

This Act is current to March 2, 2022

See the [Tables of Legislative Changes](#) for this Act's legislative history, including any changes not in force.

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

**[RSBC 1996] CHAPTER 165**

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## **Part 1 — Introductory Provisions**

### **Definitions**

- 1 Schedule 1 contains definitions of terms used in this Act.

### **Purposes of this Act**

- 2 (1) The purposes of this Act are to make public bodies more 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.

### **Application**

- 3 (1) Subject to subsections (3) to (5), this Act applies to all records in the custody or under the control of a public body, including court administration records.
- (2) Part 3 applies
  - (a) to all employees, officers and directors of a public body, and
  - (b) in the case of an employee that is a service provider, to all employees and associates of the service provider.
- (3) This Act does not apply to the following:
  - (a) a court record;
  - (b) a record of
    - (i) a judge of the Court of Appeal, Supreme Court or Provincial Court,

- (ii) a master of the Supreme Court, or
    - (iii) a justice of the peace;
  - (c) a judicial administration record;
  - (d) a record relating to support services provided to a judge of a court referred to in paragraph (b) (i);
  - (e) a personal note, communication or draft decision of a person who is acting in a judicial or quasi-judicial capacity;
  - (f) a record that is created by or for, or is in the custody or under the control of, an officer of the Legislature and that relates to the exercise of functions under an Act;
  - (g) a record that is created by or for, or is in the custody or under the control of, the auditor general under the *Auditor General for Local Government Act* and that relates to the exercise of functions under that Act;
  - (h) a record of a question or answer to be used on an examination or test;
  - (i) a record containing teaching or research materials of
    - (i) a faculty member, as defined in the *College and Institute Act* and the *University Act*, of a post-secondary educational body,
    - (ii) a teaching assistant or research assistant employed at a post-secondary educational body, or
    - (iii) another person teaching or carrying out research at a post-secondary educational body;
  - (j) a record placed in the archives of a public body, or the digital archives or museum archives of government, by or for a person or agency other than a public body;
  - (k) a record relating to a prosecution if not all proceedings in respect of the prosecution have been completed;
  - (l) a record of a service provider that is not related to the provision of services for a public body.
- (4) This Act, other than sections 30, 30.3, 30.5 (2), 33 and 65.3 to 65.6, does not apply to
- (a) an officer of the Legislature, including all employees of the officer of the Legislature and, in the case of an employee that is a service provider, all employees and associates of the service provider, or
  - (b) the auditor general under the *Auditor General for Local Government Act*, including all employees of that auditor general and, in the case of an employee that is a service provider, all employees and associates of the service provider.
- (5) Part 2 does not apply to the following:
- (a) a record that is available for purchase by the public;
  - (b) a record that does not relate to the business of the public body;

- (c) a record of metadata that
    - (i) is generated by an electronic system, and
    - (ii) describes an individual's interaction with the electronic system;
  - (d) an electronic record that has been lawfully deleted by an employee of a public body and can no longer be accessed by the employee.
- (6) This Act does not limit the information available by law to a party to a proceeding.
- (7) If a provision of this Act is inconsistent or in conflict with a provision of another Act, this Act prevails unless the other Act expressly provides that it, or a provision of it, applies despite this Act.

## **Part 2 — Freedom of Information**

### **Division 1 — Information Rights and How to Exercise Them**

#### **Information rights**

- 4** (1) Subject to subsections (2) and (3), an applicant who makes a request under section 5 has a right of access to a record in the custody or under the control of a public body, including a record containing personal information about the applicant.
- (2) The right of access to a record does not extend to information that is excepted from disclosure under Division 2 of this Part, but if that information can reasonably be severed from a record, an applicant has a right of access to the remainder of the record.
- (3) The right of access to a record is subject to the payment of fees, if any, required under section 75.

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

- 5** (1) To obtain access to a record, the applicant must make a written request that
- (a) provides enough detail to enable an experienced employee of the public body, with a reasonable effort, to identify the record sought,
  - (b) provides written proof of the authority of the applicant to make the request, if the applicant is acting on behalf of another person in accordance with the regulations, and
  - (c) is submitted to the public body that the applicant believes has custody or control of the record.
- (2) The applicant may ask for a copy of the record or ask to examine the record.

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

- 6** (1) The head of a public body must make every reasonable effort to assist applicants and to respond without delay to each applicant openly, accurately and completely.

- (2) Moreover, the head of a public body must create for an applicant a record to which section 4 gives a right of access if
- (a) the record can be created from a machine readable record in the custody or under the control of the public body using its normal computer hardware and software and technical expertise, and
  - (b) creating the record would not unreasonably interfere with the operations of the public body.

### **Time limit for responding**

- 7** (1) Subject to this section and sections 23 and 24 (1), the head of a public body must respond not later than 30 days after receiving a request described in section 5 (1).
- (2) The head of the public body is not required to comply with subsection (1) if
- (a) the time limit is extended under section 10, or
  - (b) the request has been transferred under section 11 to another public body.
- (3) If the head of a public body asks the commissioner under section 43 for authorization to disregard a request, the 30 days referred to in subsection (1) do not include the period from the start of the day the application is made under section 43 to the end of the day a decision is made by the commissioner with respect to that application.
- (4) If the head of a public body determines that an applicant is to pay fees under section 75 (1) (a) or (b), the 30 days referred to in subsection (1) of this section do not include the period of time from that determination until one of the following occurs:
- (a) the head of the public body excuses the applicant from paying all of the fees for services;
  - (b) the head of the public body excuses the applicant from paying some of the fees for services and the applicant agrees to pay the remainder and, if required by the head of the public body, pays the deposit required;
  - (c) the applicant agrees to pay the fees for services set out in the written estimate and, if required by the head of the public body, pays the deposit required;
  - (d) the applicant pays the application fee.
- (5) If an applicant asks the commissioner under section 52 (1) to review a fee estimate or a refusal to excuse the payment of all or part of a fee required by the head of the public body, the 30 days referred to in subsection (1) do not include the period from the start of the day the applicant asks for the review to the end of the day the commissioner makes a decision.
- (6) If a third party asks under section 52 (2) that the commissioner review a decision of the head of a public body, the 30 days referred to in subsection (1) do not include the period from the start of the day the written request for review is delivered to the commissioner to the end of the day the commissioner makes a decision with respect to the review requested.

- (7) If a person asks under section 62 (2) for a review of a decision of the commissioner as head of a public body, the 30 days referred to in subsection (1) do not include the period from the start of the day the request for review is delivered to the minister responsible for this Act to the end of the day the adjudicator makes a decision with respect to the review requested.

## **Contents of response**

- 8 (1) In a response under section 7, the head of the public body must tell the applicant
- (a) whether or not the applicant is entitled to access to the record or to part of the record,
  - (b) if the applicant is entitled to access, where, when and how access will be given, and
  - (c) if access to the record or to part of the record is refused,
    - (i) the reasons for the refusal and the provision of this Act on which the refusal is based,
    - (ii) the contact information of an officer or employee of the public body who can answer the applicant's questions about the refusal, and
    - (iii) that the applicant may ask for a review under section 53 or 63.
- (2) Despite subsection (1) (c) (i), the head of a public body may refuse in a response to confirm or deny the existence of
- (a) a record containing information described in section 15 [*information harmful to law enforcement*], or
  - (b) a record containing personal information of a third party if disclosure of the existence of the information would be an unreasonable invasion of that party's personal privacy.

## **How access will be given**

- 9 (1) If an applicant is told under section 8 (1) that access will be given, the head of the public body must comply with subsection (2), (2.1) or (3) of this section.
- (2) If the applicant has asked for a copy under section 5 (2) and the record can reasonably be reproduced, a copy of the record or part of the record must be provided with the response.
- (2.1) If the applicant has asked for a copy under section 5 (2) in electronic form and it is reasonable to provide the record in that form, a copy of the record or part of the record must be provided in that form with the response.
- (3) If the applicant has asked to examine the record under section 5 (2) or if the record cannot be provided in accordance with subsection (2) or (2.1) of this section, as applicable, the applicant must
- (a) be permitted to examine the record or part of the record if the record or part of the record can reasonably be examined, or



- (b) be given access in accordance with the regulations.

### **Extending the time limit for responding**

**10** (1) The head of a public body may extend the time for responding to a request for up to 30 days if one or more of the following apply:

- (a) the applicant does not give enough detail to enable the public body to identify a requested record;
- (b) a large number of records are requested or must be searched and meeting the time limit would unreasonably interfere with the operations of the public body;
- (c) more time is needed to consult with a third party or other public body before the head can decide whether or not to give the applicant access to a requested record;
- (d) the applicant has consented, in the prescribed manner, to the extension.

(2) In addition to the authority under subsection (1), with the permission of the commissioner, the head of a public body may extend the time for responding to a request as follows:

- (a) if one or more of the circumstances described in subsection (1) (a) to (d) apply, for a period of longer than the 30 days permitted under that subsection;
- (b) if the commissioner otherwise considers that it is fair and reasonable to do so, as the commissioner considers appropriate.

(3) If the time for responding to a request is extended under this section, the head of the public body must tell the applicant

- (a) the reason for the extension,
- (b) when a response can be expected, and
- (c) in the case of an extension under subsection (1) (a) to (c), that the applicant may complain about the extension under section 42 (2) (b) or 60 (1) (a).

### **Transferring a request**

**11** (1) Within 20 days after a request for access to a record is received by a public body, the head of the public body may transfer the request and, if necessary, the record to another public body if

- (a) the head of the public body is satisfied that the request meets the requirements of section 5 (1), and
- (b) one or more of the following applies:
  - (i) the record was produced by or for the other public body;
  - (ii) the other public body was the first to obtain the record;
  - (iii) the record is in the custody or under the control of the other public body.

- (2) If a request is transferred under subsection (1), the head of the public body who transferred the request must notify the applicant of the transfer.
- (3) If the head of the public body to which a request is transferred under subsection (1) is satisfied that the request meets the requirements of section 5 (1) (a) and (b), the head of the public body must respond to the applicant
  - (a) in accordance with section 8, and
  - (b) not later than 30 days after the request is received by that public body, unless this time limit is extended under section 10.

## **Division 2 — Exceptions**

### **Cabinet and local public body confidences**

- 12** (1) The head of a public body must refuse to disclose to an applicant information that would reveal the substance of deliberations of the Executive Council or any of its committees, including any advice, recommendations, policy considerations or draft legislation or regulations submitted or prepared for submission to the Executive Council or any of its committees.
- (2) Subsection (1) does not apply to
- (a) information in a record that has been in existence for 15 or more years,
  - (b) information in a record of a decision made by the Executive Council or any of its committees on an appeal under an Act, or
  - (c) information in a record the purpose of which is to present background explanations or analysis to the Executive Council or any of its committees for its consideration in making a decision if
    - (i) the decision has been made public,
    - (ii) the decision has been implemented, or
    - (iii) 5 or more years have passed since the decision was made or considered.
- (3) The head of a local public body may refuse to disclose to an applicant information that would reveal
- (a) a draft of a resolution, bylaw or other legal instrument by which the local public body acts or a draft of a private Bill, or
  - (b) the substance of deliberations of a meeting of its elected officials or of its governing body or a committee of its governing body, if an Act or a regulation under this Act authorizes the holding of that meeting in the absence of the public.
- (4) Subsection (3) does not apply if
- (a) the draft of the resolution, bylaw, other legal instrument or private Bill or the subject matter of the deliberations has been considered in a meeting open to the public, or

- (b) the information referred to in that subsection is in a record that has been in existence for 15 or more years.
- (5) The Lieutenant Governor in Council by regulation may designate a committee for the purposes of this section.
- (6) A committee may be designated under subsection (5) only if
  - (a) the Lieutenant Governor in Council considers that
    - (i) the deliberations of the committee relate to the deliberations of the Executive Council, and
    - (ii) the committee exercises functions of the Executive Council, and
  - (b) at least 1/3 of the members of the committee are members of the Executive Council.
- (7) In subsections (1) and (2), "**committee**" includes a committee designated under subsection (5).

### **Policy advice or recommendations**

- 13** (1) The head of a public body may refuse to disclose to an applicant information that would reveal advice or recommendations developed by or for a public body or a minister.
- (2) The head of a public body must not refuse to disclose under subsection (1)
- (a) any factual material,
  - (b) a public opinion poll,
  - (c) a statistical survey,
  - (d) an appraisal,
  - (e) an economic forecast,
  - (f) an environmental impact statement or similar information,
  - (g) a final report or final audit on the performance or efficiency of a public body or on any of its policies or its programs or activities,
  - (h) a consumer test report or a report of a test carried out on a product to test equipment of the public body,
  - (i) a feasibility or technical study, including a cost estimate, relating to a policy or project of the public body,
  - (j) a report on the results of field research undertaken before a policy proposal is formulated,
  - (k) a report of a task force, committee, council or similar body that has been established to consider any matter and make reports or recommendations to a public body,
  - (l) a plan or proposal to establish a new program or activity or to change a program or activity, if the plan or proposal has been approved or rejected by

the head of the public body,

- (m) information that the head of the public body has cited publicly as the basis for making a decision or formulating a policy, or
- (n) a decision, including reasons, that is made in the exercise of a discretionary power or an adjudicative function and that affects the rights of the applicant.

