



BILL NO. 150

Government Bill

*1st Session, 65th General Assembly
Nova Scotia
4 Charles III, 2025*

**An Act Respecting
the Right of Access to Records of Public Bodies
and the Right of Privacy with Respect to
Personal Information Held by Public Bodies**

CHAPTER 13
ACTS OF 2025

**AS ASSENTED TO BY THE LIEUTENANT GOVERNOR
OCTOBER 3, 2025**

The Honourable Becky Druhan
Attorney General and Minister of Justice

*Halifax, Nova Scotia
Printed by Authority of the Speaker of the House of Assembly*

This page is intentionally blank.

**An Act Respecting
the Right of Access to Records of Public Bodies
and the Right of Privacy with Respect to
Personal Information Held by Public Bodies**

Be it enacted by the Governor and Assembly as follows:

1 This Act may be cited as the *Freedom of Information and Protection of Privacy Act*.

2 (1) The purpose of this Act is to make public bodies accountable to the public and to protect personal privacy by

- (a) giving the public a right of access to records;
- (b) giving individuals a right of access to, and a right to request correction of, personal information about themselves;
- (c) specifying limited exceptions to the right of access;
- (d) preventing the unauthorized collection, use or disclosure of personal information by public bodies; and
- (e) providing for an independent review of decisions made under this Act.

(2) This Act does not replace other procedures for access to information or limit in any way access to information that is not personal information and is available to the public.

3 In this Act,

“access request” means a request under Section 12 for access to a record;

“access review request” means a request under Section 80 for an access review;

“applicant”, in relation to an access request or a correction request, means the person who made the request;

“background information” means

- (a) a coherent body of facts that is separate and distinct from interpretations of, reactions to or advice and recommendation in respect of the facts presented;
- (b) a public opinion poll;
- (c) a statistical survey;
- (d) a report prepared by a qualified appraiser that estimates the value of property or sets a price on an asset or liability;
- (e) a report prepared by an economist predicting the performance of a national, provincial or local economy over a specified period of time;
- (f) a detailed written statement of an assessment of environmental effects of a proposed project or activity, as required by law, or a report containing similar information;

(g) a final report or final audit on the performance or efficiency of a public body or on any of its programs or policies;

(h) a consumer test report or a report of a test carried out on a product to test equipment of a public body;

(i) a feasibility or technical study, including a cost estimate, relating to a policy or project of a public body;

(j) a report on the results of field research undertaken before a policy proposal is formulated;

(k) a report of an external task force, advisory board or similar body that has been established to consider any matter and make reports or recommendations to a public body; or

(l) a plan or proposal to establish a new program or to change a program if the plan or proposal has been approved or rejected by the head of the public body;

“business contact information” means the name, title and contact information of an individual that identifies the individual in a professional or official capacity, and includes contact information relating to a business operated from an individual’s personal residence;

“business day” means a day other than a Saturday, a Sunday or a day on which offices of the Government are ordinarily closed;

“Commissioner” means the Information and Privacy Commissioner appointed under Section 120 and, where an Acting Commissioner is appointed under Section 125, includes the Acting Commissioner;

“common key” means information about an identifiable individual that is common to two or more data sets;

“common or integrated program or activity” means a program or activity that

(a) provides one or more services through

(i) a public body and one or more other public bodies or partner agencies, working collaboratively, or

(ii) one public body working on behalf of one or more other public bodies or partner agencies; and

(b) is confirmed, in the manner provided by the regulations, as being a common or integrated program or activity;

“correction request” means a request under Section 61 for correction of an error or omission in personal information;

“correction review request” means a request under Section 80 for a correction review;

“data linking” means the linking, temporarily or permanently, of two or more data sets through the use of one or more common keys;

“data-linking program” means a program of a public body that involves data linking where at least one data set in the custody or under the control of a public body is linked with a data set in the custody or under the control of one or more other public bodies or partner agencies without the consent of the individuals whose personal information is contained in the data set;

“data set” means an aggregation of information that contains personal information;

“department” means a department or office established by or under the *Public Service Act*;

“employee”, in relation to a public body, includes a person retained under an employment contract to perform services for the public body;

“Executive Council” includes a committee of the Executive Council;

“head”, in relation to a public body, means

(a) where the public body is a department of the Government, the minister who presides over it;

(b) where the public body is a board, commission, foundation, agency, tribunal, association or other body of persons reporting directly to a minister in respect of its day-to-day operations, the minister;

(c) where the public body is a board, commission, foundation, agency, tribunal, association or other body of persons not reporting directly to a minister in respect of its day-to-day operations, the chair or presiding officer of the board, commission, foundation, agency, tribunal, association or other body of persons;

(d) where the public body is a regional municipality, town or county or district municipality, the chief administrative officer, if one has been appointed, or, if one has not been appointed, the clerk of the municipality;

(e) where the public body is a village, the village clerk;

(f) where the public body is a service commission, the clerk;

(g) where the public body is a municipal body that is under the authority of one municipality, the head of the public body for that municipality;

(h) where the public body is a municipal body a majority of the members of which are appointed by one municipality, the head of the public body for the appointing municipality;

(i) where the public body is a municipal body that is not described in clause (g) or (h), the chair or presiding officer of the municipal body;

(j) where the public body is a local public body other than a local public body referred to in clauses (d) to (i), the person or group of persons designated under Section 134 as the head; or

(k) in any other case, the person designated by the regulations as the head of the public body;

“hospital” means any agency, association, board, commission, corporation, society or other body that is designated as a hospital under the *Hospitals Act*;

“human trafficking” means the recruitment, transportation or control of individuals by means of threat, force, coercion, deception or abuse of power, for the purpose of forced labour, sexual exploitation or other forms of abuse or exploitation;

“Indigenous governing body” means

(a) a band within the meaning of the *Indian Act* (Canada); or

(b) an Indigenous organization or community designated by the regulations;

“information” means content contained in a record;

“intimate-partner violence”, in relation to an individual, means

(a) physical, sexual, emotional, psychological, spiritual, economic or financial harm or abuse of or coercive control of

(i) the individual,

(ii) a parent, child or other family member of the individual, or

(iii) any other individual who is in a relationship prescribed by the regulations with the individual,

by a current or former intimate partner or spouse of the individual; or

(b) abuse of an animal owned by or in the care of the individual;

“judicial administration record” means a record containing information relating to a judge, including

(a) a scheduling of judges and trials;

(b) content of judicial training programs; and

(c) statistics of judicial activity prepared by or for a judge;

“law enforcement” means

(a) policing, including criminal-intelligence operations;

(b) investigations that lead or could lead to a penalty or sanction being imposed; or

(c) proceedings that lead or could lead to a penalty or sanction being imposed;

“legal privilege” includes solicitor-client privilege, litigation privilege and settlement privilege;

“local public body” means

(a) a hospital;

(b) a university;

(c) an education entity as defined in the *Education Act*;

(d) the Nova Scotia Community College established by the *Community Colleges Act*; or

(e) a municipality;

“minister” means a member of the Executive Council;

“Minister” means the Minister of Service Nova Scotia;

“municipal body” means a committee, community council, agency, authority, board or commission, whether incorporated or not,

(a) a majority of the member of which are appointed by one or more municipalities; or

(b) that is under the authority of one or more municipalities;

“municipality” means a regional municipality, town, county or district municipality, village, service commission or municipal body;

“partner agency” means

- (a) a government institution subject to the *Privacy Act (Canada)*;
 - (b) an organization that is subject to the *Personal Information Protection and Electronic Documents Act (Canada)* and is operating in the Province;
 - (c) a public body, government institution or an institution as defined in applicable provincial legislation having the same effect as this Act;
 - (d) a non-profit association within the meaning of the *Co-operative Associations Act*;
 - (e) a society incorporated under the *Societies Act*;
 - (f) a corporation incorporated under the *Canada Not-for-profit Corporations Act (Canada)*;
 - (g) a non-profit organization incorporated under an Act of the Province or an Act of the Parliament of Canada;
 - (h) a registered charity within the meaning of the *Income Tax Act (Canada)*;
- or
- (i) an entity prescribed by the regulations or falling within a class prescribed by the regulations;

“personal identity information” means any personal information of a type that is commonly used, alone or in combination with other information, to identify or purport to identify an individual;

“personal information” means recorded information about an identifiable individual, including

- (a) the individual’s name;
- (b) the individual’s home, mailing or electronic mail address or telephone number;
- (c) the individual’s Internet Protocol address;
- (d) the individual’s race, national or ethnic origin, colour or religious or political beliefs or associations;
- (e) the individual’s age, gender, sex, sexual orientation, marital status or family status;
- (f) an identifying number, symbol or other particular assigned to the individual;
- (g) the individual’s fingerprints, blood type or any other genetic characteristic or biometric information;
- (h) information about the individual’s healthcare history, including a physical or mental disability;
- (i) information about the individual’s educational, financial, criminal or employment history;

(j) another person's opinions about the individual; and

(k) the individual's personal views or opinions, except if they are about another person,

but does not include business contact information;

"privacy review request" means a request under Section 100 or 101 for a privacy review;

"program or activity" includes, when used in relation to a public body, a common or integrated program or activity respecting which the public body provides one or more services;

"provincial identity services provider" means a provincial identity information services provider designated under Section 137;

"public body" means

(a) a department;

(b) a board, commission, foundation, agency, tribunal, association or other body of persons, whether incorporated or unincorporated, all the members of which or all the members of the board of management or board of directors of which

(i) are appointed by the Governor in Council, or

(ii) where not so appointed, in the discharge of their duties are public officers or servants of the Crown;

(c) the Public Archives of Nova Scotia;

(d) a local public body; or

(e) a body designated by the regulations as a public body or falling within a class of bodies prescribed by the regulations as public bodies,

but, for greater certainty, does not include the Office of the Legislative Counsel or the constituency office of a member of the House of Assembly;

"record" includes a book, document, map, drawing, photograph, letter, voucher and paper and any other thing on which information is recorded or stored by graphic, electronic, mechanical or other means, but does not include a computer program or any other mechanism that produces records;

"Supreme Court" means the Supreme Court of Nova Scotia;

"third party" means

(a) in relation to an access request or a correction request to a public body other than a municipality, any person, group of persons or organization other than

(i) the person who made the request, or

(ii) a public body; and

(b) in relation to an access request or a correction request to a municipality, any person, group of persons or organization other than

(i) the person who made the request,

(ii) the municipality to which the request is made, or

(iii) a municipal body, a majority of the members of which are appointed by, or which is under the authority of the municipality to which the request is made;

“trade secret” means information, including a formula, pattern, compilation, program, device, product, method, technique or process that

- (a) is used, or may be used, in business or for any commercial advantage;
- (b) derives independent economic value, actual or potential, from not being generally known to the public or to other persons who can obtain economic value from its disclosure or use;
- (c) is the subject of reasonable efforts to prevent it from becoming generally known; and
- (d) the disclosure of which would result in harm or improper benefit;

“university” means an institution located in the Province that is authorized under the *Degree Granting Act* or by another Act of the Legislature to grant degrees.

- 4 body. (1) This Act applies to all records in the custody or under the control of a public body.
- (2) For greater certainty, this Act applies to court administration records.
- (3) Notwithstanding subsection (1), this Act does not apply to
- (a) a published record or a record that is available for purchase by the public;
 - (b) a record that is a matter of public record;
 - (c) a record in a court file;
 - (d) a record of a judge of the Nova Scotia Court of Appeal, the Supreme Court, the Family Court of Nova Scotia or the Provincial Court of Nova Scotia or relating to support services provided to the judges of those courts;
 - (e) a judicial administration record;
 - (f) a note, communication or draft decision of a person acting in a judicial or quasi-judicial capacity;
 - (g) a record that is created by or is in the custody of the Commissioner, the Conflict of Interest Commissioner appointed under the *Conflict of Interest Act* or the Ombudsman appointed under the *Ombudsman Act* and that relates to the exercise of that person’s functions under an enactment;
 - (h) a record of a question that is to be used on an examination or test;
 - (i) a record placed in the custody of the Public Archives of Nova Scotia by or for a person, agency or other organization, other than a public body;
 - (j) a record placed in the archives of a public body by or for a person, agency or other organization other than the public body;
 - (k) a record relating to a prosecution if all proceedings in respect of the prosecution have not been completed;

(l) a record of each representation made on behalf of a public body to the Commissioner in the course of an access review, a correction review or a privacy review and all material prepared for the purpose of making the representation; or

(m) a record that is created by or is in the custody of the Order of Nova Scotia Advisory Council, including a nomination submitted to the Advisory Council.

5 Nothing in this Act

(a) limits the information otherwise available by law to a party to litigation, including a civil, criminal or administrative proceeding;

(b) affects the power of any court or tribunal to compel a witness to testify or to compel the production of documents;

(c) prohibits the transfer, storage or destruction of any record in accordance with any other Act or any regulation;

(d) prevents access to records maintained in a public office for the purpose of providing public access to information;

(e) restricts disclosure of information for the purpose of a prosecution; or

(f) restricts access to information provided by custom or practice prior to the coming into force of this Act.

6 (1) Where there is a conflict between this Act and a provision of any other enactment and the provision of the other enactment restricts or prohibits access by any person to a record, this Act prevails over the provision of the other enactment unless the regulations provide that the provision of the other enactment prevails over this Act.

