to information that would reveal the identity of a person who has requested advice about making a disclosure, made a disclosure or submitted a complaint of a reprisal or whose complaint has been referred to the Labour Relations Board pursuant to the *Public Interest Disclosure (Whistleblower Protection) Act*, but if that information can reasonably be severed from a record, an applicant has a right of access to the remainder of the record.

**(10)** Subsection (9) does not apply to the person who requested advice about making a disclosure, made the disclosure, submitted the complaint of a reprisal or is the subject of the referral to the Labour Relations Board pursuant to the *Public Interest Disclosure (Whistleblower Protection) Act*.

RSA 2000 cF-25 s6;2006 c17 s4;2017 c11 s43

#### **How to make a request**

**7(1)** To obtain access to a record, a person must make a request to the public body that the person believes has custody or control of the record.

**(2)** A request must be in writing and must provide enough detail to enable the public body to identify the record.

**(3)** In a request, the applicant may ask

- (a) for a copy of the record, or
- (b) to examine the record.

1994 cF-18.5 s7

#### **Abandoned request**

**8(1)** Where the head of a public body contacts an applicant in writing respecting the applicant's request, including

- (a) seeking further information from the applicant that is necessary to process the request, or

(b) requesting the applicant to pay a fee or to agree to pay a fee,

and the applicant fails to respond to the head of the public body, as requested by the head, within 30 days after being contacted, the head of the public body may, by notice in writing to the applicant, declare the request abandoned.

(2) A notice under subsection (1) must state that the applicant may ask for a review under Part 5.

1999 c23 s6

#### **Continuing request**

**9(1)** The applicant may indicate in a request that the request, if granted, continues to have effect for a specified period of up to 2 years.

(2) The head of a public body granting a request that continues to have effect for a specified period must provide to the applicant

- (a) a schedule showing dates in the specified period on which the request will be deemed to have been received and explaining why those dates were chosen, and
- (b) a statement that the applicant may ask the Commissioner to review the schedule.

(3) This Act applies to a request that continues to have effect for a specified period as if a new request were made on each of the dates shown in the schedule.

1994 cF-18.5 s8

#### **Duty to assist applicants**

**10(1)** The head of a public body must make every reasonable effort to assist applicants and to respond to each applicant openly, accurately and completely.

(2) The head of a public body must create a record for an applicant if

- (a) the record can be created from a record that is in electronic form and in the custody or under the control of the public body, using its normal computer hardware and software and technical expertise, and
- (b) creating the record would not unreasonably interfere with the operations of the public body.

1994 cF-18.5 s9

**Time limit for responding**

**11(1)** The head of a public body must make every reasonable effort to respond to a request not later than 30 days after receiving it unless

- (a) that time limit is extended under section 14, or
- (b) the request has been transferred under section 15 to another public body.

**(2)** The failure of the head to respond to a request within the 30-day period or any extended period is to be treated as a decision to refuse access to the record.

1994 cF-18.5 s10

**Contents of response**

**12(1)** In a response under section 11, the applicant must be told

- (a) whether access to the record or part of it is granted or refused,
- (b) if access to the record or part of it is granted, where, when and how access will be given, and
- (c) if access to the record or to part of it is refused,
  - (i) the reasons for the refusal and the provision of this Act on which the refusal is based,
  - (ii) the name, title, business address and business telephone number of an officer or employee of the public body who can answer the applicant's questions about the refusal, and
  - (iii) that the applicant may ask for a review of that decision by the Commissioner or an adjudicator, as the case may be.

**(2)** Despite subsection (1)(c)(i), the head of a public body may, in a response, refuse to confirm or deny the existence of

- (a) a record containing information described in section 18 or 20, or
- (b) a record containing personal information about a third party if disclosing the existence of the information would be an unreasonable invasion of the third party's personal privacy.

1994 cF-18.5 s11

**How access will be given**

**13(1)** If an applicant is told under section 12(1) that access will be granted, the head of the public body must comply with this section.

**(2)** If the applicant has asked for a copy of a record and the record can reasonably be reproduced,

- (a) a copy of the record or part of it must be provided with the response, or
- (b) the applicant must be given reasons for any delay in providing the copy.

**(3)** If there will be a delay in providing the copy under subsection (2), the applicant must be told where, when and how the copy will be provided.

**(4)** If the applicant has asked to examine a record or for a copy of a record that cannot reasonably be reproduced, the applicant

- (a) must be permitted to examine the record or part of it, or
- (b) must be given access in accordance with the regulations.

1994 cF-18.5 s12;1995 c17 s6

**Extending time limit for responding**

**14(1)** The head of a public body may extend the time for responding to a request for up to 30 days or, with the Commissioner's permission, for a longer period if

- (a) the applicant does not give enough detail to enable the public body to identify a requested record,
- (b) a large number of records are requested or must be searched and responding within the period set out in section 11 would unreasonably interfere with the operations of the public body,
- (c) more time is needed to consult with a third party or another public body before deciding whether to grant access to a record, or
- (d) a third party asks for a review under section 65(2) or 77(3).

**(2)** The head of a public body may, with the Commissioner's permission, extend the time for responding to a request if multiple concurrent requests have been made by the same applicant or multiple concurrent requests have been made by 2 or more applicants who work for the same organization or who work in association with each other.

(3) Despite subsection (1), where the head of a public body is considering giving access to a record to which section 30 applies, the head of the public body may extend the time for responding to the request for the period of time necessary to enable the head to comply with the requirements of section 31.

(4) If the time for responding to a request is extended under subsection (1), (2) or (3), the head of the public body must tell the applicant

- (a) the reason for the extension,
- (b) when a response can be expected, and
- (c) that the applicant may make a complaint to the Commissioner or to an adjudicator, as the case may be, about the extension.

1994 cF-18.5 s13;1999 c23 s7

#### **Transferring a request**

**15(1)** Within 15 days after a request for access to a record is received by a public body, the head of the public body may transfer the request and, if necessary, the record to another public body if

- (a) the record was produced by or for the other public body,
- (b) the other public body was the first to obtain the record, or
- (c) the record is in the custody or under the control of the other public body.

(2) If a request is transferred under subsection (1),

- (a) the head of the public body who transferred the request must notify the applicant of the transfer as soon as possible, and
- (b) the head of the public body to which the request is transferred must make every reasonable effort to respond to the request not later than 30 days after receiving the request unless that time limit is extended under section 14.

1994 cF-18.5 s14;1995 c17 s7

#### **Request under section 7 deemed to be a request under HIA**

**15.1(1)** If a request is made under section 7(1) for access to a record that contains information to which the *Health Information Act* applies, the part of the request that relates to that information is deemed to be a request under section 8(1) of the *Health Information Act* and that Act applies as if the request had been made under section 8(1) of that Act.

(2) Subsection (1) does not apply if the public body that receives the request is not a custodian as defined in the *Health Information Act*.

RSA 2000 cH-5 s114

## Division 2 Exceptions to Disclosure

### Disclosure harmful to business interests of a third party

**16(1)** The head of a public body must refuse to disclose to an applicant information

- (a) that would reveal
  - (i) trade secrets of a third party, or
  - (ii) commercial, financial, labour relations, scientific or technical information of a third party,
- (b) that is supplied, explicitly or implicitly, in confidence, and
- (c) the disclosure of which could reasonably be expected to
  - (i) harm significantly the competitive position or interfere significantly with the negotiating position of the third party,
  - (ii) result in similar information no longer being supplied to the public body when it is in the public interest that similar information continue to be supplied,
  - (iii) result in undue financial loss or gain to any person or organization, or
  - (iv) reveal information supplied to, or the report of, an arbitrator, mediator, labour relations officer or other person or body appointed to resolve or inquire into a labour relations dispute.

(2) The head of a public body must refuse to disclose to an applicant information about a third party that was collected on a tax return or collected for the purpose of determining tax liability or collecting a tax.

(3) Subsections (1) and (2) do not apply if

- (a) the third party consents to the disclosure,
- (b) an enactment of Alberta or Canada authorizes or requires the information to be disclosed,

- (c) the information relates to a non-arm's length transaction between a public body and another party, or
- (d) the information is in a record that is in the custody or under the control of the Provincial Archives of Alberta or the archives of a public body and has been in existence for 50 years or more.

RSA 2000 cF-25 s16;2003 c21 s4

**Disclosure harmful to personal privacy**

**17(1)** The head of a public body must refuse to disclose personal information to an applicant if the disclosure would be an unreasonable invasion of a third party's personal privacy.

**(2)** A disclosure of personal information is not an unreasonable invasion of a third party's personal privacy if

- (a) the third party has, in the prescribed manner, consented to or requested the disclosure,
- (b) there are compelling circumstances affecting anyone's health or safety and written notice of the disclosure is given to the third party,
- (c) an Act of Alberta or Canada authorizes or requires the disclosure,
- (d) repealed 2003 c21 s5,
- (e) the information is about the third party's classification, salary range, discretionary benefits or employment responsibilities as an officer, employee or member of a public body or as a member of the staff of a member of the Executive Council,
- (f) the disclosure reveals financial and other details of a contract to supply goods or services to a public body,
- (g) the information is about a licence, permit or other similar discretionary benefit relating to
  - (i) a commercial or professional activity, that has been granted to the third party by a public body, or
  - (ii) real property, including a development permit or building permit, that has been granted to the third party by a public body,

and the disclosure is limited to the name of the third party and the nature of the licence, permit or other similar discretionary benefit,

- (h) the disclosure reveals details of a discretionary benefit of a financial nature granted to the third party by a public body,
- (i) the personal information is about an individual who has been dead for 25 years or more, or
- (j) subject to subsection (3), the disclosure is not contrary to the public interest and reveals only the following personal information about a third party:
  - (i) enrolment in a school of an educational body or in a program offered by a post-secondary educational body,
  - (ii) repealed 2003 c21 s5,
  - (iii) attendance at or participation in a public event or activity related to a public body, including a graduation ceremony, sporting event, cultural program or club, or field trip, or
  - (iv) receipt of an honour or award granted by or through a public body.

**(3)** The disclosure of personal information under subsection (2)(j) is an unreasonable invasion of personal privacy if the third party whom the information is about has requested that the information not be disclosed.

**(4)** A disclosure of personal information is presumed to be an unreasonable invasion of a third party's personal privacy if

- (a) the personal information relates to a medical, psychiatric or psychological history, diagnosis, condition, treatment or evaluation,
- (b) the personal information is an identifiable part of a law enforcement record, except to the extent that the disclosure is necessary to dispose of the law enforcement matter or to continue an investigation,
- (c) the personal information relates to eligibility for income assistance or social service benefits or to the determination of benefit levels,
- (d) the personal information relates to employment or educational history,

- (e) the personal information was collected on a tax return or gathered for the purpose of collecting a tax,
  - (e.1) the personal information consists of an individual's bank account information or credit card information,
  - (f) the personal information consists of personal recommendations or evaluations, character references or personnel evaluations,
  - (g) the personal information consists of the third party's name when
    - (i) it appears with other personal information about the third party, or
    - (ii) the disclosure of the name itself would reveal personal information about the third party,
- or
- (h) the personal information indicates the third party's racial or ethnic origin or religious or political beliefs or associations.