(3) Subsection (1) does not apply to information in a record that has been in existence for 10 or more years.

### **Legal advice**

- 14** The head of a public body may refuse to disclose to an applicant information that is subject to solicitor client privilege.

### **Disclosure harmful to law enforcement**

- 15** (1) The head of a public body may refuse to disclose information to an applicant if the disclosure could reasonably be expected to
- (a) harm a law enforcement matter,
  - (b) prejudice the defence of Canada or of any foreign state allied to or associated with Canada or harm the detection, prevention or suppression of espionage, sabotage or terrorism,
  - (c) harm the effectiveness of investigative techniques and procedures currently used, or likely to be used, in law enforcement,
  - (d) reveal the identity of a confidential source of law enforcement information,
  - (e) reveal criminal intelligence that has a reasonable connection with the detection, prevention or suppression of organized criminal activities or of serious and repetitive criminal activities,
  - (f) endanger the life or physical safety of a law enforcement officer or any other person,
  - (g) reveal any information relating to or used in the exercise of prosecutorial discretion,
  - (h) deprive a person of the right to a fair trial or impartial adjudication,
  - (i) reveal a record that has been confiscated from a person by a peace officer in accordance with an enactment,
  - (j) facilitate the escape from custody of a person who is under lawful detention,
  - (k) facilitate the commission of an offence under an enactment of British Columbia or Canada, or
  - (l) 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 under an Act of Parliament,
  - (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) The head of a public body must not refuse to disclose under this section
- (a) a report prepared in the course of routine inspections by an agency that is authorized to enforce compliance with an Act,
  - (b) a report, including statistical analysis, on the degree of success achieved in a law enforcement program or activity unless disclosure of the report could reasonably be expected to interfere with or harm any of the matters referred to in subsection (1) or (2), or
  - (c) statistical information on decisions under the [Crown Counsel Act](#) to approve or not to approve prosecutions.
- (4) The head of a public body must not refuse, after a police investigation is completed, to disclose under this section the reasons for a decision not to prosecute
- (a) to a person who knew of and was significantly interested in the investigation, including a victim or a relative or friend of a victim, or
  - (b) to any other member of the public, if the fact of the investigation was made public.

### **Disclosure harmful to intergovernmental relations or negotiations**

- 16** (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 the conduct by the government of British Columbia of relations between that government and any of the following or their agencies:
    - (i) the government of Canada or a province of Canada;
    - (ii) the council of a municipality or the board of a regional district;
    - (iii) an Indigenous governing entity;
    - (iv) the government of a foreign state;
    - (v) an international organization of states,
  - (b) reveal information received in confidence from a government, council or organization listed in paragraph (a) or their agencies, or

- (c) harm the conduct of negotiations relating to Indigenous self-government or treaties.
- (2) Moreover, the head of a public body must not disclose information referred to in subsection (1) without the consent of
  - (a) the Attorney General, for law enforcement information, or
  - (b) the Executive Council, for any other type of information.
- (3) Subsection (1) does not apply to information that is in a record that has been in existence for 15 or more years unless the information is
  - (a) law enforcement information, or
  - (b) information referred to in subsection (1) (a) (iii) or (c).

### **Disclosure harmful to the financial or economic interests of a public body**

- 17** (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 of British Columbia or the ability of that government to manage the economy, including the following information:
- (a) trade secrets of a public body or the government of British Columbia;
  - (b) financial, commercial, scientific or technical information that belongs to a public body or to the government of British Columbia 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;
  - (e) information about negotiations carried on by or for a public body or the government of British Columbia;
  - (f) information the disclosure of which could reasonably be expected to harm the negotiating position of a public body or the government of British Columbia.
- (2) The head of a public body may refuse to disclose under subsection (1) research information if the disclosure could reasonably be expected to deprive the researcher of priority of publication.
- (3) The head of a public body must not refuse to disclose under subsection (1) the results of product or environmental testing carried out by or for that 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.

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

- 18** 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, subspecies or race of plants, vertebrates or invertebrates, or
  - (c) any other rare or endangered living resources.

### **Disclosure harmful to interests of an Indigenous people**

- 18.1** (1) The head of a public body must refuse to disclose information if the disclosure could reasonably be expected to harm the rights of an Indigenous people to maintain, control, protect or develop any of the following with respect to the Indigenous people:
- (a) cultural heritage;
  - (b) traditional knowledge;
  - (c) traditional cultural expressions;
  - (d) manifestations of sciences, technologies or cultures.
- (2) Subsection (1) does not apply if the Indigenous people has consented in writing to the disclosure.

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

- 19** (1) The head of a public body may refuse to disclose to an applicant information, including personal information about the applicant, if the disclosure could reasonably be expected to
- (a) threaten anyone else's safety or mental or physical health, or
  - (b) interfere with public safety.
- (2) The head of a public body may refuse to disclose to an applicant personal information about the applicant if the disclosure could reasonably be expected to result in immediate and grave harm to the applicant's safety or mental or physical health.

### **Information that will be published or released within 60 days**

- 20** (1) The head of a public body may refuse to disclose to an applicant information
- (a) [Repealed 2011-17-6.]
  - (b) that, within 60 days after the applicant's request is received, is to be published or released to the public, or
  - (c) that must be published or released to the public under an enactment.

- (2) The head of a public body must notify an applicant of the publication or release of information that the head has refused to disclose under subsection (1).
- (3) If the information referred to in subsection (1) (b) is not published or released to the public within 60 days after the applicant's request is received, the head of the public body must disclose the information to the applicant on, or within 30 days of, that date unless the head of the public body is authorized or required to refuse to disclose the information under other sections of this Division.

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

- 21** (1) The head of a public body must refuse to disclose to an applicant information
- (a) that would reveal
    - (i) trade secrets of a third party, or
    - (ii) commercial, financial, labour relations, scientific or technical information of or about a third party,
  - (b) that is supplied, implicitly or explicitly, in confidence, and
  - (c) the disclosure of which could reasonably be expected to
    - (i) harm significantly the competitive position or interfere significantly with the negotiating position of the third party,
    - (ii) result in similar information no longer being supplied to the public body when it is in the public interest that similar information continue to be supplied,
    - (iii) result in undue financial loss or gain to any person or organization, or
    - (iv) reveal information supplied to, or the report of, an arbitrator, mediator, labour relations officer or other person or body appointed to resolve or inquire into a labour relations dispute.
- (2) The head of a public body must refuse to disclose to an applicant information that was obtained on a tax return or gathered for the purpose of determining tax liability or collecting a tax.
- (3) Subsections (1) and (2) do not apply if
- (a) the third party consents to the disclosure, or
  - (b) the information is in a record that is in the custody or under the control of the digital archives or museum archives of government or the archives of a public body and that has been in existence for 50 or more years.

### **Disclosure harmful to personal privacy**

- 22** (1) The head of a public body must refuse to disclose personal information to an applicant if the disclosure would be an unreasonable invasion of a third party's personal privacy.
- (2) In determining under subsection (1) or (3) whether a disclosure of personal information constitutes an unreasonable invasion of a third party's personal privacy,



the head of a public body must consider all the relevant circumstances, including whether

- (a) the disclosure is desirable for the purpose of subjecting the activities of the government of British Columbia or a public body to public scrutiny,
- (b) the disclosure is likely to promote public health and safety or to promote the protection of the environment,
- (c) the personal information is relevant to a fair determination of the applicant's rights,
- (d) the disclosure will assist in researching or validating the claims, disputes or grievances of Indigenous peoples,
- (e) the third party will be exposed unfairly to financial or other harm,
- (f) the personal information has been supplied in confidence,
- (g) the personal information is likely to be inaccurate or unreliable,
- (h) the disclosure may unfairly damage the reputation of any person referred to in the record requested by the applicant, and
- (i) the information is about a deceased person and, if so, whether the length of time the person has been deceased indicates the disclosure is not an unreasonable invasion of the deceased person's personal privacy.

(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, psychiatric or psychological 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, occupational 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, income, assets, liabilities, net worth, bank balances, financial history or activities, or creditworthiness,
- (g) the personal information consists of personal recommendations or evaluations, character references or personnel evaluations about the third party,
- (h) the disclosure would reveal

- (i) the identity of a third party who supplied, in confidence, a personal recommendation or evaluation, character reference or personnel evaluation, or
    - (ii) the content of a personal recommendation or evaluation, character reference or personnel evaluation supplied, in confidence, by a third party, if the applicant could reasonably be expected to know the identity of the third party,
  - (i) the personal information indicates the third party's racial or ethnic origin, sexual orientation or religious or political beliefs or associations, or
  - (j) the personal information consists of the third party's name, address, or telephone number and is to be used for mailing lists or solicitations by telephone or other means.
- (4) 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 anyone's health or safety and notice of disclosure is mailed to the last known address of the third party,
  - (c) an enactment of British Columbia or Canada authorizes the disclosure,
  - (d) the disclosure is for a research or statistical purpose and is in accordance with section 33 (3) (h),
  - (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 and other details of a contract to supply goods or services to a public body,
  - (g) public access to the information is provided under the [Financial Information Act](#),
  - (h) the information is about expenses incurred by the third party while travelling at the expense of a public body,
  - (i) the disclosure, in respect of
    - (i) a licence, a permit or any other similar discretionary benefit, or
    - (ii) a degree, a diploma or a certificate,reveals any of the following with respect to the applicable item in subparagraph (i) or (ii):
    - (iii) the name of the third party to whom the item applies;
    - (iv) what the item grants or confers on the third party or authorizes the third party to do;
    - (v) the status of the item;
    - (vi) the date the item was conferred or granted;

- (vii) the period of time the item is valid;
- (viii) the date the item expires, or
- (j) the disclosure, in respect of a discretionary benefit of a financial nature granted to a third party by a public body, not including personal information referred to in subsection (3) (c), reveals any of the following with respect to the benefit:
  - (i) the name of the third party to whom the benefit applies;
  - (ii) what the benefit grants to the third party;
  - (iii) the date the benefit was granted;
  - (iv) the period of time the benefit is valid;
  - (v) the date the benefit ceases.
- (5) On refusing, under this section, to disclose personal information supplied in confidence about an applicant, the head of the public body must give the applicant a summary of the information unless
  - (a) the summary cannot be prepared without disclosing the identity of a third party who supplied the personal information, or
  - (b) with respect to subsection (3) (h), either paragraph (a) of this subsection applies or the applicant could reasonably be expected to know the identity of the third party who supplied the personal recommendation or evaluation, character reference or personnel evaluation.
- (6) The head of the public body may allow the third party to prepare the summary of personal information under subsection (5).

## **Disclosure of information relating to abortion services**

- 22.1** (1) In this section, "**abortion services**" means lawful medical services for the termination of a pregnancy.
- (2) The head of a public body must refuse to disclose to an applicant information that relates to the provision of abortion services.
- (3) Subsection (2) does not apply to the following:
- (a) information about abortion services that were received by the applicant;
  - (b) statistical information, including financial information, relating to the total number of abortion services provided throughout
    - (i) British Columbia, or
    - (ii) a region that is designated under section 4 (1) (b) of the [Health Authorities Act](#) if more than one health care body provides abortion services in that region;
  - (c) information about a public body's policies on the provision of abortion services.

- (4) Nothing in this section prevents any other provision of this Act from applying if a request is made under section 5 by an applicant for access to a record containing information about abortion services that were received by the applicant.

### **Division 3 — Notice to Third Parties**

#### **Notifying the third party**

- 23** (1) If the head of a public body intends to give access to a record that the head has reason to believe contains information that might be excepted from disclosure under section 18.1, 21 or 22, the head must give the third party a written notice under subsection (3).
- (2) If the head of a public body does not intend to give access to a record that contains information excepted from disclosure under section 18.1, 21 or 22, the head may give the third party a written notice under subsection (3).
- (3) The notice must
- (a) state that a request has been made by an applicant for access to a record containing information the disclosure of which may affect the interests or invade the personal privacy of the third party,
  - (b) describe the contents of the record, and
  - (c) state that, within 20 days after the notice is given, the third party may, in writing, consent to the disclosure or may make written representations to the public body explaining why the information should not be disclosed.
- (4) When notice is given under subsection (1), the head of the public body must also give the applicant a notice stating that
- (a) the record requested by the applicant contains information the disclosure of which may affect the interests or invade the personal privacy of a third party,
  - (b) the third party is being given an opportunity to make representations concerning disclosure, and
  - (c) a decision will be made within 30 days about whether or not to give the applicant access to the record.

#### **Time limit and notice of decision**

- 24** (1) Within 30 days after notice is given under section 23 (1) or (2), the head of the public body must decide whether or not to give access to the record or to part of the record, but no decision may be made before the earlier of
- (a) 21 days after the day notice is given, or
  - (b) the day a response is received from the third party.
- (2) On reaching a decision under subsection (1), the head of the public body must give written notice of the decision to

- (a) the applicant, and
  - (b) the third party.
- (3) If the head of the public body decides to give access to the record or to part of the record, the notice must state that the applicant will be given access unless the third party asks for a review under section 53 or 63 within 20 days after the day notice is given under subsection (2).