(2) Notwithstanding subsection (1), the following provisions prevail over this Act:

(a) subsection 121(2) of the *Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation and Offshore Renewable Energy Management (Nova Scotia) Act*;

(b) subsection 5(2) of the *Child Pornography Reporting Act*;

(c) Section 66 of the *Children and Family Services Act*;

(d) Section 19 of the *Consumer Reporting Act*;

(e) Section 51 of the *Corporation Capital Tax Act*;

(f) Section 7 of the *Emergency 911 Act*;

(g) subsection 8(4) of the *Fisheries and Coastal Resources Act*;

(h) Section 17 and subsection 104(2) of the *Health Protection Act*;

(i) Section 28 of the *Labour Standards Code*;

(j) Section 32 of the *Maintenance Enforcement Act*;

(k) Section 57 of the *Marine Renewable-energy Act*;

(l) subsections 7B(5), 7C(8), 98(6) and 278E(3) of the *Motor Vehicle Act*;

- (m) Sections 53, 61 and 62 of the *Occupational Health and Safety Act*;
- (n) subsection 15(3) of the *Pension Benefits Act*;
- (o) Sections 72 and 100 of the *Petroleum Resources Regulations* made under the *Petroleum Resources Act*;
- (p) subsection 21(4) of the *Primary Forest Products Marketing Act*;
- (q) Section 48 of the *Public Trustee Act*;
- (r) Section 9 of the *Statistics Act*;
- (s) subsection 9(3) of the *Procedure Regulations* made under the *Trade Union Act*;
- (t) subsection 37(8) and Section 45 of the *Vital Statistics Act*; and
- (u) Section 32 of the *Youth Justice Act*.

7 Notwithstanding any other provision in this Act, the provisions in the Vital Statistics Act relating to

- (a) rights of access to personal information, including the right to request a search of personal information;
- (b) remedial rights relating to the rights described in clause (a);
- (c) correction of personal information; and
- (d) procedures relating to the matters referred to in clauses (a) to (c), including the payment of fees and the searching of and obtaining access to personal information,

apply in place of the provisions in this Act respecting the matters in clauses (a) to (d).

8 Notwithstanding any other provision of this Act, Section 53A of the *Children and Family Services Act* applies in place of this Act with respect to an application for disclosure of the information referred to in that Section and the disclosure of that information.

9 The Minister is responsible for the general supervision and management of this Act and the regulations.

PART I

FREEDOM OF INFORMATION

Right of Access to Records

10 (1) Upon submitting an access request in accordance with this Act and paying any fees required under this Act, a person has a right of access to any record in the custody or under the control of a public body.

(2) The right of access to a record does not extend to information

- (a) the disclosure of which the head of a public body is required or authorized to refuse under Sections 30 to 49; or

(b) that is reasonably regarded as irrelevant to the applicant's request, but where that information can reasonably be severed from the record, an applicant has the right of access to the remainder of the record.

(3) Where there are one or more exact copies of a record in the custody or control of a public body, the right of access to the record does not extend to the exact copies.

11 (1) Notwithstanding anything contained in this Act, where the record is an executed agreement

(a) in which provision is made for

(i) in the case of an agreement executed by the Crown in right of the Province, the Crown in right of the Province,

(ii) in the case of an agreement executed by a board, commission, foundation, agency, tribunal, association or other body of persons described in clause (b) of the definition of "public body" in Section 3, the board, commission, foundation, agency, tribunal, association or other body of persons, or

(iii) in the case of an agreement executed by a local public body, the local public body,

to make a substantial transfer of risk to a person, including risk related to the operation or financing, or both, of government activities; and

(b) that is, or is in a class of agreements that, before or within 90 days of the execution of the agreement, is designated as a public-private partnership agreement

(i) in the case of an agreement executed by the Crown in right of the Province, by the regulations,

(ii) in the case of an agreement executed by a board, commission, foundation, agency, tribunal, association or other body of persons described in clause (b) of the definition of "public body" in Section 3, by the legal decision-making authority by which the board, commission, foundation, agency, tribunal, association or body acts, or

(iii) in the case of an agreement executed by a local public body, the legal decision-making authority by which the local public body acts,

the right of access referred to in subsection 10(1) extends to any information in the agreement that, but for this subsection, would be exempted from disclosure under this Act.

(2) Subsection (1) does not apply in respect of information

(a) respecting trade secrets;

(b) respecting the financial and business information of the person to whom that subsection refers; or

(c) the disclosure of which may reasonably be expected to endanger the safety or health of the public, a person or a group of persons.

Access Requests

12 (1) A person may request access to a record by submitting a written access request to the public body that has custody or control of the record, accompanied by the application fee required under Section 25.

(2) An access request must specify the topic or issue of the requested record with sufficient particulars to enable an individual familiar with the topic or issue to identify the record and the applicant shall make reasonable efforts to list particulars, such as time, place, event and subject.

(3) For greater certainty, an applicant shall specify the record requested or, where the record is not known to the applicant, provide sufficient particulars and make reasonable efforts to list particulars, such as time, place, event and subject, to enable a person familiar with the topic or issue to identify the requested record.

(4) For greater certainty, where a request is made for records in the form of electronic mail written by a person or between persons, the applicant must specify the topic or issue of the requested records with reasonable efforts to provide additional particulars, such as time, place, event and subject.

(5) An access request must specify whether the applicant wishes to examine the record or to obtain a copy of the record.

13 The head of a public body shall make every reasonable effort to

(a) assist a person in making an access request, including assisting a person to complete the access request with the information required by clause 12(2); and

(b) respond to an access request openly, accurately, completely and without unreasonable delay.

14 Subject to clause 13(a), an access request that does not contain the information required by clause 12(2) is incomplete and is deemed not to have been received by the public body.

15 Where an applicant or a person receiving the assistance of the head of a public body in making an access request fails to respond to the head of the public body for more than 60 business days, the applicant or person is deemed to have abandoned the access request or attempt to make an access request, as the case may be.

16 (1) The head of a public body may, with the approval of the Commissioner, disregard an access request or group of access requests if the head is of the opinion that

(a) the request or group of requests is trivial, frivolous or vexatious;

(b) the request or group of requests is for information already provided to the applicant;

(c) the request or group of requests amounts to an abuse of the right to access because it is

- (i) unduly repetitive or systematic,
- (ii) excessively broad or incomprehensible, or
- (iii) otherwise not made in good faith; or

(d) responding to the request or group of requests would unreasonably interfere with the operations of the public body and the request or group of requests is repetitive or systematic in nature.

(2) An application for approval to disregard an access request, whether individually or as part of group of access requests, must be made to the Commissioner within 14 business days after receipt of the access request by the public body, or by such later time as the Commissioner may approve.

(3) Within 14 business days after receipt of an application for approval to disregard an access request or group of access requests, the Commissioner shall determine whether to grant the approval and notify the head of the public body of the Commissioner's decision, in writing.

(4) Where the Commissioner refuses to grant approval to disregard an access request or a group of access requests, the head of the public body shall respond to the access request or requests in the manner required by this Act.

(5) Where the Commissioner grants approval to disregard an access request or a group of access requests, the head of the public body shall, upon receiving the Commissioner's decision,

- (a) notify the applicant that the head of the public body has, with the Commissioner's approval, disregarded the access request or group of access requests;
- (b) provide the applicant with reasons for the decision of the head of the public body; and
- (c) inform the applicant that the applicant may appeal the decision of the head of the public body to the Supreme Court under Section 91 and of the time limit for commencing an appeal.

17 (1) The head of a public body may refuse to disclose to an applicant information that, within 30 business days after the applicant's request is received, is to be published or released to the public.

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

(3) Where the information is not published or released within 30 business days after the applicant's request is received, the head of the public body shall reconsider the request as if it were a new access request received on the last day of that period, but the information may not be refused under subsection (1).

18 (1) The head of the public body may, within 10 business days after an access request is received by a public body or within such longer time as the Commissioner may approve, transfer the request and, where 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) Where a request is transferred under subsection (1),

(a) the head of the public body who transferred the request shall notify the applicant of the transfer; and

(b) the head of the public body to which the request is transferred shall treat the access request in the same manner as if the applicant had submitted the access request to that public body on the date on which the request is transferred.

19 In determining whether disclosure of information may or must be refused under Sections 30 to 49, the head of the public body to which an access request is made may consult with another public body, the government of a province of Canada or the Government of Canada.

20 (1) Except where the head of the public body has disregarded the access request under Section 16 or has transferred the access request to another public body under Section 18, the head of a public body to which an access request is made shall respond in writing to the access request

(a) within 30 business days after receipt of the access request; or

(b) where the time for response has been extended under Section 21, within the extended time for response.

(2) Business days occurring during the following periods are not considered for the purpose of calculating the time referred to in clause (1)(a) or (b):

(a) the period beginning the day the head of the public body applies to the Commissioner under Section 16 for approval to disregard the access request and the day on which the written report of the Commissioner's decision is provided denying the application;

(b) the period beginning the day the head of the public body gives a fee estimate to an applicant under Section 26 and the day on which the applicant accepts the fee estimate or a revised fee estimate; and

(c) the period beginning the day an access review request is filed for a review of any decision, act or failure to act of the head of the public body that relates to the access request and ending the day on which the head of the public body receives the Commissioner's review report or is notified that the access review is otherwise disposed of.

21 (1) The head of a public body to which an access request is made may extend the time for response referred to in clause 20(1)(a) for a period not exceeding an additional 30 business days

- (a) if supplementary information about the requested record is required from the applicant in order to process the access request and additional time is required for such information to be provided;
- (b) if additional time is required to process the access request due to
 - (i) the number of records requested in the access request,
 - (ii) the number of records that must be searched in order to process the access request, or
 - (iii) the number of access requests made to the public body by the same applicant;
- (c) if responding to the access request within the time referred to in referred to in clause 20(1)(a) would unreasonably interfere with the operations of the public body;
- (d) if notice has been provided to a third party under Section 50 and additional time is required to consider the representations of the third party;
- (e) if the head of the public body has, under Section 19, initiated consultation with another public body, the government of a province of Canada or the Government of Canada and additional time is required to complete the consultation;
- (f) if the head of the public body determines that extraordinary circumstances exist; or
- (g) in such other circumstances as may be prescribed by the regulations.

(2) In addition to an extension under subsection (1), the head of the public body may, with the approval of the Commissioner, further extend the time for response for any period.

- (3)** Upon extending the time for response under subsection (1) or (2), the head shall
- (a) notify the applicant of the extension and provide the reason for the extension;
 - (b) inform the applicant that the applicant may
 - (i) in the case of an extension under subsection (1), make an access request review application or, under Section 90, appeal the decision of the head of the public body directly to the Supreme Court,
 - (ii) in the case an extension under subsection (2), appeal the decision of the head of the public body directly to the Supreme Court under Section 90.

(4) Notwithstanding subsection (1) and (2), the head of a public body to which an access request is made may extend the time for response for any period if the applicant has consented in writing to the extension.

22 Where the head of the public body fails to respond to an access request within the time specified in subsection 20(1),

- (a) the head of the public body is deemed to have given notice of a decision to refuse to give access to the record on the last day of the time for response; and

(b) any fee required to be paid to the public body under subsection 26(1) must be refunded to the applicant.

23 (1) In a response to an access request, the head of the public body shall inform the applicant

(a) whether access to the record or part of the record is granted or refused;

(b) where access to the record or part of the record is granted, where, when and how access will be given;

(c) where access to the record or part of the record is refused, the reasons for the refusal and the provision of this Act on which the refusal is based; and

(d) that the applicant may file an access review request with the Commissioner or, under Section 90, appeal directly to the Supreme Court and of the applicable time limits for commencing a review or an appeal.

(2) Notwithstanding clause (1)(c), the head of a public body may in a response to an access request refuse to confirm or deny the existence of a record if

(a) the record contains information described in Sections 36 to 38;

(b) the record contains personal information of a third party and disclosure of the existence of the record would be an unreasonable invasion of a third party's personal privacy under Section 48;

(c) disclosure of the existence of the record would have the effect of identifying a child who is a witness at or a participant in a hearing or the subject of a proceeding pursuant to the *Children and Family Services Act*, or a parent or guardian, a foster parent or a relative of such a child; or

(d) disclosure of the existence of the record could threaten the health or safety of an individual.

(3) In addition to the content required under subsection (1), a response to an access request must contain the name and business contact information of an officer or employee of the public body who is responsible for responding to the applicant's questions about the response.

24 (1) Where access to a record is granted, the head of the public body shall, subject to the payment of all fees required under this Act,

(a) in the case that the applicant requested a copy of the record and the record can reasonably be reproduced by the deadline for response to the access request, provide a copy of the record with the response to the access request;

(b) in the case that the applicant requested a copy of the record and the record can reasonably be reproduced but cannot reasonably be reproduced by the deadline for response to the access request,

(i) provide the applicant with the reason that the copy of the record could not reasonably be reproduced by the deadline for response to the access request, and

(ii) notify the applicant in the response to the access report that a copy of the record will be provided by a later specified date; or

(c) in the case that the applicant requested to examine the record or where the record cannot reasonably be reproduced,

- (i) permit the applicant to examine the record, or
- (ii) provide access in such manner as may be prescribed by the regulations.

(2) Where the requested record is a sound recording, the head of a public body may, in addition to other permissible means of giving access, give access to the record by providing the applicant with a transcript of the sound recording.

(3) Where the requested information is in electronic form in the custody or under the control of a public body, the head of a public body shall produce a record for an applicant if

- (a) the record can be produced using the normal computer hardware and software and technical capabilities of the public body; and
- (b) producing the record would not unreasonably interfere with the operations of the public body.

(4) Where the requested information is in electronic form that is in the custody or under the control of a public body, the head of the public body shall, where requested by the applicant, produce the information for the applicant in an electronic form that is capable of re-use if

- (a) the information can be provided in that form using the normal computer hardware and software and technical capabilities of the public body;
- (b) producing the information in that form would not unreasonably interfere with the operations of the public body; and
- (c) it is reasonably practicable to do so.

25 (1) Subject to subsection (2), an applicant who makes an access request shall pay to the public body the application fee prescribed by the regulations.

(2) An applicant is not required to pay an application fee for an access request for the applicant's own personal information.

26 (1) Subject to subsections (2) and (3), the head of a public body may require an applicant to pay to the public body a fee for the following services:

- (a) locating, retrieving and producing the record;
- (b) preparing the record for disclosure;
- (c) shipping and handling the record; and
- (d) providing a copy of the record.

(2) An applicant is not required to pay a fee for the first three hours spent by the public body on the services referred to in subsection (1), collectively.

(3) An applicant is not required to pay a fee under this Section for an access request for the applicant's own personal information.