**(5)** In determining under subsections (1) and (4) whether a disclosure of personal information constitutes an unreasonable invasion of a third party's personal privacy, the head of a public body must consider all the relevant circumstances, including whether

- (a) the disclosure is desirable for the purpose of subjecting the activities of the Government of Alberta or a public body to public scrutiny,
- (b) the disclosure is likely to promote public health and safety or the protection of the environment,
- (c) the personal information is relevant to a fair determination of the applicant's rights,
- (d) the disclosure will assist in researching or validating the claims, disputes or grievances of aboriginal people,
- (e) the third party will be exposed unfairly to financial or other harm,
- (f) the personal information has been supplied in confidence,
- (g) the personal information is likely to be inaccurate or unreliable,

- (h) the disclosure may unfairly damage the reputation of any person referred to in the record requested by the applicant, and
- (i) the personal information was originally provided by the applicant.

RSA 2000 cF-25 s17;2003 c21 s5

#### **Disclosure harmful to individual or public safety**

**18(1)** The head of a public body may refuse to disclose to an applicant information, including personal information about the applicant, if the disclosure could reasonably be expected to

- (a) threaten anyone else's safety or mental or physical health, or
- (b) interfere with public safety.

**(2)** The head of a public body may refuse to disclose to an applicant personal information about the applicant if, in the opinion of a physician, a regulated member of the College of Alberta Psychologists or a psychiatrist or any other appropriate expert depending on the circumstances of the case, the disclosure could reasonably be expected to result in immediate and grave harm to the applicant's health or safety.

**(3)** The head of a public body may refuse to disclose to an applicant information in a record that reveals the identity of an individual who has provided information to the public body in confidence about a threat to an individual's safety or mental or physical health.

RSA 2000 cF-25 s18;2000 cH-7 s153

#### **Confidential evaluations**

**19(1)** The head of a public body may refuse to disclose to an applicant personal information that is evaluative or opinion material compiled for the purpose of determining the applicant's suitability, eligibility or qualifications for employment or for the awarding of contracts or other benefits by a public body when the information is provided, explicitly or implicitly, in confidence.

**(2)** The head of a public body may refuse to disclose to an applicant personal information that identifies or could reasonably identify a participant in a formal employee evaluation process concerning the applicant when the information is provided, explicitly or implicitly, in confidence.

**(3)** For the purpose of subsection (2), "participant" includes a peer, subordinate or client of an applicant, but does not include the applicant's supervisor or superior.

1994 cF-18.5 s18;1999 c23 s11

**Disclosure harmful to law enforcement**

**20(1)** The head of a public body may refuse to disclose information to an applicant if the disclosure could reasonably be expected to

- (a) harm a law enforcement matter,
- (b) prejudice the defence of Canada or of any foreign state allied to or associated with Canada,
- (b.1) disclose activities suspected of constituting threats to the security of Canada within the meaning of the *Canadian Security Intelligence Service Act* (Canada),
- (c) harm the effectiveness of investigative techniques and procedures currently used, or likely to be used, in law enforcement,
- (d) reveal the identity of a confidential source of law enforcement information,
- (e) reveal criminal intelligence that has a reasonable connection with the detection, prevention or suppression of organized criminal activities or of serious and repetitive criminal activities,
- (f) interfere with or harm an ongoing or unsolved law enforcement investigation, including a police investigation,
- (g) reveal any information relating to or used in the exercise of prosecutorial discretion,
- (h) deprive a person of the right to a fair trial or impartial adjudication,
- (i) reveal a record that has been confiscated from a person by a peace officer in accordance with a law,
- (j) facilitate the escape from custody of an individual who is being lawfully detained,
- (k) facilitate the commission of an unlawful act or hamper the control of crime,
- (l) reveal technical information relating to weapons or potential weapons,
- (m) harm the security of any property or system, including a building, a vehicle, a computer system or a communications system, or

- (n) reveal information in a correctional record supplied, explicitly or implicitly, in confidence.
- (2)** Subsection (1)(g) does not apply to information that has been in existence for 10 years or more.
- (3)** The head of a public body may refuse to disclose information to an applicant if the information
- (a) is in a law enforcement record and the disclosure could reasonably be expected to expose to civil liability the author of the record or an individual who has been quoted or paraphrased in the record, or
  - (b) is about the history, supervision or release of an individual who is under the control or supervision of a correctional authority and the disclosure could reasonably be expected to harm the proper custody or supervision of that person.
- (4)** The head of a public body must refuse to disclose information to an applicant if the information is in a law enforcement record and the disclosure would be an offence under an Act of Canada.
- (5)** Subsections (1) and (3) do not apply to
- (a) a report prepared in the course of routine inspections by an agency that is authorized to enforce compliance with an Act of Alberta, or
  - (b) a report, including statistical analysis, on the degree of success achieved in a law enforcement program unless disclosure of the report could reasonably be expected to interfere with or harm any of the matters referred to in subsection (1) or (3).
- (6)** After a police investigation is completed, the head of a public body may disclose under this section the reasons for a decision not to prosecute
- (a) to a person who knew of and was significantly interested in the investigation, including a victim or a relative or friend of a victim, or
  - (b) to any other member of the public, if the fact of the investigation was made public.

**Disclosure harmful to intergovernmental relations**

**21(1)** The head of a public body may refuse to disclose information to an applicant if the disclosure could reasonably be expected to

- (a) harm relations between the Government of Alberta or its agencies and any of the following or their agencies:
  - (i) the Government of Canada or a province or territory of Canada,
  - (ii) a local government body,
  - (iii) an aboriginal organization that exercises government functions, including
    - (A) the council of a band as defined in the *Indian Act* (Canada), and
    - (B) an organization established to negotiate or implement, on behalf of aboriginal people, a treaty or land claim agreement with the Government of Canada,
  - (iv) the government of a foreign state, or
  - (v) an international organization of states,

or

- (b) reveal information supplied, explicitly or implicitly, in confidence by a government, local government body or an organization listed in clause (a) or its agencies.

**(2)** The head of a public body may disclose information referred to in subsection (1)(a) only with the consent of the Minister in consultation with the Executive Council.

**(3)** The head of a public body may disclose information referred to in subsection (1)(b) only with the consent of the government, local government body or organization that supplies the information, or its agency.

**(4)** This section does not apply to information that has been in existence in a record for 15 years or more.

1994 cF-18.5 s20;1995 c17 s9;1999 c23 s13

**Cabinet and Treasury Board confidences**

**22(1)** The head of a public body must refuse to disclose to an applicant information that would reveal the substance of

deliberations of the Executive Council or any of its committees or of the Treasury Board or any of its committees, including any advice, recommendations, policy considerations or draft legislation or regulations submitted or prepared for submission to the Executive Council or any of its committees or to the Treasury Board or any of its committees.

**(2)** Subsection (1) does not apply to

- (a) information in a record that has been in existence for 15 years or more,
- (b) information in a record of a decision made by the Executive Council or any of its committees on an appeal under an Act, or
- (c) information in a record the purpose of which is to present background facts to the Executive Council or any of its committees or to the Treasury Board or any of its committees for consideration in making a decision if
  - (i) the decision has been made public,
  - (ii) the decision has been implemented, or
  - (iii) 5 years or more have passed since the decision was made or considered.

1994 cF-18.5 s21

#### **Local public body confidences**

**23(1)** The head of a local public body may refuse to disclose information to an applicant if the disclosure could reasonably be expected to reveal

- (a) a draft of a resolution, bylaw or other legal instrument by which the local public body acts, or
- (b) the substance of deliberations of a meeting of its elected officials or of its governing body or a committee of its governing body, if an Act or a regulation under this Act authorizes the holding of that meeting in the absence of the public.

**(2)** Subsection (1) does not apply if

- (a) the draft of the resolution, bylaw or other legal instrument or the subject-matter of the deliberation has been considered in a meeting open to the public, or

- (b) the information referred to in that subsection is in a record that has been in existence for 15 years or more.

1994 cF-18.5 s22

**Advice from officials**

**24(1)** The head of a public body may refuse to disclose information to an applicant if the disclosure could reasonably be expected to reveal

- (a) advice, proposals, recommendations, analyses or policy options developed by or for a public body or a member of the Executive Council,
- (b) consultations or deliberations involving
  - (i) officers or employees of a public body,
  - (ii) a member of the Executive Council, or
  - (iii) the staff of a member of the Executive Council,
- (c) positions, plans, procedures, criteria or instructions developed for the purpose of contractual or other negotiations by or on behalf of the Government of Alberta or a public body, or considerations that relate to those negotiations,
- (d) plans relating to the management of personnel or the administration of a public body that have not yet been implemented,
- (e) the contents of draft legislation, regulations and orders of members of the Executive Council or the Lieutenant Governor in Council,
- (f) the contents of agendas or minutes of meetings
  - (i) of the governing body of an agency, board, commission, corporation, office or other body that is designated as a public body in the regulations, or
  - (ii) of a committee of a governing body referred to in subclause (i),
- (g) information, including the proposed plans, policies or projects of a public body, the disclosure of which could reasonably be expected to result in disclosure of a pending policy or budgetary decision, or

- (h) the contents of a formal research or audit report that in the opinion of the head of the public body is incomplete unless no progress has been made on the report for at least 3 years.

**(2)** This section does not apply to information that

- (a) has been in existence for 15 years or more,
- (b) is a statement of the reasons for a decision that is made in the exercise of a discretionary power or an adjudicative function,
- (c) is the result of product or environmental testing carried out by or for a public body, that is complete or on which no progress has been made for at least 3 years, unless the testing was done
  - (i) for a fee as a service to a person other than a public body, or
  - (ii) for the purpose of developing methods of testing or testing products for possible purchase,
- (d) is a statistical survey,
- (e) is the result of background research of a scientific or technical nature undertaken in connection with the formulation of a policy proposal, that is complete or on which no progress has been made for at least 3 years,
- (f) is an instruction or guideline issued to the officers or employees of a public body, or
- (g) is a substantive rule or statement of policy that has been adopted by a public body for the purpose of interpreting an Act or regulation or administering a program or activity of the public body.

**(2.1)** The head of a public body must refuse to disclose to an applicant

- (a) a record relating to an audit by the Chief Internal Auditor of Alberta that is created by or for the Chief Internal Auditor of Alberta, or
- (b) information that would reveal information about an audit by the Chief Internal Auditor of Alberta.

**(2.2)** Subsection (2.1) does not apply to a record or information described in that subsection

- (a) if 15 years or more has elapsed since the audit to which the record or information relates was completed, or
  - (b) if the audit to which the record or information relates was discontinued or if no progress has been made on the audit for 15 years or more.
- (3)** In this section, “audit” means a financial or other formal and systematic examination or review of a program, portion of a program or activity.

RSA 2000 cF-25 s24;2006 c17 s5

**Disclosure harmful to economic and other interests  
of a public body**

**25(1)** The head of a public body may refuse to disclose information to an applicant if the disclosure could reasonably be expected to harm the economic interest of a public body or the Government of Alberta or the ability of the Government to manage the economy, including the following information:

- (a) trade secrets of a public body or the Government of Alberta;
  - (b) financial, commercial, scientific, technical or other information in which a public body or the Government of Alberta has a proprietary interest or a right of use and that has, or is reasonably likely to have, monetary value;
  - (c) information the disclosure of which could reasonably be expected to
    - (i) result in financial loss to,
    - (ii) prejudice the competitive position of, or
    - (iii) interfere with contractual or other negotiations of,the Government of Alberta or a public body;
  - (d) information obtained through research by an employee of a public body, the disclosure of which could reasonably be expected to deprive the employee or the public body of priority of publication.
- (2)** The head of a public body must not refuse to disclose under subsection (1) the results of product or environmental testing carried out by or for a public body, unless the testing was done
- (a) for a fee as a service to a person, other than the public body, or

- (b) for the purpose of developing methods of testing or testing products for possible purchase.