## **Division 4 — Public Interest Paramount**

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

- 25** (1) Whether or not a request for access is made, the head of a public body must, without delay, disclose to the public, to an affected group of people 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) Subsection (1) applies despite any other provision of this Act.
- (3) Before disclosing information under subsection (1), the head of a public body must, if practicable, notify
- (a) any third party to whom the information relates, and
  - (b) the commissioner.
- (4) If it is not practicable to comply with subsection (3), the head of the public body must mail a notice of disclosure in the prescribed form
- (a) to the last known address of the third party, and
  - (b) to the commissioner.

## **Part 3 — Protection of Privacy**

### **Division 1 — Collection, Protection and Retention of Personal Information by Public Bodies**

#### **Unauthorized collection, use and disclosure of personal information prohibited**

- 25.1** An employee, officer or director of a public body or an employee or associate of a service provider must not collect, use or disclose personal information except as authorized by this Act.

#### **Purpose for which personal information may be collected**

- 26** A public body may collect personal information only if
- (a) the collection of the information is expressly authorized under an Act,

- (b) the information is collected for the purposes of law enforcement,
- (c) the information relates directly to and is necessary for a 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 purposes 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 domestic violence, if domestic violence is reasonably likely to occur,
- (g) 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
- (h) 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 69.2, 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 69.2.

### **How personal information is to be collected**

- 27** (1) A public body must collect personal information directly from the individual the information is about unless
- (a) another method of collection is authorized by
    - (i) that individual,
    - (ii) the commissioner under section 42 (1) (i), or
    - (iii) another enactment,
  - (a.1) the collection of the information is necessary for the medical treatment of an individual and it is not possible
    - (i) to collect the information directly from that individual, or

- (ii) to obtain authority under paragraph (a) (i) for another method of collection,
  - (b) the information may be disclosed to the public body under section 33,
  - (c) 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, or
    - (v) reducing the risk that an individual will be a victim of domestic violence, if domestic violence is reasonably likely to occur,
  - (c.1) 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 British Columbia, other than this Act, or an enactment of Canada,
  - (c.2) the information is collected from a body disclosing it under an enactment of another province or of Canada,
  - (d) the information is transferred to the public body from another public body in accordance with section 27.1,
  - (e) the collection of the information is necessary for delivering or evaluating a common or integrated program or activity,
  - (f) the information is about an employee, other than a service provider, and the collection of the information is necessary for the purposes of managing or terminating an employment relationship between a public body and the employee, or
  - (g) 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 69.2.
- (2) A public body must ensure that an individual from whom it collects personal information is told
- (a) the purpose for collecting it,
  - (b) the legal authority for collecting it, and
  - (c) the contact information of an officer or employee of the public body who can answer the individual's questions about the collection.
- (3) Subsection (2) does not apply if
- (a) the information is about law enforcement or anything referred to in section 15 (1) or (2),

- (b) the minister responsible for this Act excuses a public body from complying with it because doing so 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 subsection (1), 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.
- (4) A public body must notify an employee, other than a service provider, that it will be collecting personal information under subsection (1) (f) unless it is reasonable to expect that the notification would compromise
- (a) the availability or the accuracy of the information, or
  - (b) an investigation or a proceeding related to the employment of the employee.

### **When personal information is not collected**

- 27.1** (1) Personal information that is received by a public body is not collected by the public body for the purposes of this Act 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
    - (i) read all or a part of it and then delete, destroy or return it, or
    - (ii) read all or a part of it and then transfer it in accordance with subsection (2).
- (2) For the purpose of subsection (1) (b) (ii), a public body may transfer personal information to
- (a) another public body, or
  - (b) a government institution subject to the [Privacy Act](#) (Canada)

if the public body determines the information relates to a program or activity of the other public body or government institution referred to in paragraph (a) or (b).

### **Accuracy of personal information**



- (a) an individual's personal information is in the custody or under the control of a public body, and
- (b) the personal information will be used by or on behalf of the public body to make a decision that directly affects the individual,

the public body must make every reasonable effort to ensure that the personal information is accurate and complete.

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

- 29** (1) An individual who believes there is an error or omission in personal information about the individual that is in the custody or under the control of a public body may request the head of the public body to correct the information.
- (2) If no correction is made in response to a request under subsection (1), the head of the public body must annotate the information with the correction that was requested but not made.
- (3) On correcting or annotating personal information under this section, the head of the public body must notify any other public body or any third party to whom that information has been disclosed during the one year period before the correction was requested.
- (4) On being notified under subsection (3) of a correction or annotation of personal information, a public body must make the correction or annotation on any record of that information in its custody or under its control.

### **Protection of personal information**

- 30** A public body must protect personal information in its custody or under its control by making reasonable security arrangements against such risks as unauthorized collection, use, disclosure or disposal.

### **Repealed**

**30.1-30.2** [Repealed 2021-39-17.]

### **Whistle-blower protection**

- 30.3** An employer, whether or not a public body, must not dismiss, suspend, demote, discipline, harass or otherwise disadvantage an employee of the employer, or deny that employee a benefit, because
- (a) [Repealed 2021-39-18.]
  - (b) the employee, acting in good faith and on the basis of reasonable belief, has disclosed to the commissioner that the employer or any other person has contravened or is about to contravene this Act,
  - (c) the employee, acting in good faith and on the basis of reasonable belief, has done or stated an intention of doing anything that is required to be done in

order to avoid having any person contravene this Act,

- (d) the employee, acting in good faith and on the basis of reasonable belief, has refused to do or stated an intention of refusing to do anything that is in contravention of this Act, or
- (e) the employer believes that an employee will do anything described in paragraph (b), (c) or (d).

## **Repealed**

**30.4** [Repealed 2021-39-17.]

## **Notification of unauthorized disclosure**

**30.5** (1) [Repealed 2021-39-17.]

- (2) An employee, officer or director of a public body, or an employee or associate of a service provider, who knows that there has been an unauthorized disclosure of personal information that is in the custody or under the control of the public body must immediately notify the head of the public body.

## **Retention of personal information**

**31** If an individual's personal information

- (a) is in the custody or under the control of a public body, and
- (b) is used by or on behalf of the public body to make a decision that directly affects the individual,

the public body must ensure that the personal information is retained for at least one year after being used so that the affected individual has a reasonable opportunity to obtain access to that personal information.

## **Repealed**

**31.1** [Repealed 2021-39-19.]

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

### **Use of personal information**

**32** A public body may use personal information in its custody or under its control only

- (a) for the purpose for which the information was obtained or compiled, or for a use consistent with that purpose,
- (b) if the individual the information is about has identified the information and has consented, in the prescribed manner, to the use, or
- (c) for a purpose for which the information may be disclosed to the public body under section 33.

### **Disclosure of personal information**

**33** (1) A public body may disclose personal information in its custody or under its control only as permitted by subsections (2) to (9) or by section 33.3.

(2) A public body may disclose personal information in any of the following circumstances:

- (a) in accordance with Part 2;
- (b) if the information or disclosure is of a type described in section 22 (4) (e), (f), (h), (i) or (j);
- (c) if the individual the information is about has identified the information and has consented, in the prescribed manner, to the disclosure;
- (d) for the purpose for which the information was obtained or compiled, or for a use consistent with that purpose within the meaning of section 34 *[definition of consistent purpose]*;
- (e) in accordance with an enactment of British Columbia or of Canada that authorizes or requires the disclosure;
- (f) if the information is made available to the public under an enactment that authorizes or requires the information to be made public;
- (g) 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 British Columbia, other than this Act, or an enactment of Canada;
- (h) to an officer or employee of the public body, or to a minister, if the information is necessary for the performance of the duties of the officer, employee or minister;
- (i) to an officer or employee of a public body, or to a minister, if the information is necessary to protect the health or safety of the officer, employee or minister;
- (j) to an officer or employee of a public body, or to a minister, if the information is necessary for the purposes of planning or evaluating a program or activity of a public body;
- (k) to an officer or employee of a public body or an 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 the duties, respecting the common or integrated program or activity, of the officer, employee or minister to whom the information is disclosed;
- (l) to comply with a subpoena, warrant or order issued or made by a court or person in Canada with jurisdiction to compel the production of information in Canada;
- (m) to the Attorney General or legal counsel for the public body

- (i) for the purpose of preparing or obtaining legal advice for the government or public body, or
  - (ii) for use in civil proceedings involving the government or public body;
- (n) to the minister responsible for the [Coroners Act](#) or a person referred to in section 31 (1) of that Act, for the purposes of that Act;
- (o) for the purpose of collecting amounts owing to the government or a public body by
  - (i) an individual, or
  - (ii) a corporation of which the individual the information is about is or was a director or officer;
- (p) for the purposes of
  - (i) a payment to be made to or by the government or a public body,
  - (ii) authorizing, administering, processing, verifying or cancelling a payment, or
  - (iii) resolving an issue regarding a payment;
- (q) for the purposes of licensing, registering, insuring, investigating or disciplining persons regulated by governing bodies of professions or occupations;
- (r) if the information was collected by observation at a presentation, ceremony, performance, sports meet or similar event
  - (i) that was open to the public, and
  - (ii) at which the individual the information is about appeared voluntarily;
- (s) to the auditor general or a prescribed person or body for audit purposes;
- (t) if the disclosure is necessary for
  - (i) installing, implementing, maintaining, repairing, troubleshooting or upgrading an electronic system or equipment that includes an electronic system, or
  - (ii) data recovery that is undertaken following the failure of an electronic system,that is used by the public body, or by a service provider for the purposes of providing services to a public body;
- (u) if the disclosure is necessary for the processing of information and the following apply:
  - (i) the processing does not involve the intentional accessing of the information by an individual;
  - (ii) any processing done outside of Canada is temporary;
- (v) if the information is metadata and the following apply:
  - (i) the metadata is generated by an electronic system;

- (ii) the metadata describes an individual's interaction with the electronic system;
- (iii) if practicable, information in individually identifiable form has been removed from the metadata or destroyed;
- (iv) in the case of disclosure to a service provider, the public body has prohibited subsequent use or disclosure of information in individually identifiable form without the express authorization of the public body;
- (w) if the information
  - (i) was disclosed on social media by the individual the information is about,
  - (ii) was obtained or compiled by the public body for the purpose of enabling the public body to engage individuals in public discussion or promotion respecting proposed or existing initiatives, policies, programs or activities of the public body or respecting legislation relating to the public body, and
  - (iii) is disclosed for a use that is consistent with the purpose described in subparagraph (ii);
- (x) to an Indigenous governing entity for the purposes of a program or activity that supports the exercise of the rights recognized and affirmed by [section 35 of the Constitution Act, 1982](#).

(3) A public body may disclose personal information in any of the following circumstances:

- (a) if
  - (i) the head of the public body determines that compelling circumstances that affect anyone's health or safety exist, and
  - (ii) notice of disclosure is mailed to the last known address of the individual the information is about, unless the head of the public body considers that the notice could harm anyone's health or safety;
- (b) for the purpose of reducing the risk that an individual will be a victim of domestic violence, if domestic violence is reasonably likely to occur;
- (c) to enable the next of kin or a friend of an injured, ill or deceased individual to be contacted;
- (d) to a public body, or a law enforcement agency in Canada, to assist in a specific investigation
  - (i) undertaken with a view to a law enforcement proceeding, or
  - (ii) from which a law enforcement proceeding is likely to result;
- (e) to a member of the Legislative Assembly who has been requested by the individual the information is about to assist in resolving a problem;

- (f) to a representative of a bargaining agent who has been authorized in writing by the employee the information is about to make an inquiry;
- (g) to the digital archives or museum archives of government or the archives of a public body, for archival purposes;
- (h) for a research purpose, including statistical research, if
  - (i) the research purpose cannot be accomplished unless the information is disclosed in individually identifiable form, or the research purpose has been approved by the commissioner,
  - (ii) the information is disclosed on condition that it not be used for the purpose of contacting a person to participate in the research unless
    - (A) the research is in relation to health issues, and
    - (B) the commissioner has approved the research purpose, the use of the information for the purpose of contacting a person to participate in the research and the manner in which contact is to be made, including the information to be made available to the person contacted,
  - (iii) 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,
  - (iv) the head of the public body has approved conditions relating to the following:
    - (A) security and confidentiality;
    - (B) the removal or destruction of individual identifiers at the earliest reasonable time;
    - (C) the prohibition of subsequent use or disclosure of the information in individually identifiable form without the express authorization of the public body, and
  - (v) the person to whom the information is disclosed has signed an agreement to comply with the approved conditions, this Act and the public body's policies and procedures relating to the confidentiality of personal information.

(4) In addition to the authority under any other provision of this section, the digital archives or museum archives of government or archives of a public body may disclose personal information in its custody or under its control for archival or historical purposes if

- (a) the disclosure would not be an unreasonable invasion of personal privacy under section 22,
- (b) the information is about an individual who has been deceased for 20 or more years, or
- (c) the information is in a record that has been in existence for 100 or more years.