(4) The head of a public body may excuse an applicant from paying all or part of a fee referred to in this Section if, in the head's opinion,

- (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.

(5) Where the head of a public body intends to require an applicant to pay a fee for services referred to in subsection (1), the head of the public body shall give the applicant an estimate of the total fee before providing the services.

(6) The head of a public body may require the applicant to pay all or part of the estimated fee before providing services referred to in subsection (1).

(7) The fee that an applicant is required to pay for services under subsection (1) may not exceed the actual costs of the services.

27 (1) Upon receiving a fee estimate, an applicant may take one of the following actions:

- (a) accept the fee estimate;
- (b) request that only a portion of the applicant's access request proceed and accept the fee estimate pertaining to that portion of the applicant's access request; or
- (c) advise the head of the public body that the applicant does not wish to proceed with the access request.

(2) Where an applicant fails to take an action referred to within 60 business days of receiving a fee estimate or where an applicant advises the head of the public body that the applicant does not wish to proceed with the access request, the applicant's access request is deemed to be abandoned.

(3) Where an applicant files an access review request with respect to a fee estimate, the calculation of time within which an action must be taken by the applicant under subsection (2) is suspended until the access review request has been considered by the Commissioner.

(4) Where an applicant requests that only a portion of the applicant's request proceed and accepts the fee estimate pertaining to that portion of the applicant's access request, the access request is deemed to be only that portion of the access request and the remaining portion of the access request is deemed to be abandoned.

28 (1) The head of the public body may, at any time before access to the record is provided to the applicant, provide the applicant with a revised fee estimate.

(2) No more than one revised fee estimate may be issued in respect of an access request.

- (3) Upon receiving a revised fee estimate, an applicant may
 - (a) accept the revised fee estimate;

(b) request that only a portion of the applicant's access request proceed and accept the revised fee estimate pertaining to that portion of the applicant's access request; or

(c) advise the head of the public body that the applicant does not wish to proceed with the access request.

(4) Where an applicant fails to take an action referred to within 60 business days of receiving a revised fee estimate or where an applicant advises the head of the public body that the applicant does not wish to proceed with the access request, the applicant's access request is deemed to be abandoned.

(5) Where an applicant files an access review request with respect to a revised fee estimate, the calculation of time within which an action must be taken by the applicant under subsection (4) is suspended until the access review request has been considered by the Commissioner.

(6) Where an applicant requests that only a portion of the applicant's request proceed and accepts the fee estimate pertaining to that portion of the applicant's access request, the access request is deemed to be only that portion of the access request and the remaining portion of the access request is deemed to be abandoned.

29 (1) An applicant may apply to the head of the public body to which the access request is made for a full or partial waiver of a service fee that the applicant would otherwise be required to pay in respect of the access request.

(2) Upon receiving a fee waiver application, the head of a public body may waive all or part of a fee if, in the head's opinion,

(a) the applicant has demonstrated that the applicant cannot afford to pay the fee or that for any other reason it is fair to waive the fee; or

(b) the record relates to a matter of public interest, including the environment or public health or safety.

Exceptions to Right of Access

30 (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 conduct by the Government of relations between the Government and any of the following entities or an agency of any of the following entities:

- (a) the Government of Canada;
- (b) the government of a province of Canada;
- (c) a municipality;
- (d) the Conseil scolaire acadien provincial;
- (e) an Indigenous governing body;
- (f) the government of a foreign state; and
- (g) an international organization of states.

(2) The head of a public body shall not disclose information referred to in subsection (1) without the consent of the Governor in Council.

(3) The head of a public body that is a municipality may refuse to disclose information to an applicant if the disclosure could reasonably be expected to harm the conduct by the municipality of relations between the municipality and any of the following entities or an agency of any of the following entities:

- (a) the Government of Canada;
- (b) the government of a province of Canada;
- (c) another municipality;
- (d) an education entity as defined in the *Education Act*; and
- (e) an Indigenous governing body.

(4) The head of a public body referred to in subsection (3) shall not disclose information referred to in that subsection without the consent of the council of the municipality.

(5) Subsections (1) to (4) do not apply to information in a record that has been in existence for 15 or more years.

31 (1) The head of a public body may refuse to disclose information to an applicant if the information could reasonably be expected to reveal information provided in confidence, either explicitly or implicitly, by any of the following entities or an agency of any of the following entities:

- (a) the Government of Canada;
- (b) the government of a province of Canada;
- (c) a municipality;
- (d) the Conseil scolaire acadien provincial;
- (e) an Indigenous governing body;
- (f) the government of a foreign state; and
- (g) an international organization of states.

(2) The head of a public body shall not disclose information referred to in subsection (1) without the consent of the Governor in Council.

(3) The head of a public body that is a municipality may refuse to disclose information to an applicant if the disclosure could reasonably be expected to reveal information provided in confidence, either explicitly or implicitly, by any of the following entities or an agency of any of the following entities:

- (a) the Government of Canada;
- (b) the government of a province of Canada;
- (c) another municipality;

- (d) an education entity as defined in the *Education Act*; and
- (e) an Indigenous governing body.

(4) The head of a public body referred to in subsection (3) shall not disclose information referred to in that subsection without the consent of the council of the municipality.

(5) Subsections (1) to (4) do not apply if

- (a) the information is in a record that has been in existence for 15 years or more; or
- (b) the entity that provided the information in confidence consents to its disclosure or makes the information public.

32 (1) In this Section, “Executive Council record” means

- (a) advice, recommendations or policy considerations submitted or prepared for submission to the Executive Council;
- (b) draft legislation or regulations submitted or prepared for submission to the Executive Council;
- (c) a report and recommendation, memorandum or presentation, the purpose of which is to present proposals or recommendations to the Executive Council, including any schedules and any supplementary or supporting documents submitted with the report and recommendation, memorandum or presentation;
- (d) a discussion paper or briefing material prepared for the Executive Council, other than a section of the paper or material that consists of background information;
- (e) an agenda, minute or other record of the Executive Council recording deliberations or decisions of the Executive Council;
- (f) a record created by for or by a member of Executive Council for the purpose of briefing that member on a matter for the Executive Council;
- (g) a record created by the Executive Council Office to aid Cabinet in its deliberations on a submission; or
- (h) a portion of a record that contains information about the contents of a record within a class of information referred to in clauses (a) to (g).

(2) The head of a public body shall refuse to disclose to an applicant

- (a) an Executive Council record; and
- (b) any information in a record, other than an Executive Council record, that would reveal the substance of deliberations of the Executive Council.

(3) Subsection (2) does not apply if the record that is the subject of the access request has been in existence for 15 years or more.

(4) Clause (2)(b) does not apply to background information in a record other than an Executive Council record if

- (a) the decision of Executive Council to which the record relates has been made public;
- (b) the decision of Executive Council to which the record relates has been implemented; or
- (c) five or more years have passed since Executive Council made or considered the decision to which the record relates.

33 (1) The head of a public body that is a municipality may refuse to disclose to an applicant information that would disclose the minutes or substance of the deliberations of a meeting of the municipal council, village commission, service commission or municipal body, as the case may be, that is held in private, as authorized by law.

(2) Subsection (1) does not apply

- (a) if the record that is the subject of the access request has been in existence for 15 years or more; or
- (b) to background information in a record, the purpose of which is to present explanations or analysis to the council, committee, agency, authority, board or commission for its consideration in making a decision, if
 - (i) the decision has been made public,
 - (ii) the decision has been implemented, or
 - (iii) five or more years have passed since the decision was made or considered.

34 (1) The head of a local public body that is not a municipality may refuse to disclose to an applicant

- (a) information that would reveal a draft of a resolution, bylaw or other legal instrument by which the local public body acts;
- (b) information that would reveal a draft of a private bill or local bill; or
- (c) where an enactment authorizes a meeting of the elected officials or the governing body of a local public body or a committee of the governing body of the local private body to be held in private, information that would reveal the substance of deliberations in a meeting held in private.

(2) Subsection (1) does not apply if

- (a) the draft of a resolution, bylaw or other legal instrument, draft bill or the subject-matter of deliberations has been considered, other than incidentally, at a meeting open to the public; or
- (b) the record that is the subject of the access request has been in existence for 15 years or more.

35 (1) The head of a public body may refuse to disclose to an applicant information that would reveal

- (a) advice, proposals or recommendations developed by or for a public body or a minister; or
- (b) draft regulations developed by or for a public body or a minister.

(2) Where the public body is a municipality, the head of the public body may, in addition to the items referred to in subsection (1), refuse to disclose to an applicant information that would reveal draft resolutions, policies, bylaws or special legislation developed by or for the elected officials or governing body of the municipality.

(3) The head of a public body shall not refuse under subsection (1) or (2) to disclose background information used by the public body.

(4) Subsections (1) and (2) do not apply to information in a record that has been in existence for five or more years.

(5) Nothing in this Section requires the disclosure of information that the head of the public body may refuse to disclose under Section 32 or 33.

36 (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 law enforcement;
- (b) prejudice the defence of Canada or of any foreign state allied to or associated with Canada or harm the detection, prevention or suppression of espionage, sabotage or terrorism;
- (c) harm the effectiveness of investigative techniques or procedures currently used, or likely to be used, in law enforcement;
- (d) reveal the identity of a confidential source of law-enforcement information;
- (e) endanger the life or physical safety of a law-enforcement officer or any other person;
- (f) reveal any information relating to or used in the exercise of prosecutorial discretion;
- (g) deprive a person of the right to a fair trial or impartial adjudication;
- (h) reveal a record that has been confiscated from a person by a peace officer in accordance with an enactment;
- (i) be detrimental to the proper custody, control or supervision of a person under lawful detention;
- (j) facilitate the commission of an offence contrary to an enactment; or
- (k) harm the security of any property or system, including a building, a vehicle, a computer system or a communications system.

(2) 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 would be an offence pursuant to an enactment;

(b) is in a law-enforcement record and the disclosure could reasonably be expected to expose to civil liability the author of the record or a person who has been quoted or paraphrased in the record; or

(c) is about the history, supervision or release of a person who is in custody or under supervision and the disclosure could reasonably be expected to harm the proper custody or supervision of that person.

(3) After a police investigation is completed, the head of the public body shall not refuse to disclose to an applicant under this Section the reasons for a decision not to prosecute if the applicant is aware of the police investigation, but nothing in this subsection requires disclosure of information mentioned in subsection (1) or (2).

(4) This Section does not authorize the head of a public body to refuse to disclose a report prepared in the course of routine inspections by an agency that is authorized to enforce compliance with an enactment.

37 The head of a public body may refuse to disclose to an applicant information the disclosure of which could reasonably be expected to reveal, or lead to the revealing of, measures put in place to protect the security of information stored in electronic form from unauthorized access or disclosure.

38 The head of a public body may refuse to disclose to an applicant video surveillance, floor plans, schematics, security policies or any other information if disclosure could reasonably be expected to reveal, or lead to the reveal of, measures put in place to protect the security of any physical property of the public body or the users of that property.

39 The head of a public body may refuse to disclose to an applicant information that is subject to legal privilege.

40 (1) The head of a public body may refuse to disclose to an applicant information the disclosure of which could reasonably be expected to harm the financial or economic interests of a public body or the Government or the ability of the Government to manage the economy and, without restricting the generality of the foregoing, may refuse to disclose any of the following:

(a) trade secrets of a public body or the Government;

(b) financial, commercial, scientific or technical information that belongs to a public body or to the Government and that has, or is reasonably likely to have, monetary value;

(c) plans that relate to the management of personnel of or the administration of a public body and that have not yet been implemented or made public;

(d) information the disclosure of which could reasonably be expected to result in the premature disclosure of a proposal or project or in undue financial loss or gain to a third party; and

(e) information about negotiations carried on by or for a public body or the Government.

(2) The head of a public body shall not refuse to disclose under subsection (1) the results of product or environmental testing carried out by or for the public body, unless the testing was done

- (a) for a fee as a service to a person, a group of persons or an organization other than the public body; or
- (b) for the purpose of developing methods of testing.

41 The head of a public body may refuse to disclose to an applicant information that would reveal

- (a) labour relations information of the public body as an employer that is prepared or supplied in confidence, either implicitly or explicitly, and is treated consistently as confidential information by the public body as an employer; or
- (b) labour relations information the disclosure of which could reasonably be expected to
 - (i) harm the competitive position of the public body as an employer or interfere with the negotiating position of the public body as an employer,
 - (ii) result in significant financial loss or gain to the public body as an employer, or
 - (iii) reveal information supplied to, or the report of, an arbitrator, mediator, labour relations officer, staff relations specialist or other person or body appointed to resolve or inquire into a labour relations dispute, including information or records prepared by or for the public body in contemplation of litigation or arbitration or in contemplation of a settlement offer.

42 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 interfere with public safety.

43 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 threaten another person's safety or mental or physical health.

44 The head of a public body may refuse to disclose to an applicant personal information about the applicant if the disclosure could reasonably be expected to result in immediate and grave harm to the applicant's safety or mental or physical health.

45 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) fossil sites, natural sites or sites that have an anthropological or heritage value;
- (b) an endangered, threatened or vulnerable species of plant, animal or other organism; or
- (c) any other rare or endangered living resources.

46 (1) The head of a local public body may refuse to disclose details of the academic research being conducted by an employee of the local public body in the course of the employee's employment.

(2) Notwithstanding subsection (1), where possible, the head of a local public body shall disclose the title and amount of funding being received with respect to the academic research referred to in subsection (1).

47 The head of a public body that is a university may refuse to disclose to an applicant personal information that

- (a) is evaluative or opinion material compiled solely for the purpose of
 - (i) determining the applicant's suitability for
 - (A) appointment, promotion or tenure as a member of the faculty of a university,
 - (B) admission to an academic program, or
 - (C) receipt of an honour or award, or
 - (ii) evaluating the applicant's research projects and materials; and
- (b) is provided in confidence, either explicitly or implicitly.