1994 cF-18.5 s24;1999 c23 s15

#### **Testing procedures, tests and audits**

**26** The head of a public body may refuse to disclose to an applicant information relating to

- (a) testing or auditing procedures or techniques,
- (b) details of specific tests to be given or audits to be conducted, or
- (c) standardized tests used by a public body, including intelligence tests,

if disclosure could reasonably be expected to prejudice the use or results of particular tests or audits.

1994 cF-18.5 s25;1999 c23 s16

#### **Privileged information**

**27(1)** The head of a public body may refuse to disclose to an applicant

- (a) information that is subject to any type of legal privilege, including solicitor-client privilege or parliamentary privilege,
- (b) information prepared by or for
  - (i) the Minister of Justice and Solicitor General,
  - (ii) an agent or lawyer of the Minister of Justice and Solicitor General, or
  - (iii) an agent or lawyer of a public body,in relation to a matter involving the provision of legal services, or
- (c) information in correspondence between
  - (i) the Minister of Justice and Solicitor General,
  - (ii) an agent or lawyer of the Minister of Justice and Solicitor General, or
  - (iii) an agent or lawyer of a public body,

and any other person in relation to a matter involving the provision of advice or other services by the Minister of Justice and Solicitor General or by the agent or lawyer.

(2) The head of a public body must refuse to disclose information described in subsection (1)(a) that relates to a person other than a public body.

(3) Only the Speaker of the Legislative Assembly may determine whether information is subject to parliamentary privilege.

RSA 2000 cF-25 s27;2013 c10 s34

**Disclosure harmful to the conservation of heritage sites, etc.**

**28** The head of a public body may refuse to disclose information to an applicant if the disclosure could reasonably be expected to result in damage to or interfere with the conservation of

(a) any historic resource as defined in the *Historical Resources Act*, or

(b) any rare, endangered, threatened or vulnerable form of life.

1994 cF-18.5 s27;1995 c17 s11

**Information that is or will be available to the public**

**29(1)** The head of a public body may refuse to disclose to an applicant information

(a) that is readily available to the public,

(a.1) that is available for purchase by the public, or

(b) that is to be published or released to the public within 60 days after the applicant's request is received.

(2) The head of a public body must notify an applicant of the publication or release of information that the head has refused to disclose under subsection (1)(b).

(3) If the information is not published or released within 60 days after the applicant's request is received, the head of the public body must reconsider the request as if it were a new request received on the last day of that period, and access to the information requested must not be refused under subsection (1)(b).

RSA 2000 cF-25 s29;2003 c21 s6

### Division 3 Third Party Intervention

#### Notifying the third party

**30(1)** When the head of a public body is considering giving access to a record that may contain information

- (a) that affects the interests of a third party under section 16, or
- (b) the disclosure of which may be an unreasonable invasion of a third party's personal privacy under section 17,

the head must, where practicable and as soon as practicable, give written notice to the third party in accordance with subsection (4).

**(1.1)** Subsection (1) does not apply to information that the head of a public body may refuse to disclose in accordance with section 29.

**(2)** Subsection (1) does not apply to a record containing information described in section 17(2)(j).

**(3)** If the head of a public body does not intend to give access to a record that contains information excepted from disclosure under section 16 or 17, the head may give written notice to the third party in accordance with subsection (4).

**(4)** A notice under this section must

- (a) state that a request has been made for access to a record that may contain information the disclosure of which would affect the interests or invade the personal privacy of the third party,
- (b) include a copy of the record or part of it containing the information in question or describe the contents of the record, and
- (c) state that, within 20 days after the notice is given, the third party may, in writing, consent to the disclosure or make representations to the public body explaining why the information should not be disclosed.

**(5)** When notice is given under subsection (1), the head of the public body must also give the applicant a notice stating that

- (a) the record requested by the applicant may contain information the disclosure of which would affect the interests or invade the personal privacy of a third party,

- (b) the third party is being given an opportunity to make representations concerning disclosure, and
- (c) a decision will be made within 30 days after the day notice is given under subsection (1).

RSA 2000 cF-25 s30;2003 c21 s7

**Time limit and notice of decision**

**31(1)** Within 30 days after notice is given pursuant to section 30(1) or (2), the head of the public body must decide whether to give access to the record or to part of the record, but no decision may be made before the earlier of

- (a) 21 days after the day notice is given, and
- (b) the day a response is received from the third party.

**(2)** On reaching a decision under subsection (1), the head of the public body must give written notice of the decision, including reasons for the decision, to the applicant and the third party.

**(3)** If the head of the public body decides to give access to the record or part of the record, the notice under subsection (2) must state that the applicant will be given access unless the third party asks for a review under Part 5 within 20 days after that notice is given.

**(4)** If the head of the public body decides not to give access to the record or part of the record, the notice under subsection (2) must state that the applicant may ask for a review under Part 5.

1994 cF-18.5 s30

## **Division 4 Public Health and Safety**

**Information must be disclosed if in the public interest**

**32(1)** Whether or not a request for access is made, the head of a public body must, without delay, disclose to the public, to an affected group of people, to any person or to an applicant

- (a) information about a risk of significant harm to the environment or to the health or safety of the public, of the affected group of people, of the person or of the applicant, or
- (b) information the disclosure of which is, for any other reason, clearly in the public interest.

**(2)** Subsection (1) applies despite any other provision of this Act.

**(3)** Before disclosing information under subsection (1), the head of a public body must, where practicable,

- (a) notify any third party to whom the information relates,
- (b) give the third party an opportunity to make representations relating to the disclosure, and
- (c) notify the Commissioner.

**(4)** If it is not practicable to comply with subsection (3), the head of the public body must give written notice of the disclosure

- (a) to the third party, and
- (b) to the Commissioner.

RSA 2000 cF-25 s32;2003 c21 s8

## **Part 2**

### **Protection of Privacy**

#### **Division 1**

#### **Collection of Personal Information**

##### **Purpose of collection of information**

**33** No personal information may be collected by or for a public body unless

- (a) the collection of that information is expressly authorized by an enactment of Alberta or Canada,
- (b) that information is collected for the purposes of law enforcement, or
- (c) that information relates directly to and is necessary for an operating program or activity of the public body.

1994 cF-18.5 s32;1999 c23 s19

##### **Manner of collection of information**

**34(1)** A public body must collect personal information directly from the individual the information is about unless

- (a) another method of collection is authorized by
  - (i) that individual,
  - (ii) another Act or a regulation under another Act, or
  - (iii) the Commissioner under section 53(1)(h) of this Act,

- (b) the information may be disclosed to the public body under Division 2 of this Part,
- (c) the information is collected in a health or safety emergency where
  - (i) the individual is not able to provide the information directly, or
  - (ii) direct collection could reasonably be expected to endanger the mental or physical health or safety of the individual or another person,
- (d) the information concerns an individual who is designated as a person to be contacted in an emergency or other specified circumstances,
- (e) the information is collected for the purpose of determining suitability for an honour or award, including an honorary degree, scholarship, prize or bursary,
- (f) the information is collected from published or other public sources for the purpose of fund-raising,
- (g) the information is collected for the purpose of law enforcement,
- (h) the information is collected for the purpose of collecting a fine or a debt owed to the Government of Alberta or a public body,
- (i) the information concerns the history, release or supervision of an individual under the control or supervision of a correctional authority,
- (j) the information is collected for use in the provision of legal services to the Government of Alberta or a public body,
- (k) the information is necessary
  - (i) to determine the eligibility of an individual to participate in a program of or receive a benefit, product or service from the Government of Alberta or a public body and is collected in the course of processing an application made by or on behalf of the individual the information is about, or
  - (ii) to verify the eligibility of an individual who is participating in a program of or receiving a benefit,

product or service from the Government of Alberta or a public body and is collected for that purpose,

- (l) the information is collected for the purpose of informing the Public Trustee or a Public Guardian about clients or potential clients,
- (m) the information is collected for the purpose of enforcing a maintenance order under the *Maintenance Enforcement Act*,
- (n) the information is collected for the purpose of managing or administering personnel of the Government of Alberta or the public body, or
- (o) the information is collected for the purpose of assisting in researching or validating the claims, disputes or grievances of aboriginal people.

(2) A public body that collects personal information that is required by subsection (1) to be collected directly from the individual the information is about must inform the individual of

- (a) the purpose for which the information is collected,
- (b) the specific legal authority for the collection, and
- (c) the title, business address and business telephone number of an officer or employee of the public body who can answer the individual's questions about the collection.

(3) Subsections (1) and (2) do not apply if, in the opinion of the head of the public body concerned, it could reasonably be expected that the information collected would be inaccurate.

RSA 2000 cF-25 s34;2008 cA-4.2 s130

#### **Accuracy and retention**

**35** If an individual's personal information will be used by a public body to make a decision that directly affects the individual, the public body must

- (a) make every reasonable effort to ensure that the information is accurate and complete, and
- (b) retain the personal information for at least one year after using it so that the individual has a reasonable opportunity to obtain access to it, or for any shorter period of time as agreed to in writing by
  - (i) the individual,

- (ii) the public body, and
- (iii) if the body that approves the records and retention and disposition schedule for the public body is different from the public body, that body.

1994 cF-18.5 s34;1999 c23 s21

### **Right to request correction of personal information**

**36(1)** An individual who believes there is an error or omission in the individual's personal information may request the head of the public body that has the information in its custody or under its control to correct the information.

**(2)** Despite subsection (1), the head of a public body must not correct an opinion, including a professional or expert opinion.

**(3)** If no correction is made in response to a request under subsection (1), or if because of subsection (2) no correction may be made, the head of the public body must annotate or link the personal information with that part of the requested correction that is relevant and material to the record in question.

**(4)** On correcting, annotating or linking personal information under this section, the head of the public body must notify any other public body or any third party to whom that information has been disclosed during the one year before the correction was requested that a correction, annotation or linkage has been made.

**(5)** Despite subsection (4), the head of a public body may dispense with notifying any other public body or third party that a correction, annotation or linkage has been made if

- (a) in the opinion of the head of the public body, the correction, annotation or linkage is not material, and
- (b) the individual who requested the correction is advised and agrees in writing that notification is not necessary.

**(6)** On being notified under subsection (4) of a correction, annotation or linkage of personal information, a public body must make the correction, annotation or linkage on any record of that information in its custody or under its control.

**(7)** Within 30 days after the request under subsection (1) is received, the head of the public body must give written notice to the individual that

- (a) the correction has been made, or

- (b) an annotation or linkage has been made pursuant to subsection (3).

(8) Section 14 applies to the period set out in subsection (7).

RSA 2000 cF-25 s36;2003 c21 s9

#### **Transferring request to correct personal information**

**37(1)** Within 15 days after a request to correct personal information under section 36(1) is received by a public body, the head of the public body may transfer the request to another public body if

- (a) the personal information was collected by the other public body, or
- (b) the other public body created the record containing the personal information.

(2) If a request is transferred under subsection (1),

- (a) the head of the public body who transferred the request must notify the individual who made the request of the transfer as soon as possible, and
- (b) the head of the public body to which the request is transferred must make every reasonable effort to respond to the request not later than 30 days after receiving the request unless the time limit is extended pursuant to section 36(8).