(5) In addition to the authority under any other provision of this section, a board or a francophone education authority, as those are defined in the [School Act](#), may disclose personal information in its custody or under its control to a museum, an archives or a similar institution that is or forms part of a public body or an organization, as the latter is defined in the [Personal Information Protection Act](#), if

- (a) the disclosure would not be an unreasonable invasion of personal privacy under section 22 of this Act,
- (b) the information is about an individual who has been deceased for 20 or more years, or
- (c) the information is in a record that has been in existence for 100 or more years.

(6) In addition to the authority under any other provision of this section, a public body that is a law enforcement agency may disclose personal information

- (a) to another law enforcement agency in Canada, or
- (b) to a law enforcement agency in a foreign state under an arrangement, written agreement or treaty or under provincial or Canadian legislative authority.

(7) In addition to the authority under any other provision of this section, the Insurance Corporation of British Columbia may disclose personal information

- (a) for the purposes of
  - (i) licensing or registering motor vehicles or drivers, or
  - (ii) verifying motor vehicle registration, insurance or driver licences, or
- (b) if
  - (i) the information was obtained or compiled by the Insurance Corporation of British Columbia for the purposes of insurance it provides, and
  - (ii) the disclosure is necessary to investigate, manage or settle a specific insurance claim.

(8) In addition to the authority under any other provision of this section, 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 69.2, 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.

(9) In addition to the authority under any other provision of this section, 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 69.2.

### **Disclosure outside of Canada**

- 33.1** A public body may disclose personal information outside of Canada only if the disclosure is in accordance with the regulations, if any, made by the minister responsible for this Act.

### **Repealed**

- 33.2** [Repealed 2021-39-21.]

### **Disclosure of personal information in records available to public without request**

- 33.3** (1) A public body may disclose to the public a record that is within a category of records established under section 71 (1).
- (2) A ministry may disclose to the public a record that is within a category of records established under section 71.1 (1).

### **Definition of consistent purpose**

- 34** For the purposes of section 32 (a) or 33 (2) (d) or (w), a use of personal information is consistent with the purpose for which the information was obtained or compiled 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 program or activity of, the public body that uses or discloses the information.

### **Repealed**

- 35-36** [Repealed 2021-39-21.]

## **Division 3 — Data-linking Programs**

### **Data-linking programs**

- 36.1** (1) This section does not apply to a data-linking program that is part of research for the purpose of which personal information may be disclosed under section 33 (3) (h).
- (2) A public body conducting a data-linking program must comply with the regulations, if any, made for the purposes of this section.

## **Part 4 — Office and Powers of Information and Privacy Commissioner**

### **Appointment of commissioner**

- 37** (1) On the recommendation of the Legislative Assembly, the Lieutenant Governor must appoint as the Information and Privacy Commissioner a person who has been



unanimously recommended by a special Committee of the Legislative Assembly for the appointment.

- (2) The commissioner is an officer of the Legislature.
- (3) Subject to section 38, the commissioner holds office for a term of 6 years.
- (4) [Repealed 2005-25-1.]

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

- 38** (1) The commissioner may resign at any time by notifying the Speaker of the Legislative Assembly or, if there is no speaker or the speaker is absent from British Columbia, by notifying the clerk of the Legislative Assembly.
- (2) The Lieutenant Governor in Council must remove the commissioner from office or suspend the commissioner for cause or incapacity on the recommendation of 2/3 of the members present in the Legislative Assembly.
  - (3) If the Legislative Assembly is not sitting, the Lieutenant Governor in Council may suspend the commissioner for cause or incapacity.

### **Acting commissioner**

- 39** (1) The Lieutenant Governor in Council may appoint an acting commissioner if
- (a) the office of commissioner is or becomes vacant when the Legislative Assembly is not sitting,
  - (b) the commissioner is suspended when the Legislative Assembly is not sitting,
  - (c) the commissioner is removed or suspended or the office of the commissioner becomes vacant when the Legislative Assembly is sitting, but no recommendation is made by the Assembly under section 37 (1) before the end of the session, or
  - (d) the commissioner is temporarily absent because of illness or for another reason.
- (2) An acting commissioner holds office until
- (a) a person is appointed under section 37 (1),
  - (b) the suspension of the commissioner ends,
  - (c) the Legislative Assembly has sat for 20 days after the date of the acting commissioner's appointment, or
  - (d) the commissioner returns to office after a temporary absence,
- whichever is the case and whichever occurs first.

### **Salary, expenses and benefits of commissioner**

- 40** (1) A commissioner appointed under section 37 (1) or 39 (1) is entitled
- (a) to be paid, out of the consolidated revenue fund, a salary equal to the salary paid to the chief judge of the Provincial Court, and

- (b) to be reimbursed for reasonable travelling and out of pocket expenses personally incurred in performing the duties of the office.
- (2) The Lieutenant Governor in Council may, on terms and conditions the Lieutenant Governor in Council specifies, order that the Public Service Pension Plan, continued under the *Public Sector Pension Plans Act*, applies to the commissioner.
- (3) If an order is made under subsection (2), the Public Service Pension Plan applies subject to subsection (4).
- (4) When calculating the amount of a pension under the Public Service Pension Plan, each year of service as commissioner must be counted as 1 1/2 years of pensionable service.
- (5) [Repealed 2003-62-2.]

### **Staff of commissioner**

- 41** (1) The commissioner may appoint, in accordance with the *Public Service Act*, employees necessary to enable the commissioner to perform the duties of the office.
- (2) The commissioner may retain any consultants, mediators or other persons and may establish their remuneration and other terms and conditions of their retainers.
  - (3) The *Public Service Act* does not apply in respect of a person retained under subsection (2).
  - (4) The commissioner may make a special report to the Legislative Assembly if, in the commissioner's opinion,
    - (a) the amounts and establishment provided for the office of commissioner in the estimates, or
    - (b) the services provided by the BC Public Service Agencyare inadequate for fulfilling the duties of the office.

### **General powers of commissioner**

- 42** (1) In addition to the commissioner's powers and duties under Part 5 with respect to reviews, the commissioner is generally responsible for monitoring how this Act is administered to ensure that its purposes are achieved, and may
- (a) conduct investigations and audits to ensure compliance with any provision of this Act or the regulations,
  - (b) make an order described in section 58 (3), whether the order results from an investigation or audit under paragraph (a) or an inquiry under section 56,
  - (c) inform the public about this Act,
  - (d) receive comments from the public about the administration of this Act,
  - (e) engage in or commission research into anything affecting the achievement of the purposes of this Act,

- (f) comment on the implications for access to information or for protection of privacy of proposed legislative schemes or programs or activities of public bodies,
  - (g) comment on the implications for access to information or for protection of privacy of automated systems for collection, storage, analysis or transfer of information,
  - (h) [Repealed 2021-39-26.]
  - (i) authorize the collection of personal information from sources other than the individual the information is about, and
  - (j) bring to the attention of the head of a public body any failure to meet the prescribed standards for fulfilling the duty to assist applicants.
- (2) Without limiting subsection (1), the commissioner may investigate and attempt to resolve complaints that
- (a) a duty imposed under this Act has not been performed,
  - (b) an extension of time for responding to a request is not in accordance with section 10 (1),
  - (c) a fee required under this Act is inappropriate,
  - (d) a correction of personal information requested under section 29 (1) has been refused without justification, and
  - (e) personal information has been collected, used or disclosed in contravention of Part 3 by
    - (i) a public body or an employee, officer or director of a public body, or
    - (ii) an employee or associate of a service provider.

#### **Power to authorize a public body to disregard a request**

- 43** If the head of a public body asks, the commissioner may authorize the public body to disregard a request under section 5 or 29, including because
- (a) the request is frivolous or vexatious,
  - (b) the request is for a record that has been disclosed to the applicant or that is accessible by the applicant from another source, or
  - (c) responding to the request would unreasonably interfere with the operations of the public body because the request
    - (i) is excessively broad, or
    - (ii) is repetitious or systematic.

#### **Powers of commissioner in conducting investigations, audits or inquiries**

- 44** (1) For the purposes of conducting an investigation or an audit under section 42 or an inquiry under section 56, the commissioner may make an order requiring a person to do either or both of the following:

- (a) attend, in person or by electronic means, before the commissioner to answer questions on oath or affirmation, or in any other manner;
  - (b) produce for the commissioner a record in the custody or under the control of the person, including a record containing personal information.
- (2) The commissioner may apply to the Supreme Court for an order
  - (a) directing a person to comply with an order made under subsection (1), or
  - (b) directing any directors and officers of a person to cause the person to comply with an order made under subsection (1).
- (2.1) If a person discloses a record that is subject to solicitor client privilege to the commissioner at the request of the commissioner, or under subsection (1), the solicitor client privilege of the record is not affected by the disclosure.
- (3) Despite any other enactment or any privilege of the law of evidence, a public body must produce to the commissioner within 10 days any record or a copy of any record required under subsection (1).
- (3.1) The commissioner may require a person to attempt to resolve the person's request for review or complaint against a public body in the way directed by the commissioner before the commissioner begins or continues an investigation under section 42 or an inquiry under section 56.
- (3.2) Subsection (3.1) applies whether or not a mediator has been authorized under section 55.
- (4) If a public body is required to produce a record under subsection (1) and it is not practicable to make a copy of the record, the head of that public body may require the commissioner to examine the original at its site.
- (5) After completing a review or investigating a complaint, the commissioner must return any record or any copy of any record produced under subsection (3) by the public body.

## **Maintenance of order at hearings**

- 44.1** (1) At an oral hearing, the commissioner may make orders or give directions that the commissioner considers necessary for the maintenance of order at the hearing, and, if any person disobeys or fails to comply with any order or direction, the commissioner may call on the assistance of any peace officer to enforce the order or direction.
- (2) A peace officer called on under subsection (1) may take any action that is necessary to enforce the order or direction and may use such force as is reasonably required for that purpose.
- (3) Without limiting subsection (1), the commissioner, by order, may
- (a) impose restrictions on a person's continued participation in or attendance at a hearing, and

- (b) exclude a person from further participation in or attendance at a hearing until the commissioner orders otherwise.

### **Contempt proceeding for uncooperative person**

- 44.2** (1) The failure or refusal of a person subject to an order under section 44 to do any of the following makes the person, on application to the Supreme Court by the commissioner, liable to be committed for contempt as if in breach of an order or judgment of the Supreme Court:
- (a) attend before the commissioner;
  - (b) take an oath or make an affirmation;
  - (c) answer questions;
  - (d) produce records in the person's custody or under the person's control.
- (2) The failure or refusal of a person subject to an order or direction under section 44.1 to comply with the order or direction makes the person, on application to the Supreme Court by the commissioner, liable to be committed for contempt as if in breach of an order or judgment of the Supreme Court.
- (3) Subsections (1) and (2) do not limit the conduct for which a finding of contempt may be made by the Supreme Court.

### **Statements made to the commissioner not admissible in evidence**

- 45** (1) A statement made or an answer given by a person during an investigation, audit or inquiry by the commissioner is inadmissible in evidence in court or in any other proceeding, except
- (a) in a prosecution for perjury in respect of sworn testimony,
  - (b) in a prosecution for an offence under this Act, or
  - (c) in an application for judicial review or an appeal from a decision with respect to that application.
- (2) Subsection (1) applies also in respect of evidence of the existence of proceedings conducted before the commissioner.

### **Protection against libel or slander actions**

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

### **Restrictions on disclosure of information by the commissioner and staff**

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

- (2) The commissioner may disclose, or may authorize anyone acting on behalf of or under the direction of the commissioner to disclose, information that is necessary to
- (a) conduct an investigation, audit or inquiry under this Act, or
  - (b) establish the grounds for findings and recommendations contained in a report under this Act.
- (2.1) The commissioner and anyone acting for or under the direction of the commissioner must not give or be compelled to give evidence in court or in any other proceedings in respect of any records or information obtained in performing their duties or exercising their powers and functions under this Act.
- (2.2) Despite subsection (2.1), the commissioner and anyone acting for or under the direction of the commissioner may give or be compelled to give evidence
- (a) in a prosecution for perjury in respect of sworn testimony,
  - (b) in a prosecution for an offence under this Act,
  - (c) in an investigation, a determination or a review referred to in section 60 (1), or
  - (d) in an application for judicial review of a decision made under this Act.
- (2.3) Subsections (2.1) and (2.2) apply also in respect of evidence of the existence of proceedings conducted before the commissioner.
- (3) In conducting an investigation, audit or inquiry under this Act and in a report under this Act, the commissioner and anyone acting for or under the direction of the commissioner must take every reasonable precaution to avoid disclosing and must not disclose
- (a) any information the head of a public body would be required or authorized to refuse to disclose if it were contained in a record requested under section 5, or
  - (b) whether information exists, if the head of a public body in refusing to provide access does not indicate whether the information exists.
- (4) The commissioner may disclose to the Attorney General information relating to the commission of an offence against an enactment of British Columbia or Canada if the commissioner considers there is evidence of an offence.
- (5) The commissioner may disclose, or may authorize anyone acting for or under the direction of the commissioner to disclose, information in the course of a prosecution, application or appeal referred to in section 45.