48 (1) The head of a public body shall 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 writing, consented to or requested the disclosure;
- (b) there are compelling circumstances affecting a person's safety or physical or mental health;
- (c) an enactment authorizes the disclosure;
- (d) the disclosure is for a research purpose, including a statistical research purpose, and is in accordance with Section 72 or 74;
- (e) the information is about the third party's position, functions or remuneration as an officer, employee or member of a public body or as a member of a minister's staff;
- (f) the disclosure reveals financial details or similar details of a contract to supply goods or services to a public body;
- (g) the information is about expenses incurred by the third party while travelling at the expense of a public body;
- (h) the disclosure reveals details of a licence, permit or other similar discretionary benefit granted to the third party by a public body, not including personal information supplied in support of the request for the benefit; or
- (i) the disclosure reveals details of a discretionary benefit of a financial nature granted to the third party by a public body, not including personal information

that is supplied in support of the request for the benefit or that is referred to in clause (3)(c).

(3) 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, dental, psychiatric or psychological history, diagnosis, condition, treatment or evaluation or other healthcare history, diagnosis, condition, treatment or evaluation;

(b) the personal information was compiled and is identifiable as part of an investigation into a possible violation of law, except to the extent that disclosure is necessary to prosecute the violation or to continue the 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 obtained on a tax return or gathered for the purpose of collecting a tax;

(f) the personal information describes the third party's finances, financial history or activities, income, assets, liabilities, net worth, bank balances or creditworthiness;

(g) the personal information consists of personal recommendations or evaluations, character references or personnel evaluations;

(h) the personal information indicates the third party's racial or ethnic origin, sexual orientation or religious or political beliefs or associations; or

(i) the personal information consists of the third party's name together with the third party's address or telephone number and is to be used for mailing lists or solicitations by telephone or other means.

(4) In determining whether a disclosure of personal information constitutes an unreasonable invasion of a third party's personal privacy, the head of a public body shall consider all the relevant circumstances, including

(a) whether the disclosure is desirable for the purpose of subjecting the activities of the Government or a public body to public scrutiny;

(b) whether the disclosure is likely to promote public health and safety or to promote the protection of the environment;

(c) whether the personal information is relevant to a fair determination of the applicant's rights;

(d) whether the disclosure will assist in researching the claims, disputes or grievances of Indigenous people;

(e) whether the third party will be exposed unfairly to financial or other harm;

(f) whether the personal information has been supplied in confidence, either explicitly or implicitly;

(g) whether the personal information is likely to be inaccurate or unreliable;

(h) whether the disclosure may unfairly damage the reputation of any person referred to in the record requested by the applicant;

(i) where the information is about a deceased person, whether the length of time that the person has been deceased indicates that the disclosure is not an unreasonable invasion of the deceased person's person privacy;

(j) where the information is about a deceased person, whether the applicant is the spouse of the deceased person, a relative of the deceased person or a person in a close personal relationship with the deceased person; and

(k) whether the disclosure will facilitate contact between an individual who is injured or ill and the spouse of that individual, a relative of that individual or a person in a close personal relationship with that individual.

(5) Upon refusing, under this Section, to disclose personal information about an applicant supplied in confidence, either explicitly or implicitly, the head of the public body shall give the applicant a summary of the information unless the summary cannot be prepared without disclosing the identity of a third party who supplied the personal information.

(6) The head of the public body may allow the third party to prepare the summary of personal information referred to in subsection (5).

49 (1) The head of a public body shall 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 in confidence, either explicitly or implicitly; 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 shall refuse to disclose to an applicant information that was obtained from a third party's tax return or gathered for the purpose of determining tax liability of, or collecting a tax from, a third party.

(3) Subsections (1) and (2) do not apply if the third party consents, in writing, to the disclosure.

Notice to Third Parties

50 (1) Upon receiving an access request for a record that the head of a public body has reason to believe contains information the disclosure of which must be refused under Section 48 or 49, the head of the public body shall, where practicable, promptly give the third party a notice that

(a) states that an access request has been made for a record containing information the disclosure of which may affect the interests or invade the personal privacy of the third party;

(b) provides or describes the content of the record or part of the record for which access is requested; and

(c) informs the third party that the third party may, within 14 business days after receipt of the notice, either

(i) consent in writing to the disclosure, or

(ii) make written representations to the public body explaining why the information should not be disclosed.

(2) Notwithstanding subsection (1), that subsection does not apply if

(a) the head of the public body decides, after examining the request and any relevant records, to refuse to disclose the record; or

(b) where the regulations so provide, it is not practicable to give notice under that subsection.

(3) When notice is given under subsection (1), the head of the public body shall also give the applicant a notice stating

(a) that the record requested by the applicant contains information the disclosure of which may affect the interests or invade the personal privacy of a third party; and

(b) that the third party is being given an opportunity to make representations concerning disclosure.

(4) For greater certainty, the time for response to an access request specified in clause 20(1)(a) is not extended by reason only that a notice is given to an applicant under subsection (2), but that time may be extended under Section 21.

(5) In complying with subsections (1) and (3), the public body shall not

(a) disclose the name of the applicant to the third party without the consent of the applicant; or

(b) disclose the name of the third party to the applicant without the consent of the third party.

51 (1) Within 30 business days after notice is given to an applicant under Section 50, the head of the public body shall 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) 15 business days after the day notice is given; or

(b) the day a response is received from the third party.

(2) Upon reaching a decision under subsection (1), the head of the public body shall give written notice of the decision to the applicant and the third party.

(3) Where the head of the public body decides to give access to the record or to part of the record, the notice shall state that the applicant will be given access unless the third party files a access review request within 20 business days after the day notice is given under subsection (2).

(4) Notwithstanding anything contained in this Section, the head of a public body who has, under Section 50, given notice of an access request to a third party may, with the consent of the third party, give access to the record to the person who has made the request before the expiration of the time limited by subsection (3) for the third party to ask for a review.

PART II

PROTECTION OF PRIVACY

Privacy Policies, Privacy-complaint Procedures and Privacy Assessments

52 (1) A public body shall establish and maintain a privacy policy meeting the requirements prescribed by the regulations.

(2) A public body shall make its internal privacy-complaint procedures available to the public.

53 (1) A public body shall

(a) before undertaking or instituting a project, program, system or other activity involving the collection, use or disclosure of personal information, conduct a privacy assessment of the project, program, system or activity; and

(b) before substantially changing a project, program, system or other activity involving the collection, use or disclosure of personal information, conduct a privacy assessment of the project, program, system or activity that reflects the anticipated change.

(2) A privacy assessment must comply with any requirements prescribed by the regulations.

(3) For greater certainty, clause (1)(a) does not apply so as to require a privacy assessment of a project, program, system or other activity undertaken or instituted on or before the date that this Act comes into force.

Personal Information Protections

54 Personal information must not be collected by or for a public body unless

(a) the collection of that information is expressly authorized by or under an enactment;

(b) the information is collected for the purpose of law enforcement;

- (c) the information relates directly to and is necessary for an operating program or activity of the public body;
- (d) with respect to personal information collected for a prescribed purpose,
 - (i) the individual the information is about has consented in the prescribed manner to that collection, and
 - (ii) a reasonable person would consider that collection appropriate in the circumstances;
- (e) the information is necessary for the purpose of planning or evaluating a program or activity of a public body;
- (f) the information is necessary for the purpose of reducing the risk that an individual will be a victim of intimate-partner violence, if intimate-partner violence has occurred or is reasonably likely to occur;
- (g) the information is necessary for the purpose of reducing the risk that an individual will be a victim of human trafficking, if human trafficking is reasonably likely to occur;
- (h) the information is collected by observation at a presentation, ceremony, performance, sports meet or similar event
 - (i) at which the individual voluntarily appears, and
 - (ii) that is open to the public; or
- (i) the information is personal identity information that is collected by
 - (i) a provincial identity information services provider and the collection of the information is necessary to enable the provincial identity information services provider to provide services under Section 137, or
 - (ii) a public body from a provincial identity information services provider and the collection of the information is necessary to enable
 - (A) the public body to identify an individual for the purpose of providing a service to the individual, or
 - (B) the provincial identity information services provider to provide services under Section 137.

55 A public body shall not collect personal information other than directly from the individual the information is about unless

- (a) another method of collection is authorized by
 - (i) that individual,
 - (ii) the Commissioner under clause 131(1)(e), or
 - (iii) another enactment;
- (b) the collection of the information is necessary for the medical treatment of an individual and it is not possible to collect the information directly from that individual or to obtain authority under subclause (a)(i) for another method of collection;
- (c) the information may be disclosed to the public body under Sections 71 to 74;

- (d) the information is collected for the purpose of
 - (i) determining suitability for an honour or award including an honorary degree, scholarship, prize or bursary,
 - (ii) a proceeding before a court or a judicial or quasi-judicial tribunal,
 - (iii) collecting a debt or fine or making a payment,
 - (iv) law enforcement,
 - (v) reducing the risk that an individual will be a victim of intimate-partner violence, if intimate-partner violence has occurred or is reasonably likely to occur, or
 - (vi) reducing the risk that an individual will be a victim of human trafficking, if human trafficking is reasonably likely to occur;
- (e) the information is collected from a body disclosing it in accordance with a provision of a treaty, arrangement or written agreement that
 - (i) authorizes or requires the disclosure, and
 - (ii) is made under an enactment of the Province, other than this Act, or an enactment of Canada;
- (f) the information is collected from a body disclosing it under an enactment of Canada or another province of Canada;
- (g) the information is transferred to the public body from another public body in accordance with subsection 57(2);
- (h) the collection of the information is necessary for delivering or evaluating a common or integrated program or activity;
- (i) the information is collected for the purpose of managing or administering personnel of the Government or the public body;
- (j) the information is personal identity information that is collected by a provincial identity information services provider and the collection of the information is necessary to enable the provincial identity information services provider to provide services under Section 137; or
- (k) the information is collected in a manner or for a purpose prescribed by the regulations.

56 (1) A public body shall ensure that an individual from whom it collects personal information is informed of

- (a) the purpose for collecting the personal information;
- (b) the legal authority for collecting the personal information; and
- (c) the name and business contact information of an officer or employee of the public body who is responsible for responding to the individual's questions about the collection.

- (2)** Subsection (1) does not apply if
- (a) the information is about law enforcement or anything referred to in subsection 36(1) or (2);
 - (b) in the opinion of the head of the public body, complying with subsection (1) would
 - (i) result in the collection of inaccurate information, or
 - (ii) defeat the purpose or prejudice the use for which the information is collected;
 - (c) the information
 - (i) is not required under Section 55 to be collected directly from the individual the information is about, and
 - (ii) is not collected directly from the individual the information is about; or
 - (d) the information is collected by observation at a presentation, ceremony, performance, sports meet or similar event
 - (i) at which the individual voluntarily appears, and
 - (ii) that is open to the public.

57 (1) For the purpose of this Act, personal information that is received by a public body is not considered to have been collected by the public body if

- (a) the information does not relate to a program or activity of the public body; and
- (b) the public body takes no action with respect to the information other than to review all or part of it and
 - (i) delete or destroy it,
 - (ii) return it to the person from which it was received, or
 - (iii) transfer it in accordance with subsection (2).

(2) A public body may transfer personal information referred to in subsection (1) to another public body, or to a government institution subject to the *Privacy Act* (Canada), if the public body determines that the information relates to a program or activity of the other public body or the government institution.

58 The head of the public body shall protect personal information by making reasonable security arrangements against such risks as unauthorized access, collection, use, disclosure or disposal.

59 Where a public body uses an individual's personal information to make a decision that directly affects the individual, the public body shall retain that information for at least one year after using it so that the individual has a reasonable opportunity to obtain access to it.

60 Where an individual's personal information will be used by a public body to make a decision that directly affects the individual, the public body shall make every reasonable effort to ensure that the information is accurate and complete.

61 An applicant who believes there is an error or omission in the applicant'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.

62 (1) The head of a public body may, with the approval of the Commissioner, disregard a correction request or a group of correction requests if the head is of the opinion that

- (a) the request or group of requests is trivial, frivolous or vexatious;
- (b) the personal information has already been corrected;
- (c) the request or group of requests amounts to an abuse of the right to request the correction of personal information because it is
 - (i) unduly repetitive or systematic,
 - (ii) excessively broad or incomprehensible, or
 - (iii) otherwise not made in good faith; or
- (d) responding to the request or group of requests would unreasonably interfere with the operations of the public body and the request or group of requests is repetitive or systematic in nature.

(2) An application to disregard a correction request, whether individually or as part of a group of correction requests, must be made within 14 business days after receipt of the correction request, or by such later time as the Commissioner may approve.

(3) Within 14 business days after receipt of an application under subsection (1), the Commissioner shall decide whether to approve the application and notify the head of the public body.

(4) Where the Commissioner refuses to grant approval to disregard a correction request or group of correction requests, the head of the public body shall respond to the correction request or correction requests in the manner required by this Act.

(5) Where the Commissioner grants approval to disregard a correction request or a group of correction requests, the head of the public body shall

- (a) notify the applicant that the head of the public body has, with the Commissioner's approval, disregarded the correction request;
- (b) provide the applicant with reasons for the head's decision; and
- (c) inform the applicant that the applicant may appeal the decision of the head of the public body to the Supreme Court under Section 91 and of the time limit for commencing an appeal.

63 (1) Except where the head of the public body has disregarded the correction request under Section 62, the head of a public body to which a correction request is made shall respond in writing to the applicant

- (a) within 30 business days after receipt of the correction request; or
- (b) where the time for response has been extended under Section 64, within the extended time for response.

(2) Business days occurring during the following periods are not considered for the purpose of calculating the time referred to in clause (1)(a) or (b):

- (a) the period beginning the day the head of the public body applies to the Commissioner under Section 62 for approval to disregard the correction request and the day on which the written report of the Commissioner's decision is provided to the head of the public body; and

- (b) the period beginning the day a correction review request is filed for a review of any decision, act or failure to act of the head of the public body that relates to the correction request and ending

- (i) the day on which the head of the public body receives the Commissioner's review report, or

- (ii) the day on which the correction review is terminated.