RSA 2000 cF-25 s37;2003 c21 s10

#### **Request under section 36 deemed to be a request under HIA**

**37.1(1)** If a request is made under section 36(1) to correct personal information that contains information to which the *Health Information Act* applies, the part of the request that relates to that information is deemed to be a request under section 13(1) of the *Health Information Act* and that Act applies as if the request had been made under section 13(1) of that Act.

(2) Subsection (1) does not apply if the public body that receives the request is not a custodian as defined in the *Health Information Act*.

RSA 2000 cH-5 s114

#### **Protection of personal information**

**38** The head of a public body must protect personal information by making reasonable security arrangements against such risks as unauthorized access, collection, use, disclosure or destruction.

1994 cF-18.5 s36;1996 c28 s21

## Division 2 Use and Disclosure of Personal Information by Public Bodies

### Use of personal information

- 39(1)** A public body may use personal information only
- (a) for the purpose for which the information was collected or compiled or for a use consistent with that purpose,
  - (b) if the individual the information is about has identified the information and consented, in the prescribed manner, to the use, or
  - (c) for a purpose for which that information may be disclosed to that public body under section 40, 42 or 43.
- (2)** Despite subsection (1), but subject to subsection (3), a post-secondary educational body may use personal information in its alumni records for the purpose of its own fund-raising activities.
- (3)** A post-secondary educational body must, when requested to do so by an individual, discontinue using that individual's personal information under subsection (2).
- (4)** A public body may use personal information only to the extent necessary to enable the public body to carry out its purpose in a reasonable manner.

1994 cF-18.5 s37;1999 c23 s24

### Disclosure of personal information

- 40(1)** A public body may disclose personal information only
- (a) in accordance with Part 1,
  - (b) if the disclosure would not be an unreasonable invasion of a third party's personal privacy under section 17,
  - (c) for the purpose for which the information was collected or compiled or for a use consistent with that purpose,
  - (d) if the individual the information is about has identified the information and consented, in the prescribed manner, to the disclosure,
  - (e) for the purpose of complying with an enactment of Alberta or Canada or with a treaty, arrangement or agreement made under an enactment of Alberta or Canada,

- (f) for any purpose in accordance with an enactment of Alberta or Canada that authorizes or requires the disclosure,
- (g) for the purpose of complying with a subpoena, warrant or order issued or made by a court, person or body having jurisdiction in Alberta to compel the production of information or with a rule of court binding in Alberta that relates to the production of information,
- (h) to an officer or employee of the public body or to a member of the Executive Council, if the information is necessary for the performance of the duties of the officer, employee or member,
- (i) to an officer or employee of a public body or to a member of the Executive Council, if the disclosure is necessary for the delivery of a common or integrated program or service and for the performance of the duties of the officer or employee or member to whom the information is disclosed,
- (j) for the purpose of enforcing a legal right that the Government of Alberta or a public body has against any person,
- (k) for the purpose of
  - (i) collecting a fine or debt owing by an individual to the Government of Alberta or to a public body, or to an assignee of either of them, or
  - (ii) making a payment owing by the Government of Alberta or by a public body to an individual,
- (l) for the purpose of determining or verifying an individual's suitability or eligibility for a program or benefit,
- (m) to the Auditor General or any other prescribed person or body for audit purposes,
- (n) to a member of the Legislative Assembly who has been requested by the individual the information is about to assist in resolving a problem,
- (o) to a representative of a bargaining agent who has been authorized in writing by the employee the information is about to make an inquiry,
- (p) to the Provincial Archives of Alberta or to the archives of a public body for permanent preservation,

- (q) to a public body or a law enforcement agency in Canada to assist in an investigation
  - (i) undertaken with a view to a law enforcement proceeding, or
  - (ii) from which a law enforcement proceeding is likely to result,
- (r) if the public body is a law enforcement agency and the information is disclosed
  - (i) to another law enforcement agency in Canada, or
  - (ii) to a law enforcement agency in a foreign country under an arrangement, written agreement, treaty or legislative authority,
- (s) so that the spouse or adult interdependent partner, relative or friend of an injured, ill or deceased individual may be contacted,
- (t) in accordance with section 42 or 43,
- (u) to an expert for the purposes of section 18(2),
- (v) for use in a proceeding before a court or quasi-judicial body to which the Government of Alberta or a public body is a party,
- (w) when disclosure is by the Minister of Justice and Solicitor General or an agent or lawyer of the Minister of Justice and Solicitor General to a place of lawful detention,
- (x) for the purpose of managing or administering personnel of the Government of Alberta or the public body,
- (y) to the Director of Maintenance Enforcement for the purpose of enforcing a maintenance order under the *Maintenance Enforcement Act*,
- (z) to an officer of the Legislature, if the information is necessary for the performance of the duties of that officer,
- (aa) for the purpose of supervising an individual under the control or supervision of a correctional authority,
- (bb) when the information is available to the public,

- (bb.1) if the personal information is information of a type routinely disclosed in a business or professional context and the disclosure
    - (i) is limited to an individual's name and business contact information, including business title, address, telephone number, facsimile number and e-mail address, and
    - (ii) does not reveal other personal information about the individual or personal information about another individual,
  - (cc) to the surviving spouse or adult interdependent partner or a relative of a deceased individual if, in the opinion of the head of the public body, the disclosure is not an unreasonable invasion of the deceased's personal privacy,
  - (dd) to a lawyer or student-at-law acting for an inmate under the control or supervision of a correctional authority,
  - (ee) if the head of the public body believes, on reasonable grounds, that the disclosure will avert or minimize
    - (i) a risk of harm to the health or safety of a minor, or
    - (ii) an imminent danger to the health or safety of any person,
  - (ff) to the Administrator of the *Motor Vehicle Accident Claims Act* or to an agent or lawyer of the Administrator for the purpose of dealing with claims under that Act, or
  - (gg) to a law enforcement agency, an organization providing services to a minor, another public body or any prescribed person or body if the information is in respect of a minor or a parent or guardian of a minor and the head of the public body believes, on reasonable grounds, that the disclosure is in the best interests of that minor.
- (2) Notwithstanding subsection (1), a post-secondary educational body may disclose personal information in its alumni records for the purpose of fund-raising activities of the post-secondary educational body if the post-secondary educational body and the person to whom the information is disclosed have entered into a written agreement
- (a) that allows individuals a right of access to personal information that is disclosed about them under this subsection, and

(b) that provides that the person to whom the information is disclosed must discontinue using the personal information of any individual who so requests.

(3) Notwithstanding subsection (1), a post-secondary educational body may, for the purpose of assisting students in selecting courses, disclose teaching and course evaluations that were completed by students.

(4) A public body may disclose personal information only to the extent necessary to enable the public body to carry out the purposes described in subsections (1), (2) and (3) in a reasonable manner.

RSA 2000 cF-25 s40;2002 cA-4.5 s38;2003 c21 s11;  
2006 c17 s6;2011 cC-11.5 s30;2013 cC-12.5 s14;2013 c10 s34

#### Consistent purposes

**41** For the purposes of sections 39(1)(a) and 40(1)(c), a use or disclosure of personal information is consistent with the purpose for which the information was collected or compiled if the use or disclosure

- (a) has a reasonable and direct connection to that purpose, and
- (b) is necessary for performing the statutory duties of, or for operating a legally authorized program of, the public body that uses or discloses the information.

1994 cF-18.5 s39;1999 c23 s26

#### Disclosure for research or statistical purposes

**42** A public body may disclose personal information for a research purpose, including statistical research, only if

- (a) the research purpose cannot reasonably be accomplished unless that information is provided in individually identifiable form or the research purpose has been approved by the Commissioner,
- (b) any record linkage is not harmful to the individuals the information is about and the benefits to be derived from the record linkage are clearly in the public interest,
- (c) the head of the public body has approved conditions relating to the following:
  - (i) security and confidentiality,
  - (ii) the removal or destruction of individual identifiers at the earliest reasonable time, and

- (iii) the prohibition of any subsequent use or disclosure of the information in individually identifiable form without the express authorization of that public body,

and

- (d) the person to whom the information is disclosed has signed an agreement to comply with the approved conditions, this Act and any of the public body's policies and procedures relating to the confidentiality of personal information.

1994 cF-18.5 s40

### **Part 3**

## **Disclosure of Information in Archives**

### **Disclosure of information in archives**

**43(1)** The Provincial Archives of Alberta and the archives of a public body may disclose

- (a) personal information in a record that
  - (i) has been in existence for 25 years or more if the disclosure
    - (A) would not be an unreasonable invasion of personal privacy under section 17, or
    - (B) is in accordance with section 42,
  - or
  - (ii) has been in existence for 75 years or more;
- (b) information other than personal information in a record that has been in existence for 25 years or more if
  - (i) the disclosure of the information would not be harmful to the business interests of a third party within the meaning of section 16,
  - (ii) the disclosure of the information would not be harmful to a law enforcement matter within the meaning of section 20, and
  - (iii) the information is not subject to any type of legal privilege under section 27.
  - (iv) repealed 2003 c21 s12.

(2) Repealed 2003 c21 s12.

RSA 2000 cF-25 s43;2003 c21 s12

## **Part 4**

### **Office and Powers of Information and Privacy Commissioner**

#### **Definition**

**44** In this Part, “Standing Committee” means the Standing Committee on Legislative Offices.

1994 cF-18.5 s42

#### **Appointment of Commissioner**

**45(1)** The Lieutenant Governor in Council, on the recommendation of the Legislative Assembly, must appoint an Information and Privacy Commissioner to carry out the duties and functions set out in this Act.

(2) The Commissioner is an officer of the Legislature.

(3) The Commissioner may not be a member of the Legislative Assembly.

1994 cF-18.5 s43

#### **Term of office**

**46(1)** Except as provided for in section 47, the Commissioner holds office for a term not exceeding 5 years.

(2) A person holding office as Commissioner continues to hold office after the expiry of that person’s term of office until that person is reappointed, a successor is appointed or a period of 6 months has expired, whichever occurs first.

(3) A person is eligible for reappointment as Commissioner.

RSA 2000 cF-25 s46;2003 c21 s13

#### **Resignation, removal or suspension of Commissioner**

**47(1)** The Commissioner may resign at any time by notifying the Speaker of the Legislative Assembly or, if there is no Speaker or the Speaker is absent from Alberta, by notifying the Clerk of the Legislative Assembly.

(2) The Lieutenant Governor in Council must remove the Commissioner from office or suspend the Commissioner for cause or incapacity on the recommendation of the Legislative Assembly.

(3) If the Legislative Assembly is not sitting, the Lieutenant Governor in Council may suspend the Commissioner for cause or incapacity on the recommendation of the Standing Committee.

1994 cF-18.5 s45

**Acting Commissioner**

**48(1)** The Lieutenant Governor in Council, on the recommendation of the Standing Committee, may appoint an acting Commissioner if

- (a) the office of Commissioner is or becomes vacant when the Legislative Assembly is not sitting,
- (b) the Commissioner is suspended when the Legislative Assembly is not sitting, or
- (c) the Commissioner is removed or suspended or the office of the Commissioner becomes vacant when the Legislative Assembly is sitting, but no recommendation is made by the Assembly under section 45(1) before the end of the session.

**(2)** The Lieutenant Governor in Council may appoint an acting Commissioner if the Commissioner is temporarily absent because of illness or for another reason.

**(3)** An acting Commissioner holds office until

- (a) a person is appointed under section 45(1),
- (b) the suspension of the Commissioner ends, or
- (c) the Commissioner returns to office after a temporary absence.

1994 cF-18.5 s46

**Remuneration**

**49** The Commissioner must be remunerated as determined by the Standing Committee, and it must review that remuneration at least once a year.