### **Protection of commissioner and staff**

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

## **Delegation by commissioner**

**49** (1) Subject to this section, the commissioner may delegate to any person any duty, power or function of the commissioner under this Act, other than the power to delegate under this section.

(1.1) The commissioner may not delegate the power to examine information referred to in section 15 if the head of a police force or the Attorney General

(a) has refused to disclose that information under section 15, and

(b) has requested the commissioner not to delegate the power to examine that information.

(1.2) Despite section 66, the head of a police force may not delegate the power to make a request under subsection (1.1) (b).

(1.3) Despite section 66, the Attorney General may only delegate the power to make a request under subsection (1.1) (b) to the Assistant Deputy Attorney General, Criminal Justice Branch.

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

## **Role of Ombudsperson**

**50** (1) Subject to subsection (2), the Ombudsperson may not investigate any matter that the commissioner has the power to investigate or review under this Act unless the commissioner agrees.

(2) Subsection (1) does not apply to the Ombudsperson's powers and duties under the [Public Interest Disclosure Act](#).

## **Annual report of commissioner**

**51** (1) The commissioner must report annually to the Speaker of the Legislative Assembly on

(a) the work of the commissioner's office, and

(b) any complaints or reviews resulting from a decision, act or failure to act of the commissioner as head of a public body.

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

# **Part 5 — Reviews and Complaints**

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

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

**52** (1) A person who makes a request to the head of a public body, other than the commissioner or the registrar under the [Lobbyists Transparency Act](#), for access to a record or for correction of personal information may ask the commissioner to review

any decision, act or failure to act, other than to require an application fee, of the head that relates to that request, including any matter that could be the subject of a complaint under section 42 (2).

- (2) A third party notified under section 24 of a decision to give access may ask the commissioner to review any decision made about the request by the head of a public body, other than the commissioner or the registrar under the [Lobbyists Transparency Act](#).

### **How to ask for a review**

- 53** (1) To ask for a review under this Division, a written request must be delivered to the commissioner.
- (2) A request for a review of a decision of the head of a public body must be delivered within
- (a) 30 days after the person asking for the review is notified of the decision, or
  - (b) a longer period allowed by the commissioner.
- (3) The failure of the head of a public body to respond in time to a request for access to a record is to be treated as a decision to refuse access to the record, but the time limit in subsection (2) (a) for delivering a request for review does not apply.

### **Notifying others of review**

- 54** On receiving a request for a review, the commissioner must give a copy to
- (a) the head of the public body concerned, and
  - (b) any other person that the commissioner considers appropriate.

### **Order for severing of information from records**

- 54.1** (1) After the head of a public body has responded to a request under section 5 and a request for review of that response has been received under section 52, the commissioner may, at any time, by order,
- (a) confirm that the head of the public body has failed to sever information from the records that are the subject of the review, as required by this Act, and
  - (b) require the head of the public body to sever information from the records in accordance with the directions and within the period set out in the order.
- (2) The commissioner may not set a period for severing information from a record under subsection (1) that is less than 30 days after the date a copy of the order is given to the head of the public body.

### **Mediation may be authorized**

- 55** The commissioner may authorize a mediator to investigate and to try to settle a matter under review.



## **Inquiry by commissioner**

- 56** (1) If the matter is not referred to a mediator or is not settled under section 55, the commissioner may conduct an inquiry and decide all questions of fact and law arising in the course of the inquiry.
- (2) An inquiry under subsection (1) may be conducted in private.
- (3) The person who asked for the review, the head of the public body concerned and any person given a copy of the request for a review must be given an opportunity to make representations to the commissioner during the inquiry.
- (4) The commissioner may decide
- (a) whether representations are to be made orally or in writing, and
  - (b) whether a person is entitled to be present during or to have access to or to comment on representations made to the commissioner by another person.
- (5) The person who asked for the review, the head of the public body concerned and any person given a copy of the request for a review may be represented at the inquiry by counsel or an agent.
- (6) Subject to subsection (8), an inquiry into a matter under review must be completed within 90 days after receiving the request for the review.
- (7) If the commissioner has required a person to attempt to resolve a matter under section 44 (3.1), the commissioner may defer beginning or may adjourn an investigation under section 42 or an inquiry under this section to enable the resolution of the matter in the way required under section 44 (3.1).
- (8) The period of an adjournment or deferral under subsection (7) must not be included for the purpose of calculating a deadline under subsection (6).

## **Burden of proof**

- 57** (1) At an inquiry into a decision to refuse an applicant access to all or part of a record, it is up to the head of the public body to prove that the applicant has no right of access to the record or part.
- (2) However, if the record or part that the applicant is refused access to contains personal information about a third party, it is up to the applicant to prove that disclosure of the information would not be an unreasonable invasion of the third party's personal privacy.
- (3) At an inquiry into 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, it is up to the applicant to prove that disclosure of the information would not be an unreasonable invasion of the third party's personal privacy, and
  - (b) in any other case, it is up to the third party to prove that the applicant has no right of access to the record or part.

## **Commissioner's orders**

- 58** (1) On completing an inquiry under section 56, the commissioner must dispose of the issues by making an order under this section.
- (2) If the inquiry is into a decision of the head of a public body to give or to refuse to give access to all or part of a record, the commissioner must, by order, do one of the following:
- (a) require the head to give the applicant access to all or part of the record, if the commissioner determines that the head is not authorized or required to refuse access;
  - (b) either confirm the decision of the head or require the head to reconsider it, if the commissioner determines that the head is authorized to refuse access;
  - (c) require the head to refuse access to all or part of the record, if the commissioner determines that the head is required to refuse access.
- (3) If the inquiry is into any other matter, the commissioner may, by order, do one or more of the following:
- (a) confirm that a duty imposed under this Act has been performed or require that a duty imposed under this Act be performed;
  - (b) confirm or reduce the extension of a time limit under section 10 (1);
  - (c) confirm, excuse or reduce a fee, or order a refund, in the appropriate circumstances, including if a time limit is not met;
  - (d) confirm a decision not to correct personal information or specify how personal information is to be corrected;
  - (e) require a public body or service provider to stop collecting, using or disclosing personal information in contravention of this Act, or confirm a decision of a public body or service provider to collect, use or disclose personal information;
  - (f) require the head of a public body to destroy personal information collected in contravention of this Act.
- (4) The commissioner may specify any terms or conditions in an order made under this section.
- (5) The commissioner must give a copy of an order made under this section to all of the following:
- (a) the person who asked for the review;
  - (b) the head of the public body concerned;
  - (b.1) any service provider to whom the order is directed;
  - (c) any person given notice under section 54;
  - (d) the minister responsible for this Act.

## **Duty to comply with orders**

**59** (1) Subject to subsection (1.1), not later than 30 days after being given a copy of an order of the commissioner, the head of the public body concerned or the service provider to whom the order is directed, as applicable, must comply with the order unless an application for judicial review of the order is brought before that period ends.

(1.1) If the commissioner gives the head of a public body a copy of an order made under section 54.1, the head of the public body must comply with the order within the period set out in the order, unless an application for judicial review of the order is brought before that period ends.

(2) Subject to subsection (3), if an application for judicial review is brought before the end of the period referred to in subsection (1) or set out in an order given under section 54.1, the order of the commissioner is stayed for 120 days, beginning on the date the application is brought, unless a court makes an order shortening or extending the stay.

(3) If a date for hearing the application for judicial review is set before the expiration of the stay of the commissioner's order referred to in subsection (2), the stay of the commissioner's order is extended until the judicial review is completed or the court makes an order shortening the stay.

### **Enforcement of orders of commissioner**

**59.01** (1) Subject to subsection (3), the commissioner may file a certified copy of an order made under section 54.1 or 58 with the Supreme Court.

(2) Subject to subsection (3), a party affected, or a person designated, by an order made under section 58 may file a certified copy of the order with the Supreme Court.

(3) An order may be filed under subsection (1) or (2) only if

(a) the order is not, or is no longer, the subject of an application for judicial review, or the subject of an appeal or further appeal, as the case may be, from a decision on judicial review in respect of the order,

(b) the date by which a person must comply with the order under section 59 (1) or (1.1), as the case may be, has occurred, and

(c) the period for commencing an appeal or further appeal, as the case may be, from a decision on judicial review in respect of the order has expired.

(4) An order filed under this section has the same force and effect, and all proceedings may be taken on it, as if it were a judgment of the Supreme Court.

## **Division 2 — Investigations and Reviews by Adjudicator**

### **References to commissioner**

**59.1** In this Division, "**commissioner**" includes the registrar under the [Lobbyists Transparency Act](#).

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

**60** (1) The Lieutenant Governor in Council may designate a person who is a judge of the Supreme Court to act as an adjudicator and

- (a) to investigate complaints made against the commissioner as head of a public body with respect to any matter referred to in section 42 (2),
- (b) to determine, if requested under section 60.1, whether the commissioner as head of a public body is authorized to disregard a request made under section 5 or 29, and
- (c) to review, if requested under section 62, any decision, act or failure to act of the commissioner as head of a public body.

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

(3) The government may pay out of the consolidated revenue fund,

- (a) to an adjudicator, the expenses a judge is entitled to receive under section 57 (3) of the *Judges Act* (Canada) while acting as an adjudicator, and
- (b) to a person whose services are retained under subsection (2), remuneration for those services.

### **Adjudicator may authorize commissioner to disregard requests**

**60.1** The commissioner may ask an adjudicator designated under section 60 to authorize the commissioner as head of a public body to disregard a request made under section 5 or 29.

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

**61** (1) For the purposes of section 60, an adjudicator has the powers, duties and functions given to the commissioner by sections 42 (2) (a) to (d), 43 to 44.2 and 47 (1), (2) (a) and (3) to (5).

(2) Sections 45, 46, 48 and 50 apply for the purposes of an investigation, inquiry or review by an adjudicator.

(3) Section 47 (2.1) to (2.3) applies to an adjudicator and the staff of an adjudicator.

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

**62** (1) A person who makes a request to the commissioner as head of a public body for access to a record or for correction of personal information may ask an adjudicator to review any decision, act or failure to act of the commissioner as head of a public body that relates to the request, including any matter that could be the subject of a complaint under section 42 (2) (a) to (d).

(2) A third party notified under section 24 of a decision to give access may ask an adjudicator to review any decision made about the request by the commissioner as head of a public body.

### **How to ask for a review**

- 63** (1) To ask for a review under this Division, a written request must be delivered to the minister responsible for this Act.
- (2) A request for a review of a decision of the commissioner as head of a public body must be delivered within
- (a) 30 days after the person asking for the review is notified of the decision, or
  - (b) a longer period allowed by the adjudicator.
- (3) Section 53 (3) applies if the commissioner as head of a public body fails to respond in time to a request for access to a record.

### **Notifying others of review**

- 64** On receiving a request for a review, the minister responsible for this Act must promptly forward the request to an adjudicator and must give a copy to
- (a) the commissioner, and
  - (b) any other affected person.

### **Conduct and outcome of the review**

- 65** (1) An adjudicator has the powers, duties and functions given to the commissioner by sections 54.1, 55 and 56 (1), (4) and (7), and sections 56 (2), (3), (5), (6) and (8) and 57 apply to an inquiry conducted by an adjudicator.
- (2) On completing an inquiry, an adjudicator has the same duty to dispose of the issues, the same powers to make orders and the same duty to notify others of those orders, as the commissioner has under section 58 (1), (2), (3) (a) to (d), (4) and (5).
- (3) Sections 59 and 59.01 apply to an order of an adjudicator.

## **Part 5.1 — Offences**

### ***Offence Act***

- 65.1** Section 5 of the *Offence Act* does not apply to this Act.

### **Offence to wilfully mislead, obstruct or fail to comply with commissioner**

- 65.2** A person who wilfully does any of the following commits an offence:
- (a) makes a false statement to, or misleads or attempts to mislead,
    - (i) the commissioner or anyone acting for or under the direction of the commissioner in the performance of duties or exercise of powers and functions under this Act, or
    - (ii) an adjudicator or anyone acting for or under the direction of an adjudicator in the performance of duties or exercise of powers and functions under this Act;
  - (b) obstructs

- (i) the commissioner or anyone acting for or under the direction of the commissioner in the performance of duties or exercise of powers and functions under this Act, or
  - (ii) an adjudicator or anyone acting for or under the direction of the adjudicator in the performance of duties or exercise of powers and functions under this Act;
- (c) fails to comply with an order made by
  - (i) the commissioner under section 54.1 or 58, or
  - (ii) an adjudicator under section 65 (2).

### **Offence to wilfully evade access provisions**

**65.3** A person who wilfully conceals, destroys or alters any record to avoid complying with a request for access to the record commits an offence.

### **Privacy offences**

**65.4** (1) An individual, other than an individual who is a service provider or an employee or associate of a service provider, who wilfully does any of the following commits an offence:

- (a) collects personal information except as authorized by Part 3;
- (b) uses personal information except as authorized by Part 3;
- (c) discloses personal information except as authorized by Part 3;
- (d) fails to notify the head of a public body of unauthorized disclosure as required by Part 3.