64 (1) The head of a public body to which a correction request is made may extend the time for response for a period not exceeding an additional 30 business days

- (a) if additional time is required to process the correction request due to

- (i) the number of records in which information is to be corrected,

- (ii) the number of records that must be searched in order to process the correction request, or

- (iii) the number of correction requests made to the public body by the same applicant;

- (b) if responding to the correction request within the time referred to in referred to in clause 63(1)(a) would unreasonably interfere with the operations of the public body;

- (c) if the head of the public body determines that extraordinary circumstances exist; or

- (d) in such other circumstances as may be prescribed by the regulations.

(2) In addition to an extension under subsection (1), the head of the public body may, with the approval of the Commissioner, further extend the time for response for any additional period.

(3) Upon extending the time for response under subsection (1) or (2), the head of the public body shall

- (a) notify the applicant that the head of the public body has extended the time for response to the correction request;

- (b) provide the applicant with reasons for the decision; and

(c) inform the applicant that the applicant may make a correction request review application or, under Section 90, appeal the decision of the head of the public body directly to the Supreme Court, and of the time limit for commencing a review or an appeal.

(4) Upon extending the time for response under subsection (2), the head of the public body shall

(a) notify the applicant that the head of the public body has, with the approval of the Commissioner, extended the time for response to the correction request;

(b) provide the applicant with reasons for the decision of the head of the public body; and

(c) inform the applicant that the applicant may appeal the decision of the head of the public body directly to the Supreme Court under Section 90, and of the time limit for commencing an appeal.

(5) Notwithstanding subsection (1), the head of a public body to which a correction request is made may extend the time for response for any period if the applicant has consented in writing to the extension.

65 Where the head of the public body fails to respond to a correction request within the time specified in subsection 63(1) the head of the public body is deemed to have given notice of a decision to refuse the requested correction on the last day of the time for response.

66 (1) In a response to a correction request, the head of the public body shall

(a) notify the applicant whether the requested correction has been made or refused; and

(b) where the requested correction has been refused,

(i) provide the applicant with reasons for the refusal,

(ii) inform the applicant that the record has been annotated, and

(ii) inform the applicant that the applicant may file a correction review request with the Commissioner or, under Section 90, appeal directly to the Supreme Court, and of the applicable time limits for commencing a review or an appeal.

(2) In addition to the content required under subsection (1), a response to a correction request must contain the name and business contact information of an officer or employee of the public body who is responsible for responding to the applicant's questions about the response.

67 Where no correction is made in response to a correction request, the head of the public body shall annotate the information with the correction that was requested but not made.

68 (1) Upon correcting or annotating personal information further to a correction request, the head of the public body shall notify any other public body or any third party to whom

that information has been disclosed during the one-year period before the correction request was made.

(2) Upon being notified under subsection (1) of a correction or annotation of personal information, a public body shall make the correction or annotation on any record of that information in its custody or under its control.

69 For the purpose of Sections 70 and 71, a use of personal information is a use compatible with the purpose for which the information was obtained if the use

(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 the information or to which the information is disclosed.

70 A public body may use personal information only

(a) for the purpose for which that information was obtained or compiled, or for a use compatible with that purpose;

(b) if the individual the information is about has identified the information and has, in the manner prescribed, consented to the use; or

(c) for a purpose for which that information may be disclosed to that public body under Sections 71 to 74.

71 A public body may disclose personal information only

(a) in accordance with this Act or as provided under any other enactment;

(b) if the individual the information is about has identified the information and has, in the manner prescribed, consented in writing to its disclosure;

(c) for the purpose for which it was obtained or compiled, or a use compatible with that purpose;

(d) for the purpose of complying with an enactment or with a treaty, arrangement or agreement made under an enactment;

(e) for the purpose of complying with a subpoena, warrant, summons or order issued or made by a court, person or body with jurisdiction to compel the production of information;

(f) to an officer or employee of a public body or to a minister, if the information is necessary for the performance of the duties of, or for the protection of the health or safety of, the officer, employee or minister;

(g) to an officer or employee of a public body or a partner agency, or to a minister, if the information is necessary for the delivery of a common or integrated program or activity and for the performance of duties, respecting the common or integrated program or activity, of the officer, employee or minister to whom the information is disclosed;

(h) to a public body to meet the necessary requirements of government operation;

(i) for the purpose of planning or evaluating a program or activity of a public body;

- (j) for the purpose of
 - (i) collecting a debt or fine owing by an individual to the Crown in right of the Province or to a public body, or
 - (ii) making a payment owing by the Crown in right of the Province or by a public body to an individual;
- (k) to any of the following for audit purposes:
 - (i) the Auditor General appointed under the *Auditor General Act*,
 - (ii) the Auditor appointed for the Halifax Regional Municipality under the *Halifax Regional Municipality Charter*,
 - (iii) an auditor appointed for a municipality or village under the *Municipal Government Act*, and
 - (iv) a person or body prescribed by the regulations;
- (l) to a member of the House of Assembly who has been requested by the individual whom the information is about to assist in resolving a problem;
- (m) to a representative of a bargaining agent who has been authorized in writing by the employee whom the information is about to make an inquiry;
- (n) to the Public Archives of Nova Scotia or the archives of a public body for archival purposes;
- (o) 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;
- (p) 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;
- (q) if the head of the public body determines that compelling circumstances exist that affect a person's safety or physical or mental health;
- (r) for the purpose of reducing the risk that an individual will be a victim of intimate-partner violence, if intimate-partner violence has occurred or is reasonably likely to occur;
- (s) for the purpose of reducing the risk that an individual will be a victim of human trafficking, if human trafficking is reasonably likely to occur;
- (t) so that the next of kin of an injured, ill or deceased individual may be contacted;
- (u) so that a person in a close personal relationship with an injured, ill or deceased individual may be contacted;
- (v) to the surviving spouse or relative of a deceased individual or to a person in a close personal relationship with a deceased individual if, in the opinion of the head of the public body, the disclosure is not an unreasonable invasion of the deceased person's personal privacy; or
- (w) in accordance with Section 72 to 75.

72 A public body may disclose personal information for a research purpose, including a statistical research purpose, if

- (a) the research purpose cannot reasonably be accomplished unless that information is provided in individually identifiable form;
- (b) any data-linking is not harmful to the individual the information is about and the benefits to be derived from the data-linking are clearly in the public interest;
- (c) the head of the public body concerned has approved conditions relating to
 - (i) security and confidentiality,
 - (ii) the removal or destruction of individual identifiers at the earliest reasonable time,
 - (iii) the prohibition of any subsequent use or disclosure of that information in individually identifiable form without the express authorization of that public body, and
 - (iv) any other matter prescribed by the regulations; and
- (d) the person to whom that information is disclosed has signed an agreement to comply with the conditions approved by the head of the public body, this Act and any of the public body's policies and procedures relating to the confidentiality of personal information.

73 (1) A provincial identity information services provider may disclose personal identity information

- (a) to enable the provincial identity information services provider to provide a service under Section 137; or
- (b) to a public body if the disclosure is necessary to enable the public body to identify an individual for the purpose of providing a service to the individual.

(2) A public body may disclose personal identity information to a provincial identity information services provider if the disclosure is necessary to enable

- (a) the public body to identify an individual for the purpose of providing a service to the individual; or
- (b) the provincial identity information services provider to provide a service under Section 137.

74 The Public Archives of Nova Scotia or the archives of a public body may disclose personal information for archival or historical purposes if

- (a) the disclosure would not be an unreasonable invasion of personal privacy under Section 48;
- (b) the disclosure is for historical research and is in accordance with Section 72;
- (c) the information is about someone who has been dead for 20 or more years; or
- (d) the information is in a record that was in the custody or control of the archives and open for historical research on July 4, 1994.

75 (1) Whether or not an access request is made, the head of a public body may disclose to the public, to an affected group of people or to an applicant information

(a) about a risk of significant harm to the environment or to the health or safety of the public or a group of people; or

(b) the disclosure of which is, for any other reason, clearly in the public interest.

(2) Before disclosing information under subsection (1), the head of a public body shall, where practicable, notify any third party to whom the information relates.

(3) Where it is not practicable to comply with subsection (2), the head of the public body shall, by mail or electronic mail, send a notice of disclosure in the prescribed form to the last known address or electronic mail address of the third party.

(4) This Section applies notwithstanding any other provision of this Act.

76 A public body may not

(a) disclose personal information outside of Canada;

(b) store personal information outside of Canada; or

(c) permit personal information in its custody or under its control to be accessed from outside of Canada,

unless the disclosure, storage or access is in accordance with the regulations.

77 A public body conducting a data-linking program shall comply with the regulations, if any, made for the purpose of this Section.

Privacy Breaches

78 (1) In this Section,

“affected individual” means an individual whose personal information is personal information in respect of which a privacy breach has occurred;

“privacy breach” means, in relation to personal information,

(a) theft or loss; or

(b) collection, use, disclosure, access or disposal, whether intentional or unintentional, that is not authorized by this Act;

“significant harm” includes

(a) identity theft;

(b) significant bodily harm;

(c) significant humiliation;

(d) significant damage to reputation or relationships;

(e) significant loss of employment, business or professional opportunities;

- (f) significant financial loss;
- (g) significant negative impact on a credit record;
- (h) significant damage to, or loss of, property; and
- (i) significant negative effects on insurability.

(2) Subject to subsection (4), upon becoming aware that a privacy breach has occurred, the head of the public body shall, where it is reasonable to believe that an affected individual could experience significant harm as a result of the privacy breach, notify that individual and the Commissioner.

(3) In determining whether there is a risk that an affected individual could experience significant harm due to the privacy breach, the head of the public body shall, in addition to any other relevant factor, consider

- (a) the sensitivity of the personal information; and
- (b) the probability that the personal information has been, is being or will be misused.

(4) The head of a public body is not required to notify an affected individual under subsection (2) if notification could reasonably be expected to

- (a) result in immediate and grave harm to the individual's safety or physical or mental health; or
- (b) threaten another individual's safety or physical or mental health.

(5) Where the Commissioner is notified under subsection (2), the Commissioner may notify an affected individual.

(6) A notification under subsection (2) must be made in the manner prescribed by the regulations.

79 Where personal information in the custody or under the control of a public body has been stolen or has been collected by or disclosed to a third party other than as authorized by this Act, the Supreme Court may, on application of the public body,

- (a) order that the third party return any record containing the personal information to the public body;
- (b) order that the third party destroy any record containing the personal information; and
- (c) make any other order that the Supreme Court considers appropriate to protect the personal information.

PART III

REVIEWS BY COMMISSIONER AND APPEALS TO COURT

Reviews Respecting Access Requests and Correction Requests

80 (1) A person who makes an access request or a correction request may ask the Commissioner to review any decision, act or failure to act of the head of the public body that relates to the access request or correction request.

(2) An access review request or correction review request under subsection (1) must be filed with the Commissioner

(a) in the case of a review of a decision of the head of the public body, within 60 business days after the person asking for the review was notified of the decision; and

(b) in the case of a review of an act of the head of the public body or the head's failure to act, within 60 business days of the act or failure to act.

(3) A third party notified under Section 51 of a decision of the head of a public body to grant access to a record or part of a record in response to an access request may ask the Commissioner to review that decision.

(4) An access review request under subsection (3) must be filed with the Commissioner within 20 business days after the third party was notified of the decision of the head of the public body.

(5) Notwithstanding subsections (2) and (4), the Commissioner may in extraordinary circumstances accept an access review request or a correction review request filed after the deadline for filing the request, but the Commissioner may not accept a review request filed more than one year after the deadline.

(6) An access review request or correction review request must be

(a) be in writing; and

(b) contain such information and be in such form as may be prescribed by the regulations.

(7) No access review request may be made with respect to

(a) a request that is disregarded under Section 16;

(b) a decision respecting an extension of time under subsection 21(2); or

(c) an application fee imposed under this Act or the regulations.

(8) No correction review request may be made with respect to

(a) a request that is disregarded under Section 62; or

(b) a decision respecting an extension of time under subsection 64(2).

81 (1) Upon receiving an access review request or a correction review request, the Commissioner shall promptly notify and provide a copy of the request to

- (a) the head of the public body concerned; and
- (b) any other person that the Commissioner considers appropriate.

(2) The head of a body shall, upon being notified under subsection (1) of an access review request made by a third party, notify the applicant in writing that an access review request has been made by a third party.

82 (1) The Commissioner may try to settle a matter that is the subject of an access review request or correction review request through mediation.

(2) Where the Commissioner is unable to settle a matter through mediation within 30 business days of receiving the review request, the Commissioner shall conduct the access review or correction review, as the case may be, in accordance with Section 84.

83 (1) In a review of a decision to refuse an applicant access to all or part of a record,

(a) where the record or part of the record to which the applicant was refused access contains personal information about a third party, the burden is on the applicant to prove that disclosure of the information would not be an unreasonable invasion of the third party's personal privacy;

(b) in any other case, the burden is on the head of a public body to prove that the applicant has no right of access to the record or part of the record.

(2) In a review of a decision to give an applicant access to all or part of a record containing information that relates to a third party,

(a) where the information relating to a third person is personal information, the burden is on 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, the burden is on the third party to prove that the applicant has no right of access to the record or part.

84 (1) The Commissioner may conduct an access review or correction review in private.

(2) The following persons are entitled to make representations to the Commissioner in the course of an access review or correction review:

- (a) the person who made the access review request or correction review request;
- (b) a third party or applicant who is entitled to notice under this Act; and
- (c) the head of the public body concerned.

(3) The Commissioner may permit such other persons as the Commissioner considers appropriate to make representations in the course of an access review or a correction review.

- (4) The Commissioner may determine
- (a) whether the representations are to be made orally or in writing;
 - (b) whether a person is permitted to be present during an access review or correction review; and
 - (c) whether a person is permitted have access to or comment on representations made to the Commissioner by any other person.