1994 cF-18.5 s47

**Oath**

**50(1)** Before beginning the duties of office, the Commissioner must take an oath to faithfully and impartially perform the duties of the office and not to disclose any information received by the Office of the Information and Privacy Commissioner under this Act except as provided in this Act.

**(2)** The oath must be administered by the Speaker of the Legislative Assembly or the Clerk of the Legislative Assembly.

1994 cF-18.5 s48

**Office of the Commissioner**

**51(1)** There may be a part of the public service of Alberta called the Office of the Information and Privacy Commissioner consisting

of the Commissioner and those persons employed pursuant to the *Public Service Act* that are necessary to assist the Commissioner in carrying out the Commissioner's duties and functions under this or any other enactment.

(2) The Commissioner may engage the services of any persons necessary to assist the Commissioner in carrying out the Commissioner's duties and functions.

(3) On the recommendation of the Commissioner, the Standing Committee may order that

- (a) any regulation, order or directive made under the *Financial Administration Act*,
- (b) any regulation, order, directive, rule, procedure, direction, allocation, designation or other decision under the *Public Service Act*, or
- (c) any regulation, order, determination, direction or other decision under the *Public Sector Compensation Transparency Act*,

does not apply to, or is varied in respect of, the Office of the Information and Privacy Commissioner or any particular employee or class of employees in the Office.

(4) An order made under subsection (3)(a) operates despite section 2 of the *Financial Administration Act*.

(4.1) An order made under subsection (3)(c) in relation to a regulation, order, determination, direction or other decision under the *Public Sector Compensation Transparency Act* operates notwithstanding that Act.

(5) The *Regulations Act* does not apply to orders made under subsection (3).

(6) The chair of the Standing Committee must lay a copy of each order made under subsection (3) before the Legislative Assembly if it is then sitting or, if it is not then sitting, within 15 days after the start of the next sitting.

(7) Every person employed or engaged by the Office of the Information and Privacy Commissioner must, before beginning to perform duties under this Act, take an oath, to be administered by the Commissioner, not to disclose any information received by that person under this Act except as provided in this Act.

RSA 2000 cF-25 s51;2015 cP-40.5 s21

**Financing of operations**

**52(1)** The Commissioner must submit to the Standing Committee in respect of each fiscal year an estimate of the public money that will be required to be provided by the Legislature to defray the several charges and expenses of the Office of the Information and Privacy Commissioner in that fiscal year.

**(2)** The Standing Committee must review each estimate submitted pursuant to subsection (1) and, on the completion of the review, the chair of the Committee must transmit the estimate to the President of Treasury Board and Minister of Finance for presentation to the Legislative Assembly.

**(3)** If at any time the Legislative Assembly is not in session the Standing Committee, or if there is no Standing Committee, the President of Treasury Board and Minister of Finance,

- (a) reports that the Commissioner has certified that in the public interest, an expenditure of public money is urgently required in respect of any matter pertaining to the Commissioner's office, and
- (b) reports that either
  - (i) there is no supply vote under which an expenditure with respect to that matter may be made, or
  - (ii) there is a supply vote under which an expenditure with respect to that matter may be made but the authority available under the supply vote is insufficient,

the Lieutenant Governor in Council may order a special warrant to be prepared to be signed by the Lieutenant Governor authorizing the expenditure of the amount estimated to be required.

**(4)** When the Legislative Assembly is adjourned for a period of more than 14 days, then, for the purposes of subsection (3), the Assembly is deemed not to be in session during the period of the adjournment.

**(5)** When a special warrant is prepared and signed under subsection (3) on the basis of a report referred to in subsection (3)(b)(i), the authority to spend the amount of money specified in the special warrant for the purpose specified in the special warrant is deemed to be a supply vote for the purposes of the *Financial Administration Act* for the fiscal year in which the special warrant is signed.

(6) When a special warrant is prepared and signed under subsection (3) on the basis of a report referred to in subsection (3)(b)(ii), the authority to spend the amount of money specified in the special warrant is, for the purposes of the *Financial Administration Act*, added to and deemed to be part of the supply vote to which the report relates.

(7) When a special warrant has been prepared and signed pursuant to this section, the amounts authorized by it are deemed to be included in, and not to be in addition to, the amounts authorized by the Act, not being an Act for interim supply, enacted next after it for granting to Her Majesty sums of money to defray certain expenditures of the Public Service of Alberta.

RSA 2000 cF-25 s52;2006 c23 s35;2013 c10 s32

#### **General powers of Commissioner**

**53(1)** In addition to the Commissioner's powers and duties under Part 5 with respect to reviews, the Commissioner is generally responsible for monitoring how this Act is administered to ensure that its purposes are achieved, and may

- (a) conduct investigations to ensure compliance with any provision of this Act or compliance with rules relating to the destruction of records
  - (i) set out in any other enactment of Alberta, or
  - (ii) set out in a bylaw, resolution or other legal instrument by which a local public body acts or, if a local public body does not have a bylaw, resolution or other legal instrument setting out rules related to the destruction of records, as authorized by the governing body of a local public body,
- (b) make an order described in section 72(3) whether or not a review is requested,
- (c) inform the public about this Act,
- (d) receive comments from the public concerning the administration of this Act,
- (e) engage in or commission research into anything affecting the achievement of the purposes of this Act,
- (f) comment on the implications for freedom of information or for protection of personal privacy of proposed legislative schemes or programs of public bodies,

- (g) comment on the implications for protection of personal privacy of using or disclosing personal information for record linkage,
- (h) authorize the collection of personal information from sources other than the individual the information is about,
- (i) bring to the attention of the head of a public body any failure by the public body to assist applicants under section 10, and
- (j) give advice and recommendations of general application to the head of a public body on matters respecting the rights or obligations of a head under this Act.

**(2)** Without limiting subsection (1), the Commissioner may investigate and attempt to resolve complaints that

- (a) a duty imposed by section 10 has not been performed,
- (b) an extension of time for responding to a request is not in accordance with section 14,
- (c) a fee required under this Act is inappropriate,
- (d) a correction of personal information requested under section 36(1) has been refused without justification, and
- (e) personal information has been collected, used or disclosed by a public body in contravention of Part 2.

1994 cF-18.5 s51;1995 c17 s16;1999 c23 s28

#### **Advice and recommendations**

**54(1)** The head of a public body may ask the Commissioner to give advice and recommendations on any matter respecting any rights or duties under this Act.

**(2)** The Commissioner may in writing provide the head with advice and recommendations that

- (a) state the material facts either expressly or by incorporating facts stated by the head,
- (b) are based on the facts referred to in clause (a), and
- (c) may be based on any other considerations the Commissioner considers appropriate.

1994 cF-18.5 s52

**Power to authorize a public body to disregard requests**

**55(1)** If the head of a public body asks, the Commissioner may authorize the public body to disregard one or more requests under section 7(1) or 36(1) if

- (a) because of their repetitious or systematic nature, the requests would unreasonably interfere with the operations of the public body or amount to an abuse of the right to make those requests, or
- (b) one or more of the requests are frivolous or vexatious.

**(2)** The processing of a request under section 7(1) or 36(1) ceases when the head of a public body has made a request under subsection (1) and

- (a) if the Commissioner authorizes the head of the public body to disregard the request, does not resume;
- (b) if the Commissioner does not authorize the head of the public body to disregard the request, does not resume until the Commissioner advises the head of the public body of the Commissioner's decision.

RSA 2000 cF-25 s55;2006 c17 s7

**Powers of Commissioner in conducting investigations or inquiries**

**56(1)** In conducting an investigation under section 53(1)(a) or an inquiry under section 69 or 74.5 or in giving advice and recommendations under section 54, the Commissioner has all the powers, privileges and immunities of a commissioner under the *Public Inquiries Act* and the powers given by subsection (2) of this section.

**(2)** The Commissioner may require any record to be produced to the Commissioner and may examine any information in a record, including personal information whether or not the record is subject to the provisions of this Act.

**(3)** Despite any other enactment or any privilege of the law of evidence, a public body must produce to the Commissioner within 10 days any record or a copy of any record required under subsection (1) or (2).

**(4)** If a public body is required to produce a record under subsection (1) or (2) and it is not practicable to make a copy of the record, the head of that public body may require the Commissioner to examine the original at its site.

(5) After completing a review or investigating a complaint, the Commissioner must return any record or any copy of any record produced.

RSA 2000 cF-25 s56;2003 c21 s14

**Statements made to the Commissioner not admissible in evidence**

**57(1)** A statement made or an answer given by a person during an investigation or inquiry by the Commissioner is inadmissible in evidence in court or in any other proceeding, except

- (a) in a prosecution for perjury in respect of sworn testimony,
- (b) in a prosecution for an offence under this Act, or
- (c) in an application for judicial review or an appeal from a decision with respect to that application.

(2) Subsection (1) applies also in respect of evidence of the existence of proceedings conducted before the Commissioner.

1994 cF-18.5 s55

**Privileged information**

**58** Anything said, any information supplied or any record produced by a person during an investigation or inquiry by the Commissioner is privileged in the same manner as if the investigation or inquiry were a proceeding in a court.

1994 cF-18.5 s56

**Restrictions on disclosure of information by the Commissioner and staff**

**59(1)** The Commissioner and anyone acting for or under the direction of the Commissioner must not disclose any information obtained in performing their duties, powers and functions under this Act, except as provided in subsections (2) to (5).

(2) The Commissioner may disclose, or may authorize anyone acting for or under the direction of the Commissioner to disclose, information that is necessary to

- (a) conduct an investigation or inquiry under this Act, or
- (b) establish the grounds for findings and recommendations contained in a report under this Act.

(3) In conducting an investigation or inquiry under this Act and in a report under this Act, the Commissioner and anyone acting for or under the direction of the Commissioner must take every reasonable precaution to avoid disclosing and must not disclose

- (a) any information the head of a public body would be required or authorized to refuse to disclose if it were contained in a record requested under section 7(1), or
  - (b) whether information exists, if the head of a public body in refusing to provide access does not indicate whether the information exists.
- (4) The Commissioner may disclose to the Minister of Justice and Solicitor General information relating to the commission of an offence against an enactment of Alberta or Canada if the Commissioner considers there is evidence of an offence.
- (5) The Commissioner may disclose, or may authorize anyone acting for or under the direction of the Commissioner to disclose, information in the course of a prosecution, application or appeal referred to in section 57.

RSA 2000 cF-25 s59;2013 c10 s34

#### **Protection of Commissioner and staff**

**60** No proceedings lie against the Commissioner, or against a person acting for or under the direction of the Commissioner, for anything done, reported or said in good faith in the exercise or performance or the intended exercise or performance of a power, duty or function under this Part or Part 5.

1994 cF-18.5 s58

#### **Delegation by the Commissioner**

**61(1)** The Commissioner may delegate to any person any duty, power or function of the Commissioner under this Act except the power to delegate.

(2) A delegation under subsection (1) must be in writing and may contain any conditions or restrictions the Commissioner considers appropriate.

1994 cF-18.5 s59;1999 c23 s30

#### **Role of Ombudsman**

**62** The Ombudsman may not investigate any matter that the Commissioner has the power to investigate or review under this Act, unless the Commissioner agrees.

1994 cF-18.5 s60

#### **Annual report of Commissioner**

**63(1)** The Commissioner must report annually to the Speaker of the Legislative Assembly on

- (a) the work of the Commissioner's office,

- (b) any complaints or reviews resulting from a decision, act or failure to act of the Commissioner as head of a public body, and
- (c) any other matters relating to freedom of information and protection of personal privacy that the Commissioner considers appropriate.