(2) A service provider or an employee or associate of a service provider who does any of the following commits an offence:

- (a) collects personal information except as authorized by Part 3;
- (b) uses personal information except as authorized by Part 3;
- (c) discloses personal information except as authorized by Part 3;
- (d) fails to notify the head of a public body of unauthorized disclosure as required by Part 3;
- (e) dismisses, suspends, demotes, disciplines, harasses or otherwise disadvantages an employee, or denies the employee a benefit, because the employee has done, or the employer believes that the employee will do, anything described in section 30.3 (b) to (d).

(3) A service provider commits an offence if an employee or associate of the service provider commits any of the offences under subsection (2).

(4) It is a defence to a charge under subsections (2) and (3) if the person charged demonstrates that the person exercised due diligence to avoid committing the offence.

## **Corporate liability**

- 65.5** If a corporation commits an offence under section 65.3 or 65.4, an officer, director or agent of the corporation who authorizes, permits or acquiesces in the commission of the offence also commits an offence, whether or not the corporation is prosecuted for the offence.

## **Penalties**

- 65.6** (1) A person who commits an offence under section 65.2 is liable on conviction to a fine of up to \$50 000.
- (2) A person who commits an offence under section 65.3 or 65.4 is liable on conviction,
- (a) in the case of an individual, other than an individual who is a service provider, to a fine of up to \$50 000,
  - (b) subject to paragraph (c), in the case of a service provider, including a partnership that or an individual who is a service provider, to a fine of up to \$50 000, and
  - (c) in the case of a corporation, to a fine of up to \$500 000.

## **Time limit for laying an information to commence a prosecution**

- 65.7** (1) The time limit for laying an information to commence a prosecution for an offence under sections 65.3 and 65.4 is
- (a) one year after the date on which the act or omission that is alleged to constitute the offence occurred, or
  - (b) if the minister responsible for this Act issues a certificate described in subsection (2), one year after the date on which the minister learned of the act or omission referred to in paragraph (a) of this subsection.
- (2) A certificate issued by the minister responsible for this Act certifying the date referred to in subsection (1) (b) is proof of that date.

## **Part 6 — General Provisions**

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

- 66** (1) The head of a public body may delegate to any person any duty, power or function of the head of the public body under this Act, except the power to delegate under this section.
- (2) A delegation under subsection (1) must be in writing and may contain any conditions or restrictions the head of the public body considers appropriate.
- (3) [Repealed 2011-17-24.]

### **Consultative committee**

- 67 The minister responsible for this Act may establish a consultative committee to make recommendations to the minister about the operation of this Act.

### **Annual report of minister**

- 68 The minister responsible for this Act must prepare an annual report on its administration and lay the report before the Legislative Assembly as soon as possible.

### **Personal information directories, privacy impact assessments and information-sharing agreements**

- 69 (1) In this section:

**"information-sharing agreement"** means an agreement between a public body and one or more of the following:

- (a) another public body;
- (b) a government institution subject to the *Privacy Act* (Canada);
- (c) an organization subject to the *Personal Information Protection Act* or the *Personal Information Protection and Electronic Documents Act* (Canada);
- (d) a public body, government institution or institution as defined in applicable provincial legislation having the same effect as this Act;
- (e) a person or a group of persons;
- (f) a prescribed entity,

that sets conditions on the collection, use or disclosure of personal information by the parties to the agreement;

**"personal information bank"** means an aggregation of personal information that is organized or retrievable by the name of an individual or by an identifying number, symbol or other particular assigned to an individual;

**"privacy impact assessment"** means an assessment that is conducted by a public body to determine if a current or proposed enactment, system, project, program or activity meets or will meet the requirements of Part 3 of this Act.

- (2) The minister responsible for this Act must maintain and publish a personal information directory to provide information about records in the custody or under the control of ministries of the government of British Columbia and about the use of those records.
- (3) The personal information directory must include a summary that meets the requirements of the minister responsible for this Act of the following information:
- (a) the personal information banks that are in the custody or under the control of each ministry of the government of British Columbia;
  - (b) the information-sharing agreements into which each ministry of the government of British Columbia has entered;
  - (c) the privacy impact assessments referred to in subsection (5);



(d) any other information the minister responsible for this Act considers appropriate.

(4) The head of a ministry must correct as soon as possible any errors or omissions in the portion of the personal information directory that relates to the ministry, and provide the corrected information to the minister responsible for this Act.

(5) The head of a ministry must conduct a privacy impact assessment and must do so in accordance with the directions of the minister responsible for this Act.

(5.1) The head of a ministry, with respect to a proposed enactment, system, project, program or activity, must submit, during the development of the proposed enactment, system, project, program or activity, the privacy impact assessment to the minister responsible for this Act for the minister's review and comment.

(5.2) If the minister responsible for this Act receives a privacy impact assessment under subsection (5.1) respecting a common or integrated program or activity, the minister must submit, during the development of the proposed enactment, system, project, program or activity, the privacy impact assessment to the commissioner for the commissioner's review and comment.

(5.3) The head of a public body that is not a ministry must conduct a privacy impact assessment and must do so in accordance with the directions of the minister responsible for this Act.

(5.4) The head of a public body that is not a ministry, with respect to a proposed system, project, program or activity, must submit, during the development of the proposed system, project, program or activity, the privacy impact assessment, if it addresses a common or integrated program or activity, to the commissioner for the commissioner's review and comment.

(5.5) The head of a public body must notify the commissioner of a common or integrated program or activity at an early stage of developing the initiative, program or activity.

(5.6) [Repealed 2021-39-37.]

(5.7) The head of a ministry must prepare an information-sharing agreement in accordance with the directions of the minister responsible for this Act.

(6) The head of a public body that is not a ministry must make available for inspection and copying by the public a directory that lists the public body's personal information banks and includes the following information with respect to each personal information bank:

(a) its title and location;

(b) a description of the kind of personal information and the categories of individuals whose personal information is included;

(c) the authority for collecting the personal information;

(d) the purposes for which the personal information was obtained or compiled and the purposes for which it is used or disclosed;

- (e) the categories of persons who use the personal information or to whom it is disclosed;
  - (f) information required under subsection (7).
- (7) The minister responsible for this Act may require one or more public bodies, or classes of public bodies, that are not ministries of the government of British Columbia
- (a) to provide additional information for the purposes of subsection (6), and
  - (b) to comply with one or more of the subsections in this section as if the public body were a ministry of the government of British Columbia.
- (8) [Repealed 2021-39-37.]
- (9) The minister responsible for this Act, in consultation with the commissioner, must establish an information-sharing code of practice that makes recommendations respecting how personal information is to be collected, used and disclosed under this Act.
- (10) The minister responsible for this Act may, under subsection (5) or (5.3), give different directions for different categories of personal information.

## **Public information regarding health information banks**

**69.1** (1) In this section:

**"health care body"** has the same meaning as in section 1 of the *E-Health (Personal Health Information Access and Protection of Privacy) Act*;

**"health information bank"** means a health information bank and a ministry database within the meaning of the *E-Health (Personal Health Information Access and Protection of Privacy) Act*;

**"health information-sharing agreement"** means an agreement under section 14 or 19 of the *E-Health (Personal Health Information Access and Protection of Privacy) Act*;

**"official responsible"** in relation to a health care body means

- (a) the minister, for a health care body that is a ministry,
  - (b) the head of the regional health board, for a health care body that
    - (i) is a regional health board designated under section 4 (1) of the *Health Authorities Act*, or
    - (ii) reports to or is funded by the regional health board, and
  - (c) the chief executive officer of the Provincial Health Services Authority, for a health care body that is
    - (i) the Provincial Health Services Authority, or
    - (ii) a society that reports to the Provincial Health Services Authority.
- (2) The personal information directory under section 69 must include information about health information banks of health care bodies and about the use of the information in those health information banks.

- (3) For the purposes of subsection (2), the personal information directory must include the following information in accordance with the requirements of the minister responsible for this Act:
- (a) the provisions of the order under section 3 [*establishment or designation of health information banks*] of the *E-Health (Personal Health Information Access and Protection of Privacy) Act* in relation to each health information bank that is in the custody or under the control of each health care body;
  - (b) a summary of the health information-sharing agreements into which each health care body has entered;
  - (c) any other information the minister responsible for this Act considers appropriate.
- (4) The official responsible must
- (a) provide to the minister responsible for this Act the information required for the purposes of subsection (2), and
  - (b) correct as soon as possible any errors or omissions in the portion of the personal information directory that relates to the health care body, and provide the corrected information to the minister responsible for this Act.
- (5) A ministry that is a health care body must conduct a privacy impact assessment, and must do so in accordance with the directions of the minister responsible for this Act, in relation to
- (a) a health information bank in its custody or under its control, and
  - (b) a health information-sharing agreement to which it is a party.
- (6) The minister responsible for this Act may, under subsection (5), give different directions for different categories of personal information.

### **Provincial identity information services provider**

- 69.2** (1) The minister responsible for this Act 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 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 or an electronic credential to an individual;
  - (e) managing the information associated with a physical or an electronic credential;
  - (f) any other service related to personal identity information that the minister responsible for this Act considers appropriate.

- (3) The minister responsible for this Act 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.

#### **Certain records available without request**

- 70** (1) The head of a public body must make available to the public, without a request for access under this Act, the following records if they were created for the purpose of interpreting an enactment or for the purpose of administering a program or activity that affects the public:
- (a) manuals, instructions or guidelines issued to the officers or employees of the public body;
  - (b) substantive rules or policy statements adopted by the public body.
- (2) The head of a public body may sever from a record made available under this section any information the head of the public body would be entitled under Part 2 of this Act to refuse to disclose to an applicant.
- (3) If information is severed from a record, the record must include a statement of
- (a) the fact that information has been severed from the record,
  - (b) the nature of the information severed from the record, and
  - (c) the reason for severing the information from the record.
- (4) The head of a public body may require a person who asks for a copy of a record made available under this section to pay a fee to the public body.

#### **Head of public body must establish categories of records available without request**

- 71** (1) Subject to subsection (1.1), the head of a public body must establish categories of records that are in the custody or under the control of the public body and are available to the public without a request for access under this Act.

- (1.1) The head of a public body must not establish a category of records that contain personal information unless the information
  - (a) may be disclosed under section 33, or
  - (b) would not constitute, if disclosed, an unreasonable invasion of the personal privacy of the individual the information is about.
- (1.2) Section 22 (2) to (4) applies to the determination of unreasonable invasion of personal privacy under subsection (1.1) (b) of this section.
- (1.3) The head of a public body may sever from a record made available under this section any information the head of the public body would be entitled under Part 2 of this Act to refuse to disclose to an applicant.
- (1.4) If information is severed from a record, the record must include a statement of
  - (a) the fact that information has been severed from the record,
  - (b) the nature of the information severed from the record, and
  - (c) the reason for severing the information from the record.
- (2) The head of a public body may require a person who asks for a copy of an available record to pay a fee to the public body.
- (3) Subsection (1) does not limit the discretion of the government of British Columbia or a public body to disclose records that do not contain personal information.

#### **Minister may establish categories of records available without request**

- 71.1** (1) Subject to subsection (2), the minister responsible for this Act may establish categories of records that are in the custody or under the control of one or more ministries and are available to the public without a request for access under this Act.
- (2) The minister responsible for this Act must not establish a category of records that contain personal information unless the information
  - (a) may be disclosed under section 33, or
  - (b) would not constitute, if disclosed, an unreasonable invasion of the personal privacy of the individual the information is about.
- (3) Section 22 (2) to (4) applies to the determination of unreasonable invasion of personal privacy under subsection (2) (b) of this section.
- (4) The minister responsible for this Act may require one or more ministries to disclose a record that is within a category of records established under subsection (1) of this section or section 71 (1).
- (5) If required to disclose a record under subsection (4), a ministry must do so in accordance with any directions issued relating to the disclosure by the minister responsible for this Act.
- (6) The head of a public body may sever from a record made available under this section any information the head of the public body would be entitled under Part 2 of this Act

to refuse to disclose to an applicant.

(7) If information is severed from a record, the record must include a statement of

- (a) the fact that information has been severed from the record,
- (b) the nature of the information severed from the record, and
- (c) the reason for severing the information from the record.

## **Repealed**

**72** [Repealed 2002-13-14.]

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

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

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

## **Recovery of personal information**

**73.1** (1) If the head of a public body has reasonable grounds to believe that personal information in the custody or under the control of the public body is in the possession of a person or an entity not authorized by law to possess the information, the head of the public body may issue a written notice demanding that person or entity to do either of the following within 20 calendar days of receiving the notice:

- (a) return the information to the public body or, in the case of electronic records, securely destroy the information and confirm in writing the date and the means by which the information was securely destroyed;
- (b) respond in writing and declare why the person or entity considers that
  - (i) the information was not in the custody or under the control of the public body when the person or entity acquired possession of the information, or
  - (ii) the person or entity is authorized by law to possess the information.

(2) The written notice referred to in subsection (1) must

- (a) identify, with reasonable specificity, the personal information claimed to be in the custody or under the control of the public body and in the possession of the person or entity not authorized by law to possess the information, and
- (b) state that the public body may undertake legal action to recover the personal information if the person or entity fails to respond in writing within

the required time or does not adequately demonstrate that

- (i) the information was not in the custody or under the control of the public body when the person or entity acquired possession of the information, or
- (ii) the person or entity is authorized by law to possess the information.