85 (1) The Commissioner may, at any stage of an access review or a correction review, refuse to conduct the review or discontinue the review if the Commissioner is of the opinion that

- (a) the public body has responded adequately to the matter;
- (b) the matter has been or could be more appropriately dealt with, initially or completely, by means of a procedure other than an access review or a correction review;
- (c) in the opinion of the Commissioner, there is insufficient evidence to warrant a review;
- (d) in the opinion of the Commissioner, the review request is trivial, frivolous or vexatious or is otherwise made in bad faith;
- (e) the subject-matter of the review is already the object of an ongoing review;
- (f) the subject-matter of the review has already been addressed by the Commissioner; or
- (g) it is otherwise proper or necessary to refuse to conduct or to discontinue the review.

(2) Upon refusing to conduct or discontinuing an access review or a correction review, the Commissioner shall

- (a) notify the applicant that the Commissioner has refused to conduct the review or discontinued the review, as the case may be;
- (b) give the applicant the reasons for the Commissioner's decision; and
- (c) inform the applicant that the applicant may file a request for judicial review with the Supreme Court respecting the decision.

86 (1) Notwithstanding any other Act or any privilege available at law, but subject to subsection (2), the Commissioner may, in an access review or a correction review,

- (a) require the production of any record that is in the custody or under the control of the public body named in the access request or correction request for the purpose of examination by the Commissioner; and
- (b) enter and inspect any premises occupied by the public body.

(2) The powers of the Commissioner under subsection (1) do not include the power to require the production of information that is subject to legal privilege or to inspect a record that is subject to legal privilege.

(3) A disclosure to the Commissioner under this Section does not constitute a waiver of any privilege or immunity.

(4) A public body shall comply with a requirement imposed by the Commissioner under clause (1)(a) within such time as is prescribed by the regulations.

(5) A public body may comply with a requirement imposed under clause (1)(a) by providing the Commissioner with an opportunity to examine the record at the offices of the public body.

(6) Where a public body does not comply with a requirement imposed by the Commissioner under clause (1)(a) within the time limited for so doing by subsection (4), the Supreme Court may, on the application of the Commissioner, order the public body to do so.

(7) In an application under subsection (6), the Supreme Court may give such directions as the Supreme Court thinks fit, including ordering which persons are to be parties to the application, which persons are to be given notice of the application and the manner in which such notice is to be given.

(8) An order made under subsection (6) may contain such provisions and such terms and conditions as the Supreme Court thinks fit.

87 (1) Upon completing an access review or a correction review, the Commissioner shall

(a) prepare a written report setting out the Commissioner's recommendations with respect to the matter under review and the reasons for those recommendations; and

(b) send a copy of the report to

(i) the head of the public body concerned,

(ii) where the access review request or correction review request was made by an applicant, to the applicant and to any third party notified under this Act,

(iii) where the access review request was made by a third party, to the third party and to the applicant, and

(iv) any other person permitted under subsection 84(3) to make representations in the course of the review.

(2) In a review report, the Commissioner may make any recommendations with respect to the matter under review that the Commissioner considers appropriate.

88 (1) The head of the public body shall, within 30 business days after receipt of the Commissioner's report,

(a) decide whether to agree to follow the recommendations of the Commissioner, in whole or in part, or to make any other decision that the head of the public body considers appropriate; and

(b) give written notice of the decision to the Commissioner and the persons referred to in clause 87(1)(b).

(2) Where the head of the public body decides not to follow the recommendations of the Commissioner, in whole or in part, the notice of decision must inform the recipients of their right to appeal under Section 92 and of the time limit for commencing an appeal.

(3) Where the head of the public body does not give notice within the time required by subsection (1), the head of the public body is deemed to have refused to follow the recommendations of the Commissioner.

89 Where the head of a public body decides to give access to a record or a part of a record after the Commissioner files a report setting out the Commissioner's recommendations respecting the matter, the head shall not give access until the time limit for a third party to commence an appeal from the decision to the Supreme Court expires and

(a) no appeal has been taken by a third party from the decision within the time limited for so doing; or

(b) where an appeal has been taken within that time by a third party, it has subsequently been abandoned or withdrawn,

but, where an appeal is commenced by a third party, the head shall not give access until either the decision of the head is upheld by an order of the Supreme Court and the order becomes final by lapse of time or the decision of the head is upheld by the highest authority to which any further appeal or appeals are taken.

Appeals Respecting Access Requests and Correction Request

90 (1) An applicant that has made an access request may appeal the decision, act or failure to act of the head of the public body that relates to the access request directly to the Supreme Court if

(a) the applicant has not made an access review request; and

(b) either

(i) no third party was notified under Section 50, or

(ii) any third party notified under Section 50 consents to the appeal.

(2) Where an applicant has made a correction request and has not made a correction review request, the applicant may appeal the decision, act or failure to act of the head of the public body that relates to the correction request directly to the Supreme Court.

(3) An appeal under subsection (1) or (2) must be commenced within 30 business days after the applicant is notified of the decision of the head of the public body or the date of the act or failure to act.

(4) A person who has commenced an appeal under this Section may not file an access review request or correction review request with the Commissioner on the same matter.

91 (1) Where the head of a public body has disregarded an access request under Section 16, the applicant may appeal the decision of the public body directly to the Supreme Court.

(2) An appeal under subsection (1) must be commenced within 30 business days after the applicant is notified that the head of the public body has, with the Commissioner's approval, disregarded the access request.

(3) Where the head of a public body has disregarded a correction request under Section 62, the applicant may appeal the decision of the public body directly to the Supreme Court.

(4) An appeal under subsection (3) must be commenced within 30 business days after the applicant is notified that the head of the public body has, with the Commissioner's approval, disregarded the correction request.

92 (1) Where the head of a public body decides under subsection 88(1) not to follow the recommendations of the Commissioner, in whole or in part, an applicant, a third party or a person permitted under subsection 84(3) to make representations in an access review or correction review may appeal that decision to the Supreme Court.

(2) An appeal under subsection (1) must be commenced within 30 business days after the person appealing is notified of the decision of the head of the public body.

93 (1) Where a person appeals the decision of the head of a public body under Section 90, 91 or 92, the person shall provide the notice of appeal to the Attorney General.

(2) An appeal is deemed not to have been taken unless a notice of appeal is provided to the Attorney General in accordance with subsection (1).

(3) Where a notice of appeal is provided to the Attorney General, the Attorney General may become a party to the appeal by filing a notice to that effect with the Supreme Court.

94 (1) Where the head of a public body who has refused an access request, in whole or in part, receives a notice of appeal by an applicant, the head shall, upon receipt of the notice of appeal or in accordance with the direction of the Supreme Court, give written notice of the appeal to any third party that the head of the public body

(a) has notified under this Act; or

(b) would have notified under this Act if the head of the public body had intended to give access to the record or part of the record.

(2) Where the head of a public body who has granted an access request, in whole or in part, receives a notice of appeal by a third party, the head shall, upon receipt of the notice of appeal or in accordance with the direction of the Supreme Court, give written notice of the appeal to the applicant.

(3) A third party who has been given notice of an appeal under subsection (1) or an applicant who has been given notice of an appeal under subsection (2) may appear as a party to the appeal.

95 The Commissioner is not a party to an appeal under Section 90, 91 or 92.

96 (1) In an appeal of a decision to refuse an applicant access to all or part of a record, the burden is on the head of a public body to prove that the applicant has no right of access to the record or part.

(2) Where the record or part that the applicant is refused access to contains personal information about a third party, the burden is on the applicant to prove that disclosure of the information would not be an unreasonable invasion of the third party's personal privacy.

(3) In an appeal of a decision to give an applicant access to all or part of a record containing information that relates to a third party,

(a) in the case of personal information, the burden is on 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, the burden is on the third party to prove that the applicant has no right of access to the record or part.

97 (1) On an appeal under Section 90, 91 or 92, the Supreme Court shall determine the matter *de novo*.

(2) The Supreme Court may receive evidence by affidavit.

(3) The Supreme Court may examine any record in camera in order to determine on the merits whether the information in the record may be withheld under this Act.

(4) Notwithstanding any other Act or any privilege available at law, the Supreme Court may, on an appeal, examine any record in the custody or under the control of a public body, and no information shall be withheld from the Supreme Court on any grounds.

(5) No legal privilege or any other privilege that is available at law is affected by disclosure to the Supreme Court.

(6) The Supreme Court shall take every reasonable precaution, including, where appropriate, receiving representations *ex parte* and conducting hearings in camera, to avoid disclosure by the Supreme Court or any person of

(a) any information or other material if the nature of the information or material could justify a refusal by a head of the public body to give access to a record or part of a record; or

(b) any information as to whether a record exists if the head of the public body, in refusing to give access, does not indicate whether the record exists.

(7) The Supreme Court may disclose to the Attorney General or the Attorney General of Canada information that may relate to the commission of an offence under another enactment by an officer or employee of a public body.

98 (1) Where the head of the public body has refused to disclose a record, in whole or in part, and the Supreme Court determines on appeal that the head of the public body is not required or permitted to refuse to disclose the record or part, the Supreme Court shall

(a) order the head of the public body to give the applicant access to the record or part of it, subject to any conditions that the Supreme Court considers appropriate; or

(b) make any other order with respect to access that the Supreme Court considers appropriate.

(2) Where the Supreme Court determines on appeal that the head of the public body was required or permitted under this Act to refuse to disclose a record or part of a record, the Supreme Court shall not order the head of the public to give the applicant access to the record, regardless of whether the head of the public body was required or merely permitted to refuse to disclose the record.

99 Where the Supreme Court determines on appeal that to do so would be in accordance with this Act, it may order that personal information be corrected and the manner in which it is to be corrected.

Reviews Respecting Privacy Compliance

100 A person who is notified under Section 78 that the person is an affected individual in a privacy breach may request a privacy review by filing a privacy review request with the Commissioner.

101 (1) A person who believes that the person's personal information has been collected, used or disclosed by a public body in contravention of Part II may make a privacy complaint to the public body through the internal privacy-complaint processes set out in the public body's privacy policy.

(2) Where a person making a privacy complaint to a public body is not satisfied with the response of the head of the public body, the person making the privacy complaint may request a privacy review by filing a privacy review request with the Commissioner.

(3) Except where Section 100 applies, a privacy review request may not be submitted to the Commissioner until all internal privacy-complaint processes of the public body to which the privacy complaint relates have been exhausted.

102 A privacy review request

(a) must be in writing; and

(b) must be in such form and contain such information as may be prescribed by the regulations.

103 The Commissioner may, in the absence of a privacy review request, initiate a privacy review if the Commissioner has reasonable grounds to believe that a person has contravened or is about to contravene this Part and the subject-matter of the privacy review relates to the contravention.

104 (1) A privacy review request must be submitted to the Commissioner within 60 business days after receipt of the response of the head of the public body.

(2) Notwithstanding subsection (1), the Commissioner may extend the time for submitting a privacy review request.

105 (1) The Commissioner may disregard a privacy review request or a group of privacy review requests if the Commissioner is of the opinion that

(a) in the case of a privacy review request under Section 101, the internal privacy-complaint processes of the public body to which the complaint relates have not been exhausted;

(b) the request or group of requests is trivial, frivolous or vexatious;

(c) the request or group of requests does not relate to the person's personal information;

(d) the request or group of requests amounts to an abuse of the right to make a privacy review request because it is

(i) unduly repetitive or systematic,

(ii) excessively broad or incomprehensible, or

(iii) otherwise not made in good faith; or

(e) responding to the privacy review request or group of privacy review requests would unreasonably interfere with the operations of the public body to which the request or group of requests relates.

(2) A decision to disregard a privacy review request under subsection (1) must be made within 14 business days after receipt of the privacy review request.

106 Where the Commissioner disregards a privacy review request under Section 105, the Commissioner shall

(a) notify the person submitting the privacy review request that the privacy review request has been disregarded;

(b) provide reasons for the Commissioner's decision; and

(c) inform the person submitting the privacy review request that the person may apply for a judicial review of the Commissioner's decision.

107 The Commissioner may, at any stage of a privacy review, discontinue the privacy review if the Commissioner is of the opinion that

(a) the public body has responded adequately to the subject-matter of the privacy review;

(b) the subject-matter of the privacy review has been or could be more appropriately dealt with, initially or completely, by means of a procedure other than a privacy review;

(c) there is insufficient evidence to warrant conducting a privacy review;

(d) the subject matter of the privacy review is trivial, frivolous or vexatious or the privacy review application was made in bad faith;

(e) the subject-matter of the privacy review application is already the object of an ongoing privacy review;

(f) the subject-matter of the privacy review application has already been addressed by the Commissioner; or

(g) it is otherwise proper or necessary to discontinue the privacy review.

108 Upon the Commissioner making a decision under Section 107 to discontinue a privacy review, the Commissioner shall

(a) notify the person making the privacy review request that the Commissioner has discontinued the privacy review and provide reasons for the Commissioner's decision; and

(b) inform the person submitting the privacy review request that the person may apply for a judicial review of the Commissioner's decision.

109 Upon receiving a privacy review request, the Commissioner shall promptly give a copy to

(a) the head of the public body that is the subject of the privacy review request; and

(b) any other person that the Commissioner considers appropriate.

110 (1) The Commissioner may try to settle a matter that is the subject of a privacy review request through mediation.

(2) Where the Commissioner is unable to settle a matter through mediation within 30 business days of receiving the privacy review request, the Commissioner shall conduct a privacy review in accordance with Section 111.

111 (1) The Commissioner may conduct a privacy review in private.

(2) The following persons are entitled to make representations to the Commissioner in the course of a privacy review:

(a) the person who made the privacy review request; and

(b) the head of the public body whose decision is the subject of the privacy review.

(3) The Commissioner may permit such other persons as the Commissioner considers appropriate to make representations in the course of a privacy review.

(4) The Commissioner may decide

(a) whether the representations are to be made orally or in writing; and

(b) whether a person is entitled to be present during a privacy review or to have access to or comment on representations made to the Commissioner by any other person.