(2) The Speaker must lay each annual report before the Legislative Assembly as soon as possible.

1994 cF-18.5 s61;1995 c17 s16

### **Records management**

**64** On the recommendation of the Information and Privacy Commissioner, the Standing Committee may make an order

- (a) respecting the management of records in the custody or under the control of the Office of the Information and Privacy Commissioner, including their creation, handling, control, organization, retention, maintenance, security, preservation, disposition, alienation and destruction and their transfer to the Provincial Archives of Alberta;
- (b) establishing or governing the establishment of programs for any matter referred to in clause (a);
- (c) defining and classifying records;
- (d) respecting the records or classes of records to which the order or any provision of it applies.

1995 c34 s6

## **Part 5 Reviews and Complaints**

### **Division 1 Reviews by the Commissioner**

#### **Right to ask for a review**

**65(1)** A person who makes a request to the head of a public body for access to a record or for correction of personal information may ask the Commissioner to review any decision, act or failure to act of the head that relates to the request.

(2) A third party notified under section 31 of a decision by the head of a public body to give access may ask the Commissioner to review that decision.

(3) A person who believes that the person's own personal information has been collected, used or disclosed in contravention of Part 2 may ask the Commissioner to review that matter.

(4) The surviving spouse or adult interdependent partner or a relative of a deceased individual may ask the Commissioner to review a decision of a head of a public body under section 40(1)(cc) not to disclose personal information.

(5) This section does not apply

- (a) to a decision, act or failure to act of the Commissioner when acting as the head of the Office of the Information and Privacy Commissioner,
- (b) to a decision by the Speaker of the Legislative Assembly that a record is subject to parliamentary privilege, or
- (c) if the person who is appointed as the Commissioner is, at the same time, appointed as any other officer of the Legislature, to a decision, act or failure to act of that person when acting as the head of that office.

RSA 2000 cF-25 s65;2002 cA-4.5 s38

#### How to ask for a review

**66(1)** To ask for a review under this Division, a written request must be delivered to the Commissioner.

(2) A request for a review of a decision of the head of a public body must be delivered to the Commissioner

- (a) if the request is pursuant to section 65(1), (3) or (4), within
  - (i) 60 days after the person asking for the review is notified of the decision, or
  - (ii) any longer period allowed by the Commissioner,

or

- (b) if the request is pursuant to section 65(2), within 20 days after the person asking for the review is notified of the decision.

(3) The failure of the head of a public body to respond in time to a request for access to a record is to be treated as a decision to refuse access, but the time limit in subsection (2)(a) for delivering a request for review does not apply.

1994 cF-18.5 s63;1999 c23 s32

**Notifying others of review**

**67(1)** On receiving a request for a review, the Commissioner must as soon as practicable

- (a) give a copy of the request
  - (i) to the head of the public body concerned, and
  - (ii) to any other person who in the opinion of the Commissioner is affected by the request,

and

- (b) provide a summary of the review procedures and an anticipated date for a decision on the review
  - (i) to the person who asked for the review,
  - (ii) to the head of the public body concerned, and
  - (iii) to any other person who in the opinion of the Commissioner is affected by the request.

**(2)** Despite subsection (1)(a), the Commissioner may sever any information in the request that the Commissioner considers appropriate before giving a copy of the request to the head of the public body or any other person affected by the request.

1994 cF-18.5 s64;1999 c23 s33

**Mediation may be authorized**

**68** The Commissioner may authorize a mediator to investigate and try to settle any matter that is the subject of a request for a review.

1994 cF-18.5 s65

**Inquiry by Commissioner**

**69(1)** Unless section 70 applies, if a matter is not settled under section 68, the Commissioner must conduct an inquiry and may decide all questions of fact and law arising in the course of the inquiry.

**(2)** An inquiry under subsection (1) may be conducted in private.

**(3)** The person who asked for the review, the head of the public body concerned and any other person given a copy of the request for the review must be given an opportunity to make representations to the Commissioner during the inquiry, but no one is entitled to be present during, to have access to or to comment on representations made to the Commissioner by another person.

- (4) The Commissioner may decide whether the representations are to be made orally or in writing.
- (5) The person who asked for the review, the head of the public body concerned and any other person given a copy of the request for the review may be represented at the inquiry by counsel or an agent.
- (6) An inquiry under this section must be completed within 90 days after receiving the request for the review unless the Commissioner
- (a) notifies the person who asked for the review, the head of the public body concerned and any other person given a copy of the request for the review that the Commissioner is extending that period, and
  - (b) provides an anticipated date for the completion of the review.

1994 cF-18.5 s66;1999 c23 s34

#### **Refusal to conduct inquiry**

**70** The Commissioner may refuse to conduct an inquiry pursuant to section 69 if in the opinion of the Commissioner

- (a) the subject-matter of a request for a review under section 65 has been dealt with in an order or investigation report of the Commissioner, or
- (b) the circumstances warrant refusing to conduct an inquiry.

RSA 2000 cF-25 s70;2003 c21 s15

#### **Burden of proof**

**71(1)** If the inquiry relates to a decision to refuse an applicant access to all or part of a record, it is up to the head of the public body to prove that the applicant has no right of access to the record or part of the record.

(2) Despite subsection (1), if the record or part of the record that the applicant is refused access to contains personal information about a third party, it is up to the applicant to prove that disclosure of the information would not be an unreasonable invasion of the third party's personal privacy.

(3) If the inquiry relates to a decision to give an applicant access to all or part of a record containing information about a third party,

- (a) in the case of personal information, it is up to the applicant to prove that disclosure of the information would not be an

unreasonable invasion of the third party's personal privacy,  
and

- (b) in any other case, it is up to the third party to prove that the applicant has no right of access to the record or part of the record.

1994 cF-18.5 s67

### **Commissioner's orders**

**72(1)** On completing an inquiry under section 69, the Commissioner must dispose of the issues by making an order under this section.

**(2)** If the inquiry relates to a decision to give or to refuse to give access to all or part of a record, the Commissioner may, by order, do the following:

- (a) require the head to give the applicant access to all or part of the record, if the Commissioner determines that the head is not authorized or required to refuse access;
- (b) either confirm the decision of the head or require the head to reconsider it, if the Commissioner determines that the head is authorized to refuse access;
- (c) require the head to refuse access to all or part of the record, if the Commissioner determines that the head is required to refuse access.

**(3)** If the inquiry relates to any other matter, the Commissioner may, by order, do one or more of the following:

- (a) require that a duty imposed by this Act or the regulations be performed;
- (b) confirm or reduce the extension of a time limit under section 14;
- (c) confirm or reduce a fee or order a refund, in the appropriate circumstances, including if a time limit is not met;
- (d) confirm a decision not to correct personal information or specify how personal information is to be corrected;
- (e) require a public body to stop collecting, using or disclosing personal information in contravention of Part 2;
- (f) require the head of a public body to destroy personal information collected in contravention of this Act.

- (4) The Commissioner may specify any terms or conditions in an order made under this section.
- (5) The Commissioner must give a copy of an order made under this section
- (a) to the person who asked for the review,
  - (b) to the head of the public body concerned,
  - (c) to any other person given a copy of the request for the review, and
  - (d) to the Minister.
- (6) A copy of an order made by the Commissioner under this section may be filed with a clerk of the Court of Queen's Bench and, after filing, the order is enforceable as a judgment or order of that Court.

1994 cF-18.5 s68

**No appeal**

- 73** An order made by the Commissioner under this Act is final.

1994 cF-18.5 s69

**Duty to comply with orders**

- 74(1)** Subject to subsection (2), not later than 50 days after being given a copy of an order of the Commissioner, the head of a public body concerned must comply with the order.
- (2) The head of a public body must not take any steps to comply with a Commissioner's order until the period for bringing an application for judicial review under subsection (3) ends.
- (3) An application for judicial review of a Commissioner's order must be made not later than 45 days after the person making the application is given a copy of the order.
- (4) If an application for judicial review is made pursuant to subsection (3), the Commissioner's order is stayed until the application is dealt with by the Court.
- (5) Despite subsection (3), the Court may, on application made either before or after the expiry of the period referred to in subsection (3), extend that period if it considers it appropriate to do so.

1994 cF-18.5 s70;1999 c23 s36

## Division 1.1 Reviews of Decisions of the Registrar of Motor Vehicle Services

### Definitions

**74.1** In this Division,

- (a) “personal driving and motor vehicle information” means personal driving and motor vehicle information as defined in section 8(1) of the *Traffic Safety Act*;
- (b) “Registrar” means the Registrar of Motor Vehicle Services.  
2003 c21 s16

### Right to ask for a review

**74.2(1)** Despite section 4(1)(l)(ii), if a person makes a request to the Registrar for access to personal driving and motor vehicle information and a notification is published in accordance with the regulations made under section 8 of the *Traffic Safety Act*, the Commissioner may review the Registrar’s decision as set out in the notification.

**(2)** The following may ask the Commissioner to review a decision of the Registrar that is set out in a notification referred to in subsection (1):

- (a) an individual who believes that the individual’s own personal driving and motor vehicle information may be released as a result of the Registrar’s decision;
- (b) the person who made the request to the Registrar for access to personal driving and motor vehicle information.  
2003 c21 s16

### How to ask for a review

**74.3(1)** To ask for a review under this Division, a written request must be delivered to the Commissioner.

**(2)** A request for a review under this Division must be delivered to the Commissioner within 60 days after the date the notification of the decision was published in accordance with the regulations under section 8 of the *Traffic Safety Act*.  
2003 c21 s16

### Notifying others of review

**74.4(1)** On receiving a request for a review, the Commissioner must as soon as practicable

- (a) give a copy of the request

- (i) to the Registrar, and
  - (ii) to any person the Commissioner considers appropriate,
- and
- (b) provide a summary of the review procedures and an anticipated date for a decision on the review
    - (i) to the person who asked for the review,
    - (ii) to the Registrar, and
    - (iii) to any person the Commissioner considers appropriate.

**(2)** Despite subsection (1)(a), the Commissioner may sever any information in the request that the Commissioner considers appropriate before giving a copy of the request to the Registrar or a person referred to in subsection (1)(a)(ii).

2003 c21 s16

#### **Inquiry by Commissioner**

**74.5(1)** Unless section 74.6 applies the Commissioner must conduct an inquiry and may decide all questions of fact and law arising in the course of the inquiry.

**(2)** An inquiry under subsection (1) may be conducted in private.

**(3)** The person who asked for the review, the Registrar and any other person given a copy of the request for the review must be given an opportunity to make representations to the Commissioner during the inquiry, but no one is entitled to be present during, to have access to or to comment on representations made to the Commissioner by another person.

**(4)** The Commissioner may decide whether the representations are to be made orally or in writing.

**(5)** The person who asked for the review, the Registrar and any other person given a copy of the request for the review may be represented at the inquiry by counsel or an agent.

**(6)** An inquiry under this section must be completed within 90 days after receiving the request for the review unless the Commissioner

- (a) notifies the person who asked for the review, the Registrar and any other person given a copy of the request for the review that the Commissioner is extending that period, and

- (b) provides an anticipated date for the completion of the review.

2003 c21 s16

**Refusal to conduct inquiry**

**74.6** The Commissioner may refuse to conduct an inquiry pursuant to section 74.5 if in the opinion of the Commissioner

- (a) the subject-matter of the request for a review has been dealt with in an order of the Commissioner, or
- (b) the circumstances warrant refusing to conduct an inquiry.