### **Court order for return of personal information**

**73.2** (1) If a person or an entity that receives a written notice and demand from the public body under section 73.1 (1) fails to

- (a) return the described personal information or, in the case of electronic records, to securely destroy the information and confirm in writing the date and the means by which the information was securely destroyed,
- (b) respond to the notice and demand within the required time, or
- (c) adequately demonstrate that
  - (i) the personal information was not in the custody or under the control of the public body when the person or entity acquired possession of the information, or
  - (ii) the person or entity is authorized by law to possess the personal information,

the head of the public body may ask the Attorney General to petition the superior court in the jurisdiction in which the personal information is located for an order requiring the return of the personal information.

- (2) If, after a hearing, the court determines that the personal information is in the possession of a person or an entity not authorized by law to possess the personal information and the public body is entitled to custody or control of the personal information, the court must order the personal information to be delivered to the head of the public body.
- (3) The court may issue any order necessary to protect the personal information from destruction, alteration or transfer by the person or entity in possession of the personal information and may order that the personal information be surrendered into the custody of the head of the public body until the court reaches a decision on the petition.
- (4) This section does not limit any remedy otherwise available to a public body, or other person by law.

### **Repealed**

**74-74.1** [Repealed 2021-39-42.]

### **Fees**

**75** (1) The head of a public body may require an applicant who makes a request under section 5 to pay to the public body the following:

- (a) a prescribed application fee;
- (b) prescribed fees for the following services:
  - (i) locating and retrieving the record;
  - (ii) producing the record;
  - (iii) preparing the record for disclosure, except for time spent severing information from the record;
  - (iv) shipping and handling the record;
  - (v) providing a copy of the record.
- (2) Subsection (1) (b) (i) does not apply to the first 3 hours spent on a request.
- (3) Subsection (1) does not apply to a request for the applicant's own personal information.
- (4) If an applicant is required to pay fees for services under subsection (1) (b), the head of the public body
  - (a) must give the applicant a written estimate of the total fees before providing the services, and
  - (b) may require the applicant to pay a deposit in an amount set by the head of the public body.
- (5) If the head of a public body receives an applicant's written request to excuse payment of all or part of the fees required under subsection (1) (b), the head of the public body may excuse payment, if, in the head of the public body'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.
- (6) The head of a public body must respond to a request under subsection (5) in writing and within 20 days after receiving the request.
- (7) The fees that prescribed categories of applicants are required to pay for services under subsection (1) (b) may differ from the fees other applicants are required to pay for the services but may not be greater than the actual costs of the services.

## **Power to make regulations**

- 76** (1) The Lieutenant Governor in Council may make regulations referred to in section 41 of the *Interpretation Act*.
- (2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations as follows:
- (a) prescribing procedures to be followed in making, transferring and responding to requests under this Act;
  - (b) permitting prescribed categories of applicants to make requests under this Act orally instead of in writing;



- (c) setting standards, including time limits, to be observed by officers or employees of a public body in fulfilling the duty to assist applicants;
- (d) prescribing for the purposes of section 18 the categories of sites that are considered to have heritage or anthropological value;
- (e) authorizing the disclosure of information relating to the mental or physical health of individuals to medical or other experts to determine, for the purposes of section 19, if disclosure of that information could reasonably be expected to result in grave and immediate harm to the safety of or the mental or physical health of those individuals;
- (f) prescribing procedures to be followed or restrictions considered necessary with respect to the disclosure and examination of information referred to in paragraph (e);
- (g) prescribing special procedures for giving individuals access to personal information about their mental or physical health;
- (h) prescribing the classes of individuals who may act for minors, deceased persons or any other individuals under this Act and regulating the manner in which, and the extent to which, any rights or powers of individuals under this Act may be exercised on their behalf;
- (h.1) respecting the written documentation that confirms that a program or activity is a common or integrated program or activity;
- (i) requiring public bodies to provide to the minister responsible for this Act information that relates to its administration or is required for preparing the minister's annual report;
- (i.1) prescribing an application fee and fees for services;
- (j) limiting the fees that different categories of persons are required to pay under this Act;
- (k) exempting any class of public body from a regulation made under this subsection;
- (l) authorizing, for the purposes of section 12 (3) and (4), a local public body to hold meetings of its elected officials, or of its governing body or a committee of the governing body, to consider specified matters in the absence of the public unless another Act
  - (i) expressly authorizes the local public body to hold meetings in the absence of the public, and
  - (ii) specifies the matters that may be discussed at those meetings;
- (m) providing for the retention and disposal of records by a public body if the *Information Management Act* does not apply to the public body;
- (m.1) defining any word or expression used but not defined in this Act;
- (n) for any purpose contemplated by this Act.

(2.1) The Lieutenant Governor in Council, after consultation with the commissioner, may make regulations as follows:

- (a) for the purposes of section 26 (d);
- (b) for the purposes of section 36.1,
  - (i) establishing how data-linking programs must be conducted, and
  - (ii) exempting a data-linking program or class of data-linking program from regulations made under subparagraph (i) of this paragraph.

(3) and (4) [Repealed 2002-13-16.]

(5) A regulation made under subsection (1), (2) or (2.1) may provide differently for different classes of public bodies.

### **Ministerial regulation making power**

**76.1** (1) The minister responsible for this Act may, by regulation, amend Schedule 2 to do one or more of the following:

- (a) add to it any agency, board, commission, corporation, office or other body
  - (i) of which any member, director or officer is appointed by the Lieutenant Governor in Council or a minister,
  - (ii) of which a controlling interest in the share capital is owned by the government of British Columbia or any of its agencies or a public body,
  - (iii) that performs functions under an enactment, or
  - (iv) if the minister responsible for this Act determines that it would be in the public interest to add the agency, board, commission, corporation, office or other body to Schedule 2;
- (b) designate or change the designation of the head of a public body;
- (c) remove from it an agency, board, commission, corporation, office or other body that
  - (i) no longer exists, or
  - (ii) no longer meets the criteria established by paragraph (a).

(2) The minister responsible for this Act may, by regulation, amend Schedule 3 to do one or more of the following:

- (a) add to it the name of the governing body of a profession or occupation if
  - (i) any member of that body is appointed by the Lieutenant Governor in Council, a minister or an Act, or
  - (ii) the profession or occupation is governed under an Act;
- (b) remove from it a governing body that
  - (i) no longer exists, or
  - (ii) no longer meets the criteria established by paragraph (a).

- (3) The minister responsible for this Act may make regulations establishing measures that must be taken by a public body respecting programs, projects and systems in which the public body discloses personal information outside of Canada.

### **Power to make bylaws**

- 77** A local public body, by bylaw or other legal instrument by which the local public body acts,
- (a) must designate a person or group of persons as the head of the local public body for the purposes of this Act, and
  - (b) [Repealed 2011-17-30.]
  - (c) may set any fees the local public body requires to be paid under section 75.

### **Appropriation**

- 78** In the absence of an appropriation for the purpose under another Act, expenditures incurred in connection with the administration of this Act may be paid out of the consolidated revenue fund.

### **Repealed**

- 79** [Repealed 2021-39-46.]

### **Review of Act**

- 80** (1) At least once every 6 years, a special committee of the Legislative Assembly must begin a comprehensive review of this Act and must submit a report respecting this Act to the Legislative Assembly within one year after the date of the appointment of the special committee.
- (2) A report submitted under subsection (1) may include any recommended amendments to this Act or any other Act.
- (3) For the purposes of subsection (1), the first 6 year period begins on October 4, 1997.

### **Right to disclose preserved**

- 81** A public body that, before October 4, 1993, disclosed names, addresses and drivers' licence numbers to the Tuberculous and Chest Disabled Veterans' Association may continue, despite section 33, to disclose that information to the association if it undertakes not to use the information except for the purposes for which it used that information before that date.

### **Schedule 1**

***(Note: see section 1)***

### **Definitions**

In this Act:

**"adjudicator"** means a person designated under section 60;

**"affiliate"** means an affiliate within the meaning of the *Business Corporations Act*;

**"agency"** means, for the purposes of section 33 (2) (k) and the definitions of "common or integrated program or activity" and "data-linking program",

- (a) a government institution subject to the *Privacy Act* (Canada),
- (b) an organization
  - (i) subject to the *Personal Information Protection Act*, or
  - (ii) operating in British Columbia that is subject to the *Personal Information Protection and Electronic Documents Act* (Canada),
- (c) a public body, a government institution or an institution as defined in applicable provincial legislation having the same effect as this Act, or
- (d) a prescribed entity;

**"associate"** means, in relation to a service provider,

- (a) an officer, director or partner of the service provider,
- (b) an affiliate of the service provider,
- (c) a subcontractor, or further sub-subcontractor, of the service provider or an affiliate of the service provider, or
- (d) an employee, officer, director or partner of an affiliate referred to in paragraph (b) or of a subcontractor or further sub-subcontractor referred to in paragraph (c),

to or through whom access is made available to personal information that is

- (e) subject to Division 2 [*Use and Disclosure of Personal Information by Public Bodies*] of Part 3, and
- (f) held because of the service provider's status as a service provider;

**"commissioner"** means the commissioner appointed under section 37 (1) or 39 (1);

**"common key"** means information about an identifiable individual that is common to 2 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 agencies working collaboratively, or
  - (ii) one public body working on behalf of one or more other public bodies or agencies, and
- (b) is confirmed by regulation as being a common or integrated program or activity;

**"contact information"** means information to enable an individual at a place of business to be contacted and includes the name, position name or title, business telephone

number, business address, business email or business fax number of the individual;

**"data-linking"** means the linking, temporarily or permanently, of 2 or more data sets using one or more common keys;

**"data-linking program"** means a program of a public body that involves data-linking if 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 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;

**"day"** does not include a holiday or a Saturday;

**"digital archives"** has the same meaning as in the *Information Management Act*;

**"domestic violence"** means physical or sexual abuse of

- (a) an individual,
- (b) a parent or child of the individual referred to in paragraph (a), or
- (c) any other individual who is in a prescribed relationship with the individual referred to in paragraph (a)

by an intimate partner of the individual referred to in paragraph (a);

**"educational body"** means

- (a) a university as defined in the *University Act*,
- (b) [Repealed 2003-5-19.]
- (c) Royal Roads University,
- (c.1) [Repealed 2002-35-8.]
- (d) an institution as defined in the *College and Institute Act*,
- (d.1) the Thompson Rivers University,
- (e) [Repealed 2004-33-18.]
- (f) [Repealed 2003-48-14.]
- (g) a board as defined in the *School Act*, or
- (h) a francophone education authority as defined in the *School Act*;

**"employee"**, in relation to a public body, includes

- (a) a volunteer, and
- (b) a service provider;

**"exercise of prosecutorial discretion"** means the exercise by

- (a) Crown counsel, or a special prosecutor, of a duty or power under the *Crown Counsel Act*, including the duty or power

- (i) to approve or not to approve a prosecution,
- (ii) to stay a proceeding,
- (iii) to prepare for a hearing or trial,
- (iv) to conduct a hearing or trial,
- (v) to take a position on sentence, and
- (vi) to initiate an appeal, or
- (b) a federal prosecutor, or an individual retained as a federal prosecutor, of a duty or power under the *Director of Public Prosecutions Act* (Canada), including a duty or power
  - (i) to initiate and conduct prosecutions, and
  - (ii) to conduct any appeal related to such a prosecution or proceeding;

**"head"**, in relation to a public body, means

- (a) if the public body is a ministry or office of the government of British Columbia, the member of the Executive Council who presides over it,
- (b) if the public body is designated in, or added by regulation to, Schedule 2, the person designated as the head of that public body in that Schedule or by regulation, and
- (c) in any other case, the person or group of persons designated under section 77 as the head of the public body;

**"health care body"** means

- (a) a hospital as defined in section 1 of the *Hospital Act*,
- (b) [Repealed 2021-39-47.]
- (c) a regional hospital district and a regional hospital district board under the *Hospital District Act*,
- (d) and (e) [Repealed 2008-28-147.]
- (f) a Provincial mental health facility as defined in the *Mental Health Act*,
- (g) a regional health board designated under section 4 (1) of the *Health Authorities Act*, or
- (h) [Repealed 2002-61-17.]
- (i) British Columbia Emergency Health Services, as described in section 2 (1) of the *Emergency Health Services Act*;

**"Indigenous governing entity"** means an Indigenous entity that exercises governmental functions, and includes but is not limited to an Indigenous governing body as defined in the *Declaration on the Rights of Indigenous Peoples Act*;

**"Indigenous peoples"** has the same meaning as in the *Declaration on the Rights of Indigenous Peoples Act*;

**"intimate partner"** means, with respect to an individual, any of the following:

- (a) an individual who is or was a spouse, dating partner or sexual partner of the individual;
- (b) an individual who is or was in a relationship with the individual that is similar to a relationship described in paragraph (a);

**"judicial administration record"** means a record containing information relating to a judge, master or a justice of the peace, including