112 (1) Notwithstanding any other Act or any privilege available at law, but subject to subsection (2), the Commissioner may, in a privacy review,

(a) require the production of any record that is in the custody or under the control of the public body named in the privacy review request for the purpose of examination by the Commissioner; and

(b) enter and inspect any premises occupied by the public body.

(2) The powers of the Commissioner under subsection (1) do not include the power to require the production of information that is subject to legal privilege or to inspect a record that is subject to legal privilege.

(3) A disclosure to the Commissioner under this Section does not constitute a waiver of any privilege or immunity.

(4) A public body shall comply with a requirement imposed by the Commissioner under subsection (1) within such time as is prescribed by the regulations.

(5) Where a public body does not comply with a requirement imposed by the Commissioner under subsection (1) within the time limited for so doing by subsection (4), the Supreme Court may, on the application of the Commissioner, order the public body to comply.

(6) In an application under subsection (5), the Supreme Court may give such directions as the Court thinks fit, including ordering which persons are to be parties to the application, which persons are to be given notice of the application and the manner in which such notice is to be given.

(7) An order made under subsection (5) may contain such provisions and such terms and conditions as the Supreme Court thinks fit.

113 (1) Upon completing a privacy review, the Commissioner shall

(a) prepare a written privacy review report setting out the Commissioner's recommendations with respect to the matter and the reasons for those recommendations; and

(b) send a copy of the privacy review report to

(i) the head of the public body that was the subject of the privacy review,

(ii) where the privacy review was conducted further to a privacy review request, the person who made the privacy review request, and

(iii) any person permitted under subsection 111(3) to make representations in the course of the privacy review.

(2) In the privacy review report, the Commissioner may make any recommendations with respect to the matter under review that the Commissioner considers appropriate.

114 (1) Within 30 business days after receipt of a privacy review report, the head of the public body shall

(a) decide whether to agree to follow the recommendations in the privacy review report, in whole or in part, or to make any other decision that the head of the public body considers appropriate; and

(b) give written notice of the decision to the Commissioner and the persons who were sent a copy of the privacy review report.

(2) Where the head of the public body decides not to follow one or more of the recommendations in the privacy review report, the written notice must include notice of the right to appeal the head's decision under Section 115 and of the time limit for commencing an appeal.

(3) Where the head of the public body does not give notice of the head's decision within the time required by subsection (1), the head of the public body is deemed to have refused to follow the recommendations of the Commissioner.

Appeals Respecting Privacy Compliance

115 (1) The person who made a privacy review request or a person permitted under subsection 111(3) to make representations in the course of a privacy review may, within 30 business days after receipt of the decision of the head of the public body under Section 114, appeal that decision to the Supreme Court.

(2) An appeal must be commenced in such form and manner as may be prescribed by the *Civil Procedure Rules* or by the regulations.

116 (1) A person commencing an appeal under Section 115 shall serve a copy of the notice of appeal on the Attorney General.

(2) Where the appellant fails to service a copy of the notice of appeal on the Attorney General as required by subsection (1), the appeal is deemed not to have been commenced.

117 (1) The Attorney General may become a party to the appeal by filing with the prothonotary of the Supreme Court a notice stating that the Attorney General is a party to the appeal.

(2) A person permitted under subsection 111(3) to make representations in the course of a privacy review is a party to an appeal under Section 115.

(3) The Commissioner is not a party to an appeal under Section 115.

118 (1) On an appeal under Section 115, the Supreme Court shall determine the matter *de novo*.

(2) The Supreme Court may receive evidence by affidavit.

(3) Notwithstanding any other Act or any privilege available at law, the Supreme Court may, on an appeal, examine any record in the custody or under the control of a public body, and no information shall be withheld from the Supreme Court on any grounds.

(4) No legal privilege or any other privilege that is available at law is affected by disclosure to the Supreme Court.

(5) The Supreme Court may examine any record in camera in order to determine on the merits whether the information in the record may be withheld under this Act.

(6) The Supreme Court shall take every reasonable precaution, including, where appropriate, receiving representations *ex parte* and conducting hearings in camera, to avoid disclosure by the Supreme Court or any person of

(a) any information or other material if the nature of the information or material could justify a refusal by the head of the public body to give access to a record or part of a record; or

(b) any information as to whether a record exists if the head of the public body, in refusing to give access, does not indicate whether the record exists.

(7) The Supreme Court may disclose to the Attorney General or the Attorney General of Canada information that may relate to the commission of an offence under another enactment by an officer or employee of a public body.

119 On hearing an appeal, the Supreme Court may

(a) where it determines that personal information has not been collected, used or disclosed by the public body in contravention of this Part, dismiss the appeal;

(b) where it determines that personal information has been collected, used or disclosed by the public body in contravention of this Part,

(i) order the head of the public body to stop using, collecting or disclosing the personal information, or

(ii) order the head of the public body to destroy the personal information that was collected in contravention of this Act; and

(c) make any other order with respect to the collection, use or disclosure of the personal information that the court considers appropriate.

PART IV

INFORMATION AND PRIVACY COMMISSIONER

120 The Governor in Council shall appoint a person to serve full-time as the Information and Privacy Commissioner.

121 The Commissioner, by virtue of the Commissioner's position, is an officer of the House of Assembly.

122 (1) A person appointed as Commissioner holds that position during good behaviour for the term determined by the Governor in Council, which must not be less than five years nor more than seven years.

(2) A person may be re-appointed as Commissioner.

123 (1) With the approval of the House of Assembly by a vote of a majority of the members voting on the resolution, the Governor in Council may remove the Commissioner for cause or incapacity.

(2) Where the House of Assembly is not sitting, the Governor in Council may suspend the Commissioner for cause or incapacity if the President of the Executive Council and the Leader of the Opposition, in writing, advise the Governor in Council to suspend the Commissioner.

(3) Where the Commissioner is suspended under subsection (2), the suspension does not continue in force beyond the end of the next sitting of the House of Assembly.

124 The Commissioner shall be paid such salary as the Governor in Council determines, which must be paid out of the General Revenue Fund of the Province.

125 (1) Where the Commissioner is temporarily unable to perform the Commissioner's duties or is suspended, the Governor in Council may appoint a person as an Acting Commissioner.

(2) An Acting Commissioner holds that position until

(a) the Commissioner resumes the Commissioner's duties after the temporary inability to perform;

(b) the suspension of the Commissioner ends or is dealt with in the House of Assembly; or

(c) a person is appointed as Commissioner under Section 120.

126 (1) The Commissioner may, in accordance with the *Civil Service Act*, appoint such employees as the Commissioner considers necessary for the efficient carrying out of the Commissioner's functions under this Act.

(2) Employees appointed under subsection (1) are civil service employees in accordance with the *Civil Service Act* and the *Public Service Superannuation Act* and are entitled to all the benefits and privileges provided for in those Acts.

127 (1) In this Section, "designated committee" means a committee of the House of Assembly designated by the House of Assembly for the purpose of this Section.

(2) The Commissioner shall present annually to the designated committee estimates of the sums of money that will be required by the Commissioner to conduct the activities required under this Act and any other enactment or authority, together with any estimated recoveries.

(3) The designated committee shall review and may alter as it considers proper the estimates presented by the Commissioner and the Chair of the designated committee shall recommend the estimates, as altered by the designated committee, to the Department of Finance and Treasury Board for inclusion in the Government's estimates.

(4) Notice of meetings of the designated committee to review or alter the estimates presented by the Commissioner must be given to the Chair of the Public Accounts Committee and the Chair may attend those meetings.

128 (1) Subject to subsection (2), the Commissioner may delegate to any employee or class of employee in the office of the Commissioner any of the Commissioner's powers, duties or functions.

(2) The Commissioner may not delegate the Commissioner's duty under Section 132.

(3) A delegation under subsection (1)

(a) must be in writing;

(b) may contain any limitations, restrictions, conditions or requirements that the Commissioner considers necessary or advisable; and

(c) may not be further delegated by the employee to whom it has been delegated.

129 No action lies against the Commissioner or against a person holding any office or appointment under the Commissioner for anything done, or omitted to be done, in the exercise or intended exercise of a power, duty or function under this Act, unless it is shown that the Commissioner or person, as the case may be, acted in bad faith.

130 (1) The Commissioner and a person acting for or under the direction of the Commissioner shall not disclose information obtained in performing duties or exercising powers under this Act, except as provided in subsections (2) to (5).

(2) The Commissioner may disclose, or may authorize a person acting for or under the Commissioner's direction to disclose, information that is necessary to

(a) perform a duty or exercise a power of the Commissioner under this Act;
or

(b) establish the grounds for findings and recommendations contained in a report under this Act.

(3) In performing a duty or exercising a power under this Act, the Commissioner and a person acting for or under the Commissioner's direction, shall take reasonable precautions to avoid disclosing and shall not disclose

(a) any information or other material the nature of which could justify a refusal by a head of a public body to give access to a record or part of a record; or

(b) the existence of information, if the head of a public body is authorized under subsection 23(2) to refuse to confirm or deny that the information exists.

(4) Where the Commissioner has reason to believe that an offence has been committed under this or another Act of the Province or an Act of the Parliament of Canada, the Com-

missioner may disclose to the Attorney General or the Attorney General of Canada information relating to the commission of the offence.

(5) The Commissioner may disclose, or may authorize a person acting for or under the Commissioner to disclose, information in the course of a prosecution or another matter before a court.

(6) Nothing in this Section affects the responsibility of the Commissioner and a person acting for or under the direction of the Commissioner to comply with another enactment restricting or prohibiting disclosure of information.

131 In addition to any other power or duty of the Commissioner under this Act, the Commissioner may

- (a) inform the public about this Act;
- (b) monitor how Part II of this Act is administered;
- (c) undertake research on privacy matters;
- (d) on the request of a public body, provide advice and comments on privacy matters; and
- (e) for the purpose of clause 55(a), review and authorize the collection of personal information from sources other than the individual the information is about.

132 (1) The Commissioner shall issue an annual report on the exercise of the functions of the Commissioner under this Act and shall submit the report to the Speaker of the House of Assembly for tabling in the Assembly or, where the Assembly is not then sitting, file the report with the Clerk of the Assembly.

(2) The annual report of the Commissioner must include the information prescribed by the regulations.

PART V

GENERAL

133 Any right or power conferred on an individual by this Act may be exercised

- (a) where 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) where a personal guardian or property guardian has been appointed for the individual, by the guardian if the exercise of the right or power relates to the powers and duties of the guardian;
- (c) where a power of attorney has been granted, 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;
- (d) where the individual is less than the age of majority, by the individual's legal custodian in situations where, in the opinion of the head of a public body, the exercise of the

right or power would not constitute an unreasonable invasion of the privacy of the individual; or

(e) by a person with written authorization from the individual to act on the individual's behalf.

134 A local public body shall, by bylaw or other legal instrument by which the local public body acts, designate a person or group of persons as the head of the local public body for the purpose of this Act.

135 (1) The head of a public body may delegate a power or duty of the head under this Act to one or more officers or employees of the public body or to another public body prescribed by the regulations.

(2) In the case of a public body that is a department, a crown corporation within the meaning of the *Finance Act* or an agency, board or commission of the Province, the head of a public body may delegate a power or duty of the head under this Act to one or more officers or employees of the Department of Service Nova Scotia.

(3) A delegation under subsection (1) or (2)

(a) must be in writing;

(b) may contain any limitations, restrictions, conditions or requirements that the head of the public body considers necessary or advisable; and

(c) may not be further delegated by the officer or employee to whom it has been delegated.

136 (1) No action or other proceeding lies against the head of a public body or any person acting on behalf of or under the direction of the head of the public body for damages resulting from

(a) the disclosure in good faith of all or part of a record under this Act or any consequences of that disclosure; or

(b) the failure to give any notice required under this Act if reasonable care is taken to give the required notice.

(2) Subsection (1) does not absolve the Crown in right of the Province or a public body from vicarious liability for an act or omission for which it would be vicariously liable if this Section were not in force.

137 (1) The Minister may designate a public body as a provincial identity information services provider.

(2) A provincial identity information services provider, by exercising its powers respecting the collection, use and disclosure of information, may provide any of the following services:

(a) identifying an individual;

(b) verifying the identity of an individual;

(c) updating personal identity information about an individual;

- (d) issuing a physical credential or an electronic credential to an individual;
- (e) managing the information associated with a physical or an electronic credential; and
- (f) any other service related to personal identity information that the Minister considers appropriate.

(3) The Minister may give directions to a provincial identity information services provider or a public body respecting

- (a) the type and quantity of personal identity information required to identify, or verify the identity of, individuals seeking access to government services;
- (b) the provision to individuals of physical and electronic credentials for use in accessing government services;
- (c) the privacy and security of personal identity information that is collected, used or disclosed under this Act;
- (d) the format in which personal identity information is collected, used or disclosed under this Act; and
- (e) the circumstances in which particular types of personal identity information may or may not be collected, used or disclosed in relation to services provided under subsection (2).

(4) The Minister, under subsection (3), may give different directions for different categories of personal identity information, personal identity information services and government services.

138 (1) Subject to subsection (3), where a person is required under this Act to provide a notice to another person, the person shall provide the notice

- (a) by personally delivering it to the other person;
- (b) by sending it by mail or electronic mail to the last known mailing address or electronic mail address of the other person; or
- (c) in a manner prescribed by the regulations.

(2) A notice provided as set out in clause (1)(b) or (c) is deemed to have been received by the person to whom it was delivered or sent on the expiry of the number of days prescribed by the regulations.

(3) Notwithstanding any other provision of this Act, where the Supreme Court has provided direction with regard to the provision of a notice under this Act, the notice must be provided in accordance with that direction.

139 A person is guilty of an offence if the person

- (a) wilfully collects, uses or discloses personal information in contravention of this Act or the regulations;

(b) wilfully attempts to gain or gains access to personal information in contravention of this Act or the regulations;

(c) wilfully obstructs the Commissioner or another person performing duties or exercising powers;

(d) wilfully destroys a record or erases information in a record that is subject to this Act, or directs another person to do so, with the intent to evade a request for access to records; or

(e) wilfully alters, falsifies or conceals a record that is subject to this Act, or directs another person to do so, with the intent to evade a request for access to records.