2003 c21 s16

**Commissioner's orders**

**74.7(1)** On completing an inquiry under section 74.5, the Commissioner must dispose of the issues by making an order under this section.

**(2)** The Commissioner may, by order, do the following:

- (a) require the Registrar to give the person who made the request access to all or part of the personal driving and motor vehicle information to which access was requested if the Commissioner determines that the Registrar is not authorized to refuse access under the regulations made under section 8 of the *Traffic Safety Act*;
- (b) either confirm the decision of the Registrar or require the Registrar to reconsider it if the Commissioner determines that the Registrar is authorized to refuse access under the regulations made under section 8 of the *Traffic Safety Act*;
- (c) require the Registrar to refuse access to all or part of the personal driving and motor vehicle information if the Commissioner determines that the Registrar is required under the regulations made under section 8 of the *Traffic Safety Act* to refuse access.

**(3)** The Commissioner may specify any terms or conditions in an order made under this section.

**(4)** The Commissioner must give a copy of an order made under this section

- (a) to the person who asked for the review,
- (b) to the Registrar,

- (c) to any other person given a copy of the request for the review,
- (d) to the Minister, and
- (e) to the Minister designated under section 16 of the *Government Organization Act* as the Minister responsible for the *Traffic Safety Act*.

(5) A copy of an order made by the Commissioner under this section may be filed with a clerk of the Court of Queen's Bench and, after filing, the order is enforceable as a judgment or order of that Court.

2003 c21 s16

#### **No appeal**

**74.8** An order made by the Commissioner under this Division is final.

2003 c21 s16

#### **Duty to comply with orders**

**74.9(1)** Subject to subsection (2), not later than 50 days after being given a copy of an order of the Commissioner, the Registrar must comply with the order.

(2) The Registrar must not take any steps to comply with a Commissioner's order until the period for bringing an application for judicial review under subsection (3) ends.

(3) An application for judicial review of a Commissioner's order must be made not later than 45 days after the person making the application is given a copy of the order.

(4) If an application for judicial review is made pursuant to subsection (3), the Commissioner's order is stayed until the application is dealt with by the Court.

(5) Despite subsection (3), the Court may, on application made either before or after the expiry of the period referred to in subsection (3), extend that period if it considers it appropriate to do so.

2003 c21 s16

#### **Application of other sections**

**74.91** Sections 53(1)(a) and 54 and Division 1 do not apply to a review under this Division.

2003 c21 s16

## **Division 2**

### **Complaints About and Reviews of the Commissioner's Decisions as Head of a Public Body**

#### **Adjudicator to investigate complaints and review decisions**

**75(1)** The Lieutenant Governor in Council may designate a judge of the Court of Queen's Bench of Alberta to act as an adjudicator

- (a) to investigate complaints made against the Commissioner as the head of the Office of the Information and Privacy Commissioner with respect to any matter referred to in section 53(2),
- (b) if the person who is appointed as the Commissioner is, at the same time, appointed as any other officer of the Legislature, to investigate complaints respecting any matter referred to in section 53(2) made against that person when acting as the head of that office,
- (c) to investigate complaints respecting any matter referred to in section 53(2) made against a head of a public body and the Commissioner had been a member, employee or head of that public body or, in the Commissioner's opinion, the Commissioner has a conflict with respect to that public body,
- (d) to review, if requested under section 78, a decision, act or failure to act of a head of a public body and the Commissioner had been a member, employee or head of that public body or, in the Commissioner's opinion, the Commissioner has a conflict with respect to that public body,
- (e) to review, if requested under section 77, any decision, act or failure to act of the Commissioner as the head of the Office of the Information and Privacy Commissioner, and
- (f) if the person who is appointed as the Commissioner is, at the same time, appointed as any other officer of the Legislature, to review, if requested under section 77, any decision, act or failure to act of that person when acting as the head of that office.

**(2)** An adjudicator must not review an order of the Commissioner made under this Act.

(3) An adjudicator may retain the services of any persons necessary to assist in performing the adjudicator's functions under this Act.

(4) The Government of Alberta may pay out of the General Revenue Fund

- (a) to an adjudicator, the expenses a judge is entitled to receive under section 57(3) of the *Judges Act* (Canada) while acting as an adjudicator, and
- (b) to a person whose services are retained under subsection (3), remuneration for those services.

1994 cF-18.5 s71;1995 c17 s14;1995 c34 s6;1999 c23 s37

#### **Powers, duties and protections of adjudicator**

**76(1)** For the purposes of section 75, an adjudicator has the powers, duties and functions given to the Commissioner by sections 53(2)(a) to (d), 55, 56 and 59(1), (2)(a) and (3) to (5).

(2) Sections 57, 58, 60 and 62 apply for the purposes of an investigation, inquiry or review by an adjudicator.

1994 cF-18.5 s72

#### **Right to ask for a review**

**77(1)** This section applies

- (a) to a decision, act or failure to act of the Commissioner when acting as the head of the Office of the Information and Privacy Commissioner, and
- (b) if the person who is appointed as the Commissioner is, at the same time, appointed as any other officer of the Legislature, to a decision, act or failure to act of that person when acting as the head of that office.

(2) A person who makes a request to the Commissioner for access to a record or for correction of personal information may ask an adjudicator to review any decision, act or failure to act of the Commissioner that relates to the request.

(3) A third party notified under section 31 of a decision by the Commissioner to give access may ask an adjudicator to review that decision.

(4) A person who believes that the person's own personal information has been collected, used or disclosed in contravention of Part 2 may ask an adjudicator to review that matter.

1994 cF-18.5 s73;1995 c17 s15

**Review where Commissioner in conflict**

**78(1)** This section applies where the Commissioner is asked under section 65(1), (2), (3) or (4) to review a decision, act or failure to act of a head of a public body and the Commissioner had been a member, employee or head of that public body or, in the Commissioner's opinion, the Commissioner has a conflict with respect to that public body.

**(2)** A person who makes a request to the head of a public body for access to a record or for correction of personal information may ask an adjudicator to review any decision, act or failure to act of the head of the public body that relates to the request.

**(3)** A third party notified under section 31 of a decision by the head of a public body to give access may ask an adjudicator to review that decision.

**(4)** A person who believes that the person's own personal information has been collected, used or disclosed in contravention of Part 2 may ask an adjudicator to review that matter.

1995 c34 s6;1999 c23 s38

**How to ask for a review**

**79(1)** To ask for a review under this Division, a written request must be delivered to the Minister.

**(2)** A request for a review of a decision must be delivered

- (a) if the request is pursuant to section 65(1), (3) or (4), within
  - (i) 60 days after the person asking for the review is notified of the decision, or
  - (ii) any longer period allowed by the adjudicator,

or

- (b) if the request is pursuant to section 65(2), within 20 days after the person asking for the review is notified of the decision.

1994 cF-18.5 s74;1995 c34 s6;1999 c23 s39

**Notifying others of review**

**80** On receiving a request for a review, the Minister must as soon as practicable

- (a) give the request to an adjudicator,
- (b) give a copy of the request

- (i) to the Commissioner, and
  - (ii) to any other person who in the opinion of the Minister is affected by the request,
- and
- (c) provide a summary of the review procedures
    - (i) to the person who asked for the review,
    - (ii) to the Commissioner, and
    - (iii) to any other person who in the opinion of the Minister is affected by the request.

1994 cF-18.5 s75

**Conduct and outcome of the review**

**81(1)** An adjudicator has the powers and duties given to the Commissioner by sections 68 and 69(1) and (2), and sections 69(3) to (6) and 71 apply to an inquiry conducted by an adjudicator.

**(2)** On completing an inquiry, an adjudicator has the same duty to dispose of the issues, the same power to make orders and the same duty to notify others of those orders as the Commissioner has under section 72(1) to (5).

**(3)** An adjudicator must give a copy of an order made by the adjudicator under this Act to the Commissioner.

**(4)** A copy of an order made by an adjudicator under this section may be filed with a clerk of the Court of Queen's Bench and, after filing, the order is enforceable as a judgment or order of that Court.

**(5)** Section 74 applies to an order of an adjudicator.

**(6)** An order made by an adjudicator under this Act is final.

RSA 2000 cF-25 s81;RSA 2000 cH-5 s114

**Division 3  
Disclosure to Commissioner****Disclosure to Commissioner**

**82(1)** An employee of a public body may disclose to the Commissioner any information that the employee is required to keep confidential and that the employee, acting in good faith, believes

- (a) ought to be disclosed by a head under section 32, or

- (b) is being collected, used or disclosed in contravention of Part 2.
- (2) The Commissioner must investigate and review any disclosure made under subsection (1).
- (3) If an employee makes a disclosure under subsection (1), the Commissioner must not disclose the identity of the employee to any person without the employee's consent.
- (4) An employee is not liable to a prosecution for an offence under any Act
- (a) for copying a record or disclosing it to the Commissioner, or
  - (b) for disclosing information to the Commissioner
- unless the employee acted in bad faith.
- (5) A public body or person acting on behalf of a public body must not take any adverse employment action against an employee because the employee, acting in good faith,
- (a) has disclosed information to the Commissioner under this section, or
  - (b) has exercised or may exercise a right under this section.
- (6) A person who contravenes subsection (5) is guilty of an offence and liable to a fine of not more than \$10 000.
- (7) In carrying out an investigation and review under this section, the Commissioner has all of the powers and duties set out in sections 56, 59, 68, 69 and 72(1) to (5), and sections 57, 58, 60 and 62 apply.

RSA 2000 cF-25 s82;RSA 2000 cH-5 s114

## Part 6 General Provisions

### Manner of giving notice

- 83(1)** Where this Act requires any notice or other document to be given to a person, it is to be given
- (a) by sending it to that person by prepaid mail to the last known address of that person,
  - (b) by personal service,

- (c) by substitutional service if so authorized by the Commissioner,
- (d) by facsimile telecommunication, or
- (e) in electronic form other than facsimile telecommunication if the person to whom the notice or document is to be given has consented to accept the notice or document in that form.

(2) For the purposes of subsection (1)(e), whether a person has consented may be determined in accordance with section 8(2) of the *Electronic Transactions Act*.

RSA 2000 cF-25 s83;2003 c21 s17

#### Exercise of rights by other persons

**84(1)** Any right or power conferred on an individual by this Act may be exercised

- (a) if the individual is deceased, by the individual's personal representative if the exercise of the right or power relates to the administration of the individual's estate,
- (b) if a guardian or trustee has been appointed for the individual under the *Adult Guardianship and Trusteeship Act*, by the guardian or trustee if the exercise of the right or power relates to the powers and duties of the guardian or trustee,
- (c) if an agent has been designated under a personal directive under the *Personal Directives Act*, by the agent under the authority of the directive if the directive so authorizes,
- (d) if a power of attorney has been granted by the individual, by the attorney if the exercise of the right or power relates to the powers and duties of the attorney conferred by the power of attorney,
- (e) if the individual is a minor, by a guardian of the minor in circumstances where, in the opinion of the head of the public body concerned, the exercise of the right or power by the guardian would not constitute an unreasonable invasion of the personal privacy of the minor, or
- (f) by any person with written authorization from the individual to act on the individual's behalf.

(2) Any notice required to be given to an individual under this Act may be given to the person entitled to exercise the individual's rights or powers referred to in subsection (1).