140 A person who is guilty of an offence under this Act is liable on summary conviction

(a) in the case of an individual, to a fine of not more than \$10,000 or imprisonment, or both; or

(b) in the case of a corporation, to a fine of not more than \$50,000.

141 No prosecution for an offence under this Act may be commenced more than two years after the date of the alleged offence.

142 Section 4 of the *Summary Proceedings Act* does not apply to this Act.

143 (1) The Governor in Council may make regulations

(a) designating a body as a public body or a class of bodies as public bodies;

(b) designating a person as the head of a public body;

(c) respecting common or integrated programs or activities, including respecting the manner in which a program or activity is confirmed as being a common or integrated program or activity;

(d) designating an Indigenous organization or community as an Indigenous governing body;

(e) prescribing relationships for the purpose of clause (c) of the definition of “intimate-partner violence”;

(f) prescribing an entity as a partner agency;

(g) for the purpose of subsection 6(1), providing that a provision of another enactment prevails over this Act;

(h) designating an executed agreement as a public-private partnership agreement or a class of executed agreements as public-private agreements for the purpose of subclause 11(1)(b)(i);

(i) respecting procedures to be followed in making, transferring and responding to access requests and correction requests;

(j) prescribing circumstances in which the head of a public body may extend the time period for response to an access request or a correction request;

- (k) respecting the manner of providing access to a record, including prescribing the manner in which access must be provided in the case that the applicant requests to examine the record or where the record cannot reasonably be reproduced;
- (l) prescribing sites or categories of sites as having anthropological heritage or value;
- (m) respecting circumstances in which it is not practicable to give notice to a third party for the purpose of subsection 51(2);
- (n) respecting privacy policies of public bodies, including prescribing the required contents of a privacy policy;
- (o) respecting the manner in which a public body must make its internal privacy-complaint processes available to the public;
- (p) respecting privacy assessments, including prescribing the requirements with which a privacy assessment must comply;
- (q) respecting the collection of personal information, including prescribing the manner in which and purposes for which personal information may be collected other than from the individual the information is about;
- (r) prescribing circumstances in which the head of a public body may extend the time period for response to a correction request;
- (s) respecting the disclosure and storage of personal information outside of Canada and access to personal information from outside of Canada;
- (t) respecting the disclosure of personal information for a research purpose, including prescribing matters in relation to which the head of the public body must approve conditions;
- (u) respecting data linking and data-linking programs, including prescribing requirements for the conduct of a data-linking program;
- (v) respecting privacy breach notifications, including prescribing the manner in which a privacy breach notification must be made;
- (w) respecting access review requests and correction review requests, including prescribing the information that must be contained in a request and the form in which the request must be made;
- (x) respecting processes to be followed in the event that production of information to the Commissioner is refused on the basis that the information is subject to legal privilege;
- (y) respecting processes to be followed in the event that inspection of information by the Commissioner is refused on the basis that the information is subject to legal privilege;
- (z) prescribing the time in which a public body must comply with a requirement imposed by the Commissioner under clause 83(1)(a);
- (aa) respecting privacy review requests, including prescribing the information that must be contained in a request and the form in which the request must be made;
- (ab) prescribing the time in which a public body must comply with a requirement imposed by the Commissioner under clause 127(1)(a);

- (ac) respecting appeals to the Supreme Court, including the procedure and forms to be used in the making of appeals;
- (ad) respecting the content of the annual report to be filed by the Commissioner;
- (ae) prescribing requirements to be met with respect to disclosures of information to law enforcement agencies or investigative bodies;
- (af) prescribing any matter that is to be included in a notice that is required by this Act;
- (ag) respecting fees to be paid in relation to any matter under this Act, including prescribing or limiting fees;
- (ah) respecting the waiver of fees in relation to any matter under this Act;
- (ai) prescribing forms for the purpose of this Act;
- (aj) prescribing any other matter or thing required or authorized by this Act to be prescribed in the regulations;
- (ak) defining any word or expression used but not defined in this Act;
- (al) further defining any word or expression defined in this Act;
- (am) respecting any matter or thing to the Governor in Council considers necessary or advisable carry out effectively the intent and purpose of this Act.

(2) A regulation may apply to all persons or bodies or to a class of persons or bodies to whom this Act applies and there may be different regulations for different classes of such persons or bodies.

(3) The exercise by the Governor in Council of the authority contained in this Section is a regulation within the meaning of the *Regulations Act*.

PART VI

TRANSITIONAL MATTERS

144 In this Part,

“contract” means

(a) a contract entered into by a public body for the provision to the public body of services that use, disclose, manage, store or access personal information in the custody of the public body; or

(b) a contract prescribed by the regulations or falling within a class of contracts prescribed by the regulations;

“contract commitment date” means

(a) where the public body is legally obligated to enter into a contract as a result of a procurement process, the date on which the public body is legally obligated to enter into the contract; and

(b) in any other case, the date on which the contract was entered into by the public body;

“former Act” means Chapter 5 of the Acts of 1993, the *Freedom of Information and Protection of Privacy Act*; and

“former Part” means Part XX of the *Municipal Government Act*, as it read immediately before the coming into force of this Act;

“new international disclosure rules” means Section 76 and any regulations under this Act respecting the disclosure of personal information outside of Canada;

“previous international disclosure rules” means the former *Personal Information International Disclosure Protection Act*.

145 The person who, immediately before the coming into force of this Act, was appointed as the Review Officer under the former Act is deemed to have been appointed as the Information and Privacy Commissioner under Section 138.

146 (1) Where a request for access to a record or a request for correction of an error or omission has been made under the former Act or the former Part and, upon the coming into force of this Act, no decision has been made with regard to the request, the request must be conducted and determined in accordance with the former Act or former Part, as the case may be.

(2) Where a review or an appeal has been initiated under the former Act or the former Part and has not been completed before the coming into force of this Act, the review or appeal must be conducted and determined in accordance with the former Act or the former Part, as the case may be.

(3) Where an investigation, a privacy complaint or a review has been initiated under the former *Privacy Review Officer Act* and has not been completed before the coming into force of this Act, the review must be conducted and determined in accordance with the former *Privacy Review Officer Act*.

(4) Where, before the coming into force of this Act,

(a) a right to a review or appeal existed under the former Act, the former Part or the former *Privacy and Review Officer Act*;

(b) the time for initiating a review or appeal has not expired; and

(c) the review or appeal has not been initiated under the former Act, the former Part or the former *Privacy and Review Officer Act*,

the provisions of this Act respecting the conduct of a review or appeal apply and the time for filing a request for review or appeal must be measured from the date on which the right of review or appeal arose under the former Act to the end of the period permitted to request the review or appeal under this Act but, in determining the matter, the provisions of the former Act, the former Part or the former *Privacy and Review Officer Act*, as the case may be, must be applied.

147 (1) The new international disclosure rules apply in relation to all contracts for which the contract commitment date is on or after May 1, 2027.

(2) In relation to a contract for which the contract commitment date is on or before April 30, 2027, the previous international disclosure rules are deemed to continue in force and to

apply to the contract until the end of the term of the contract, including any extensions or renewals provided for in the contract as it was on the contract commitment date or agreed to by the parties.

148 (1) The Governor in Council may make regulations

(a) respecting the transition to this Act of anything under the former Act, the former Part, the former *Privacy and Review Officer Act* or the former *Personal Information International Disclosure Protection Act*;

(b) to remedy any confusion, difficulty, inconsistency or impossibility resulting from the transition to this Act from the former Act, the former Part, the former *Privacy and Review Officer Act* or the former *Personal Information International Disclosure Protection Act*;

(c) prescribing a contract or a class of contracts for the purpose of the definition of contract in Section 144.

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*.

PART VII

CONSEQUENTIAL AMENDMENTS

149 Subsection 225A(1) of Chapter 4 of the Acts of 1994, the *Credit Union Act*, as amended by Chapter 13 of the Acts of 2019, is further amended by striking out “and the *Personal Information International Disclosure Protection Act*”.

150 (1) Clause 39H(1)(a) of Chapter 3 of the Acts of 2001, the *Fatality Investigations Act*, as amended by Chapter 30 of the Acts of 2019, is further amended by striking out “, a municipality as defined in Part XX of the *Municipal Government Act*”.

(2) Subsection 39H(5) of Chapter 3, as amended by Chapter 30 of the Acts of 2019, is amended by striking out “, Part XX of the *Municipal Government Act*”.

151 Chapter 5 of the Acts of 1993, the *Freedom of Information and Protection of Privacy Act*, is repealed.

152 Subsection 19(7) of Chapter 39 of the Acts of 2008, the *Halifax Regional Municipality Charter*, is amended by striking out “473(2) of the *Municipal Government Act*” and substituting “33(2) of the *Freedom of Information and Protection of Privacy Act*”.

153 Sections 50 and 51 of Chapter 39 are amended by striking out “461 of the *Municipal Government Act*” wherever it appears and substituting in each case “3 of the *Freedom of Information and Protection of Privacy Act*”.

154 Subsection 54A(5) of Chapter 39, as enacted by Chapter 20 of the Acts of 2015, is amended by striking out “Part XX of the *Municipal Government Act*” and substituting “the *Freedom of Information and Protection of Privacy Act*”.

155 (1) Chapter 39 is further amended by renumbering the Section immediately after Section 79C as Section 79D.

(2) Section 79D of Chapter 39, as enacted by Chapter 13 of the Acts of 2017 and as renumbered by subsection (1), is further amended by adding immediately after subsection (6) the following subsection:

(7) For the purpose of the *Freedom of Information and Protection of Privacy Act*, the following reports are matters of public record:

- (a) an expense report;
- (b) a hospitality report; and
- (c) an annual summary report.

156 Part XVIII of Chapter 39 is repealed.

157 Section 136 of Chapter 195 of the Revised Statutes, 1989, the *Health Act*, as enacted by Chapter 16 of the Acts of 1992 and amended by Chapter 19 of the Acts of 1992, Chapter 29 of the Acts of 2000 and Chapter 5 of the Acts of 2001, is further amended by striking out “*Freedom of Information Act*” wherever it appears and substituting in each case “*Freedom of Information and Protection of Privacy Act*”.

158 Subsection 7(1) of Chapter 47 of the Acts of 2012, the *Missing Persons Act*, is amended by striking out “26 of the *Freedom of Information and Protection of Privacy Act* and subsection 485(1) of the *Municipal Government Act*” and substituting “70 of the *Freedom of Information and Protection of Privacy Act*”.

159 Subsection 8(2) of Chapter 47 is amended by striking out “27 of the *Freedom of Information and Protection of Privacy Act*, subsection 485(1) of the *Municipal Government Act*” and substituting “72 of the *Freedom of Information and Protection of Privacy Act*”.

160 Clause 10(a) of Chapter 47 is amended by striking out “Privacy Review Officer appointed under the *Privacy Review Officer Act*” and substituting “Information and Privacy Commissioner appointed under the *Freedom of Information and Protection of Privacy Act*.”

161 (1) Chapter 18 of the Acts of 1998, the *Municipal Government Act*, is amended by renumbering the Section immediately after Section 65C as Section 65D.

(2) Section 65D of Chapter 18 of the Acts of 1998, the *Municipal Government Act*, as enacted by Chapter 13 of the Acts of 2017 and as renumbered by subsection (1), is further amended by adding immediately after subsection (6) the following subsection

(7) For the purpose of the *Freedom of Information and Protection of Privacy Act*, the following reports are matters of public record:

- (a) an expense report;
- (b) a hospitality report; and
- (c) an annual summary report.

162 Section 423A of Chapter 18, as enacted by Chapter 13 of the Acts of 2017, is amended by adding immediately after subsection (6) the following subsection:

(7) For the purpose of the *Freedom of Information and Protection of Privacy Act*, the following reports are matters of public record:

- (a) an expense report;
- (b) a hospitality report; and
- (c) an annual summary report.

163 Subsection 452A(5) of Chapter 18, as enacted by Chapter 22 of the Act of 2019, is amended by striking out “or Part XX”.

164 Part XX of Chapter 18 is repealed.

165 (1) Clause 8(2)(a) of Chapter 41 of the Acts of 2010, the *Personal Health Information Act*, is amended by striking out “12, 13 or 14, clause 15(1)(b) or Section 21 of” and substituting “30, 31, 32, 35, clause 36(1)(b) or Section 49”.

(2) Subsection 8(4) of Chapter 41 is amended by striking out “5” and substituting “10”.

(3) Subsection 8(6) of Chapter 41 is repealed.

166 Chapter 3 of the Acts of 2006, the *Personal Information International Disclosure Protection Act*, is repealed.

167 Chapter 42 of the Acts of 2008, the *Privacy Review Officer Act*, is repealed.

168 Subsection 39(2) of Chapter 19 of the Acts of 2006, the *Property Valuation Services Corporation Act*, is amended by striking out “Part XX of the *Municipal Government Act*” and substituting “the *Freedom of Information and Protection of Privacy Act*”.

169 The Schedule to Chapter 42 of the Acts of 2010, the *Public Interest Disclosure of Wrongdoing Act*, as amended by Chapters 2 and 6 of the Acts of 2024, is further amended by striking out “Freedom of Information and Protection of Privacy Review Officer” and substituting “Information and Privacy Commissioner”.

170 Clause 2(d) of Chapter 14 of the Acts of 2002, the *Volunteer Protection Act*, is amended by striking out clause 2(d) and substituting the following clause:

- (d) “municipality” means
 - (i) a regional municipality,
 - (ii) a town,
 - (iii) a county or district municipality,

- (iv) a village,
- (v) a service commission, or
- (vi) a committee, community council, agency, authority, board or commission, whether incorporated or not,
 - (A) a majority of the members of which are appointed by one or more of the entities referred to in subclauses (i) to (iii), or
 - (B) which is under the authority of one or more of the entities referred to in subclauses (i) to (iii);

PART VIII

EFFECTIVE DATE

171 This Act has effect on and after April 1, 2027.