RSA 2000 cF-25 s84;2008 cA-4.2 s130

**Delegation by the head of a public body**

**85(1)** The head of a public body may delegate to any person any duty, power or function of the head under this Act, except the power to delegate under this section.

**(2)** A delegation under subsection (1) must be in writing and may contain any conditions or restrictions the head of the public body considers appropriate.

1994 cF-18.5 s80

**Annual report of Minister**

**86** The Minister must prepare an annual report about the operation of this Act and lay the report before the Legislative Assembly.

1994 cF-18.5 s81

**Directory of public bodies**

**87(1)** The Minister must publish, in printed or electronic form, a directory to assist in identifying and locating records.

**(2)** The directory must list each public body and include for each public body

- (a) the name and business contact information of the individual that is the public body's contact person for matters relating to the administration of this Act, or
- (b) if the public body does not have a contact person for matters relating to the administration of this Act, the name and business contact information of the head of the public body.

RSA 2000 cF-25 s87;2003 c21 s18

**Directory of personal information banks**

**87.1(1)** The head of a public body must publish a directory, in printed or electronic form, that lists the public body's personal information banks.

**(2)** The directory must include, for each personal information bank, the following:

- (a) the title and location of the personal information bank;
- (b) a description of the kind of personal information and the categories of individuals whose personal information is included;
- (c) the authority for collecting the personal information;

- (d) the purposes for which the personal information was collected or compiled and the purposes for which it is used or disclosed.
- (3) If personal information is used or disclosed by a public body for a purpose that is not included in the directory published under subsection (1), the head of the public body must
  - (a) keep a record of the purpose and either attach or link that record to the personal information, and
  - (b) ensure that the purpose is included in the next publication of the directory.
- (4) The head of a public body must ensure that the directory referred to in subsection (1) is kept as current as is practicable, and that access to the directory is available to the public at an office of the public body.
- (5) In this section, “personal information bank” means a collection of personal information that is organized or retrievable by the name of an individual or by an identifying number, symbol or other particular assigned to an individual.

2003 c21 s18

**Records available without request**

- 88(1)** The head of a public body may specify categories of records that are in the custody or under the control of the public body and are available to the public without a request for access under this Act.
- (2) The head of a public body may require a person who asks for a copy of an available record to pay a fee to the public body, unless such a record can otherwise be accessed without a fee.
- (3) Subsection (1) does not limit the discretion of the Government of Alberta or a public body to release records that do not contain personal information.

1994 cF-18.5 s83

**Access to manuals**

- 89(1)** The head of every public body must provide facilities at
  - (a) the headquarters of the public body, and
  - (b) any offices of the public body that, in the opinion of the head, are reasonably practicable,

where the public may inspect any manual, handbook or other guideline used in decision-making processes that affect the public

by employees of the public body in administering or carrying out programs or activities of the public body.

(2) Any information in a record that the head of a public body would be authorized to refuse to give access to pursuant to this Act may be excluded from the manuals, handbooks or guidelines that may be inspected pursuant to subsection (1).

RSA 2000 cF-25 s89;2003 c21 s19

#### **Protection of public body from legal suit**

**90** No action lies and no proceeding may be brought against the Crown, a public body, the head of a public body, an elected official of a local public body or any person acting for or under the direction of the head of a public body for damages resulting from

- (a) the disclosure of or failure to disclose, in good faith, all or part of a record or information under this Act or any consequences of that disclosure or failure to disclose, or
- (b) the failure to give a notice required under this Act if reasonable care is taken to give the required notice.

1994 cF-18.5 s85

#### **Protection of employee**

**91(1)** A public body or person acting on behalf of a public body must not take any adverse employment action against an employee as a result of the employee properly disclosing information in accordance with this Act.

(2) A person who contravenes subsection (1) is guilty of an offence and liable to a fine of not more than \$10 000.

1999 c23 s41

#### **Offences and penalties**

**92(1)** A person must not wilfully

- (a) collect, use or disclose personal information in contravention of Part 2,
- (b) attempt to gain or gain access to personal information in contravention of this Act,
- (c) make a false statement to, or mislead or attempt to mislead, the Commissioner or another person in the performance of the duties, powers or functions of the Commissioner or other person under this Act,
- (d) obstruct the Commissioner or another person in the performance of the duties, powers or functions of the Commissioner or other person under this Act,

- (e) alter, falsify or conceal any record, or direct another person to do so, with the intent to evade a request for access to the record,
- (f) fail to comply with an order made by the Commissioner under section 72 or by an adjudicator under section 81(2), or
- (g) destroy any records subject to this Act, or direct another person to do so, with the intent to evade a request for access to the records.

**(2)** A person who contravenes subsection (1) is guilty of an offence and liable to a fine of not more than \$10 000.

**(3)** A person must not wilfully disclose personal information to which this Act applies pursuant to a subpoena, warrant or order issued or made by a court, person or body having no jurisdiction in Alberta to compel the production of information or pursuant to a rule of court that is not binding in Alberta.

**(4)** A person who contravenes subsection (3) is guilty of an offence and liable

- (a) in the case of an individual, to a fine of not less than \$2000 and not more than \$10 000, and
- (b) in the case of any other person, to a fine of not less than \$200 000 and not more than \$500 000.

**(5)** A prosecution under this Act may be commenced within 2 years after the commission of the alleged offence, but not afterwards.

RSA 2000 cF-25 s92;RSA 2000 cH-5 s114;2006 c17 s8

### **Fees**

**93(1)** The head of a public body may require an applicant to pay to the public body fees for services as provided for in the regulations.

**(2)** Subsection (1) does not apply to a request for the applicant's own personal information, except for the cost of producing the copy.

**(3)** If an applicant is required to pay fees for services under subsection (1), the public body must give the applicant an estimate of the total fee before providing the services.

**(3.1)** An applicant may, in writing, request that the head of a public body excuse the applicant from paying all or part of a fee for services under subsection (1).

- (4) The head of a public body may excuse the applicant from paying all or part of a fee if, in the opinion of the head,
- (a) the applicant cannot afford the payment or for any other reason it is fair to excuse payment, or
  - (b) the record relates to a matter of public interest, including the environment or public health or safety.
- (4.1) If an applicant has, under subsection (3.1), requested the head of a public body to excuse the applicant from paying all or part of a fee, the head must give written notice of the head's decision to grant or refuse the request to the applicant within 30 days after receiving the request.
- (5) If the head of a public body refuses an applicant's request under subsection (3.1), the notice referred to in subsection (4.1) must state that the applicant may ask for a review under Part 5.
- (6) The fees referred to in subsection (1) must not exceed the actual costs of the services.

RSA 2000 cF-25 s93;2003 c21 s20

**Power to make regulations**

- 94(1)** The Lieutenant Governor in Council may make regulations
- (a) designating agencies, boards, commissions, corporations, offices or other bodies as public bodies;
  - (b) respecting the establishment of criteria to be used for designating agencies, boards, commissions, corporations, offices or other bodies as public bodies;
  - (c) respecting procedures to be followed in making, transferring and responding to requests under this Act;
  - (d) respecting procedures to be followed in giving access where an applicant has asked to examine a record or for a copy of a record that cannot reasonably be reproduced;
  - (e) respecting the making of requests under this Act orally instead of in writing;
  - (f) respecting standards to be observed by officers or employees of a public body in fulfilling the duty to assist applicants;
  - (g) authorizing the disclosure of information relating to the mental or physical health of individuals to medical or other experts to determine, for the purposes of section 18(2), if

disclosure of that information could reasonably be expected to result in immediate and grave harm to the safety of or the mental or physical health of those individuals;

- (h) respecting procedures to be followed or restrictions considered necessary with respect to the disclosure and examination of information referred to in clause (g);
- (i) respecting special procedures for giving individuals access to personal information about their mental or physical health;
- (j) respecting technical standards and safeguards to be observed for the security and protection of personal information;
- (k) respecting standards to be observed and procedures to be followed by a public body implementing a program for data matching, data sharing or data linkage;
- (l) respecting the manner of giving consent for the purposes of sections 17(2)(a), 39(1)(b) and 40(1)(d);
- (m) prescribing persons to whom a public body may disclose personal information for audit purposes;
- (m.1) prescribing persons or bodies for the purposes of section 40(1)(gg);
- (n) authorizing, for the purposes of section 23(1)(b), a local public body to hold meetings of its elected officials, or of its governing body or a committee of its governing body, to consider specified matters in the absence of the public unless another Act
  - (i) expressly authorizes the local public body to hold meetings of its elected officials, or of its governing body or a committee of its governing body in the absence of the public, and
  - (ii) specifies the matters that may be discussed at those meetings;
- (o) respecting fees to be paid under this Act and providing for circumstances when fees may be waived in whole or in part;
- (p) respecting forms for the purposes of this Act;
- (q) respecting any matter that is to be included in a notice required by this Act;

- (r) defining, enlarging or restricting the meaning of any term used in this Act but not defined in this Act;
- (s) requiring public bodies to provide to the Minister information that relates to the administration of this Act or is required for preparing the Minister's annual report or the directory referred to in section 87;
- (t) exempting any public body or class of public body from the operation of a regulation made under this subsection;
- (u) providing that other Acts or regulations, or any provisions of them, prevail despite this Act;
- (v) respecting any other matter or thing that the Lieutenant Governor in Council considers necessary to carry out the intent of this Act.

**(2)** The Lieutenant Governor in Council or the Minister may delete a body designated under subsection (1)(a) or (3), respectively, but only if the Commissioner is satisfied that it is not contrary to the public interest to delete the body and that

- (a) the body
  - (i) has been discontinued or no longer exists,
  - (ii) has been amalgamated with another body, and use of the name under which it was designated has been discontinued,
  - (iii) is a public body described in section 1(p)(i), (iii), (iv), (v), (vi) or (vii), or
  - (iv) would more appropriately be subject to another Act of Alberta or Canada that provides for access to information or protection of privacy or both,

or

- (b) all of the following apply:
  - (i) the Government of Alberta does not appoint a majority of members to the body or to the governing board of the body;
  - (ii) the Government of Alberta does not provide the majority of the body's continuing funding;

- (iii) the Government of Alberta does not hold a controlling interest in the share capital of the body.

**(3)** The Minister may by regulation designate an agency, board, commission, corporation, office or other body as a public body on the same criteria established by regulation on which the Lieutenant Governor in Council may designate a public body, but only at the request of the Minister responsible for that agency, board, commission, corporation, office or other body.

**(4)** A regulation made under subsection (3) is repealed on the coming into force of a regulation made under subsection (1)(a) that designates the agency, board, commission, corporation, office or other body as a public body.

RSA 2000 cF-25 s94;2003 c21 s21;2006 c17 s9;  
2011 cC-11.5 s30

#### **Power to make bylaws**

**95** A local public body, by bylaw or other legal instrument by which the local public body acts,

- (a) must designate a person or group of persons as the head of the local public body for the purposes of this Act, and
- (b) may set any fees the local public body requires to be paid under section 93, which must not exceed the fees provided for in the regulations.

1994 cF-18.5 s89;1999 c23 s45

#### **Application of this Act**

**96** This Act applies to any record in the custody or under the control of a public body regardless of whether it comes into existence before or after this Act comes into force.

1994 cF-18.5 s90

#### **Review of Act**

**97** A special committee of the Legislative Assembly must begin a comprehensive review of this Act by July 1, 2010 and must submit to the Legislative Assembly, within one year after beginning the review, a report that includes any amendments recommended by the committee.

RSA 2000 cF-25 s97;2003 c21 s22



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