- (a) scheduling of judges and trials,
- (b) content of judicial training programs,
- (c) statistics of judicial activity prepared by or for a judge, and
- (d) a record of the judicial council of the Provincial Court;

**"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;

**"local government body"** means

- (a) a municipality,
- (b) [Repealed 2003-52-79.]
- (c) a regional district,
- (d) an improvement district as defined in the *Local Government Act*,
- (e) a local area as defined in the *Local Services Act*,
- (f) a greater board as defined in the *Community Charter* or any incorporated board that provides similar services and is incorporated by letters patent,
- (g) a board of variance established under Division 15 of Part 14 of the *Local Government Act* or section 572 of the *Vancouver Charter*,
- (h) the trust council, the executive committee, a local trust committee and the Islands Trust Conservancy, as these are defined in the *Islands Trust Act*,
- (i) the Okanagan Basin Water Board,
- (j) a water users' community as defined in section 1 (1) of the *Water Users' Communities Act*,
- (k) the Okanagan-Kootenay Sterile Insect Release Board,
- (l) a municipal police board established under section 23 of the *Police Act*,
- (m) a library board as defined in the *Library Act*,
- (n) any board, committee, commission, panel, agency or corporation that is created or owned by a body referred to in paragraphs (a) to (m) and all the

members or officers of which are appointed or chosen by or under the authority of that body,

(o) a board of trustees established under section 37 of the *Cremation, Interment and Funeral Services Act*,

(p) the South Coast British Columbia Transportation Authority, or

(q) the Park Board referred to in section 485 of the *Vancouver Charter*;

**"local public body"** means

(a) a local government body,

(b) a health care body,

(b.1) a social services body,

(c) an educational body, or

(d) a governing body of a profession or occupation, if the governing body is designated in, or added by regulation to, Schedule 3;

**"minister responsible for this Act"** means the member of the Executive Council charged by order of the Lieutenant Governor in Council with the administration of this Act;

**"museum archives of government"** has the same meaning as in the *Museum Act*;

**"officer of the Legislature"** means the Auditor General, the Commissioner appointed under the *Members' Conflict of Interest Act*, the police complaint commissioner appointed under Part 9 of the *Police Act*, the Information and Privacy Commissioner, the Human Rights Commissioner, the Chief Electoral Officer, the merit commissioner appointed under the *Public Service Act*, the Representative for Children and Youth or the Ombudsperson;

**"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 other than contact information;

**"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;

**"prosecution"** means the prosecution of an offence under an enactment of British Columbia or Canada;

**"provincial identity information services provider"** means a provincial identity information services provider designated under section 69.2 (1);

**"public body"** means

(a) a ministry of the government of British Columbia, including, for certainty, the Office of the Premier,



(b) an agency, board, commission, corporation, office or other body designated in, or added by regulation to, Schedule 2, or

(c) a local public body

but does not include

(d) the office of a person who is a member or officer of the Legislative Assembly, or

(e) the Court of Appeal, Supreme Court or Provincial Court;

**"record"** includes books, documents, maps, drawings, photographs, letters, vouchers, papers 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;

**"service provider"** means a person retained under a contract to perform services for a public body;

**"social services body"** means Community Living British Columbia established under the *Community Living Authority Act*;

**"third party"**, in relation to a request for access to a record or for correction of personal information, means any person, group of persons or organization other than

(a) the person who made the request, or

(b) a public body;

**"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.

## **Schedule 2**

***(Note: see Schedule 1, definitions of "head" and "public body")***

### **Public Bodies**

Public Body: 838465 B.C. Ltd.

Head: Chair

Public Body: 839565 B.C. Ltd.

Head:	Chair
Public Body:	Adoption Agency licensed under the <i>Adoption Act</i>
Head:	Administrator
Public Body:	Advisory Committees to the Medical Services Commission
Head:	Minister of Health
Public Body:	Allocation Committee
Head:	Minister of Health
Public Body:	Alternative Payments Committee
Head:	Minister of Health
Public Body:	Assayers Certification Board of Examiners
Head:	<a href="#">Minister of Energy, Mines and Low Carbon Innovation</a>
Public Body:	Audit and Inspection Committee ( <i>Medicare Protection Act</i> )
Head:	Minister of Health
Public Body:	Audit Council ( <i>Auditor General for Local Government Act</i> )
Head:	Chair
Public Body:	BC-Alcan Northern Development Fund
Head:	Chair
Public Body:	BC Clinical and Support Services Society
Head:	Chair of the BC Clinical and Support Services Society
Public Body:	B.C. Coroners Service
Head:	Chief Coroner
Public Body:	BC Family Maintenance Agency Ltd.
Head:	Chair of the Board of Directors
Public Body:	B.C. Ferry Authority
Head:	Chair
Public Body:	BC Financial Services Authority
Head:	Chief Executive Officer
Public Body:	BC Games Society

Head: President and CEO

Public Body: BC Infrastructure Benefits Inc.

Head: Chair

Public Body: BC Patient Safety & Quality Council

Head: Minister of Health

Public Body: B.C. Pavilion Corporation

Head: Chair of the Board of Directors

Public Body: B.C. Raspberry Industry Development Council

Head: Chair

Public Body: B.C. Seniors Games Society

Head: Minister of Tourism, Arts, Culture and Sport

Public Body: BC Transportation Financing Authority

Head: Chair

Public Body: BCR Properties Ltd.

Head: Chair

Public Body: Blueberry Industry Development Council

Head: Chair

Public Body: Board of Examiners (Forests)

Head: Chair

Public Body: Board of Examiners (*Local Government Act*)

Head: Minister of Municipal Affairs

Public Body: Boards of Trustees established under section 38 of the *Cremation, Interment and Funeral Services Act* (each Board)

Head: Chair, Business Practices and Consumer Protection Authority

Public Body: British Columbia Arts Council

Head: Chair

Public Body: British Columbia Assessment Authority

Head: Chair of the Board of Directors

Public Body: British Columbia Broiler Hatching Egg Commission

Head:	Chair
Public Body:	British Columbia Centre for Disease Control and Prevention Society Branch
Head:	Chair
Public Body:	British Columbia Chicken Marketing Board
Head:	Chair
Public Body:	British Columbia Council on Admissions and Transfer
Head:	Co-Chairs
Public Body:	British Columbia Courthouse Library Society
Head:	Chair
Public Body:	British Columbia Cranberry Marketing Board
Head:	Chair
Public Body:	British Columbia Egg Marketing Board
Head:	Chair
Public Body:	British Columbia Farm Industry Review Board
Head:	Chair
Public Body:	British Columbia Forest Museum
Head:	Chair
Public Body:	British Columbia Health Services Purchasing Organization
Head:	Chair
Public Body:	British Columbia Hog Marketing Commission
Head:	Chair
Public Body:	British Columbia Housing Management Commission
Head:	Chair
Public Body:	British Columbia Human Rights Tribunal
Head:	Chair
Public Body:	British Columbia Hydro and Power Authority
Head:	Chair of the Board of Directors
Public Body:	British Columbia Investment Management Corporation

Head:	Chief Investment Officer
Public Body:	British Columbia Lottery Corporation
Head:	Chair of the Board of Directors
Public Body:	British Columbia Mental Health Society Branch
Head:	Chair
Public Body:	British Columbia Milk Marketing Board
Head:	Chair
Public Body:	British Columbia Oyster Board
Head:	Chair
Public Body:	British Columbia Peace River Grain Development Council
Head:	Chair
Public Body:	British Columbia Pension Corporation
Head:	Chief Executive Officer
Public Body:	British Columbia Railway Company
Head:	Chair
Public Body:	British Columbia Rapid Transit Company Ltd.
Head:	Chief Executive Officer, South Coast British Columbia Transportation Authority
Public Body:	British Columbia Review Board
Head:	Chair
Public Body:	British Columbia Safety Authority
Head:	Chair
Public Body:	British Columbia Salmon Marketing Council
Head:	Chair
Public Body:	British Columbia Securities Commission
Head:	Chair
Public Body:	British Columbia Securities Commission Policy Advisory Committee (SPAC)
Head:	Chair
Public Body:	British Columbia Transit Corporation

Head:	Chair of the Board of Directors
Public Body:	British Columbia Transplant Society Branch
Head:	Chair
Public Body:	British Columbia Turkey Marketing Board
Head:	Chair
Public Body:	British Columbia Utilities Commission
Head:	Chair
Public Body:	British Columbia Vegetable Marketing Commission
Head:	Chair
Public Body:	British Columbia Wine Grape Council
Head:	Chair
Public Body:	Building Code Appeal Board
Head:	<a href="#"><u>Attorney General and Minister Responsible for Housing</u></a>
Public Body:	Bull Control Committees (each Committee)
Head:	<a href="#"><u>Minister of Agriculture, Food and Fisheries</u></a>
Public Body:	Business Practices and Consumer Protection Authority
Head:	Chair
Public Body:	Canada Line Rapid Transit Inc.
Head:	Chief Executive Officer, South Coast British Columbia Transportation Authority
Public Body:	Cattle Industry Development Council
Head:	Chair
Public Body:	Chip Export Advisory Committee
Head:	Minister of Forests, Lands, Natural Resource Operations and Rural Development
Public Body:	Civil Resolution Tribunal
Head:	Chair
Public Body:	Class "C" Provincial Park Boards (each Board)
Head:	Chair
Public Body:	Coast Mountain Bus Company Ltd.

Head:	Chief Executive Officer, South Coast British Columbia Transportation Authority
Public Body:	College Pension Board of Trustees
Head:	Chair
Public Body:	Columbia Basin Trust
Head:	Chair
Public Body:	Columbia Power Corporation
Head:	Chair
Public Body:	Commissions of Inquiry (each Commission)
Head:	Chair
Public Body:	Committee of Special Advisors ( <i>Labour Relations Code</i> )
Head:	Minister of Labour
Public Body:	Community Care and Assisted Living Appeal Board
Head:	Chair
Public Body:	Creative BC Society
Head:	Chair of the Board of Directors
Public Body:	Credit Union Deposit Insurance Corporation of British Columbia
Head:	Chief Executive Officer
Public Body:	Creston Valley Wildlife Management Authority
Head:	Minister of Forests, Lands, Natural Resource Operations and Rural Development
Public Body:	Crop Insurance Advisory Committees (each Committee)
Head:	<a href="#"><u>Minister of Agriculture, Food and Fisheries</u></a>
Public Body:	Cultus Lake Park Board
Head:	Secretary/Manager of the Board
Public Body:	Dairy Industry Development Council
Head:	Chair
Public Body:	Data Stewardship Committee
Head:	Chair
Public Body:	Degree Quality Assessment Board

Head:	Chair
Public Body:	Destination BC Corp.
Head:	Chair
Public Body:	Education Advisory Council
Head:	Minister of Education
Public Body:	Election Advisory Committee
Head:	Chief Electoral Officer
Public Body:	Elections British Columbia
Head:	Chief Electoral Officer
Public Body:	Electoral Boundaries Commission
Head:	Chair
Public Body:	Emergency Communications Corporation under the <i>Emergency Communications Corporations Act</i>
Head:	General Manager or President (as applicable)
Public Body:	Emergency Medical Assistants Licensing Board
Head:	Minister of Health
Public Body:	Employment and Assistance Appeal Tribunal
Head:	Chair
Public Body:	Employment Standards Tribunal
Head:	Chair
Public Body:	Environmental Appeal Board
Head:	Chair
Public Body:	Ferry operators under the <i>Coastal Ferry Act</i> (each ferry operator)
Head:	Chair
Public Body:	Financial Services Tribunal
Head:	Chair
Public Body:	Fire Services Advisory Board
Head:	Minister of Public Safety and Solicitor General
Public Body:	First Nations Clean Energy Business Fund



Head:	Minister of Indigenous Relations and Reconciliation
Public Body:	First Peoples' Advisory Committee
Head:	Minister of Indigenous Relations and Reconciliation
Public Body:	First Peoples' Heritage, Language and Culture Council
Head:	Minister of Indigenous Relations and Reconciliation
Public Body:	Forensic Psychiatric Services Commission
Head:	Minister of Health
Public Body:	Forest and Range Practices Advisory Council
Head:	Minister of Forests, Lands, Natural Resource Operations and Rural Development
Public Body:	Forest Appeals Commission
Head:	Chair
Public Body:	Forest Practices Board
Head:	Chair
Public Body:	Forest Research Council
Head:	Minister of Forests, Lands, Natural Resource Operations and Rural Development
Public Body:	Fraser Bridge Project Ltd.
Head:	President
Public Body:	Fraser River Marine Transportation Ltd.
Head:	Chief Executive Officer, South Coast British Columbia Transportation Authority
Public Body:	Haida Gwaii Management Council
Head:	Chair
Public Body:	Health Care Practitioner's Special Committee for Audit Hearings ( <i>Medicare Protection Act</i> )
Head:	Minister of Health
Public Body:	Health Professions Review Board
Head:	Chair
Public Body:	Hospital Appeal Board ( <i>Hospital Act</i> )
Head:	Chair
Public Body:	Independent Investigations Office

Head: Chief Civilian Director

Public Body: Independent School Teaching Certificate Standards Committee

Head: Minister of Education

Public Body: Industrial Inquiry Commissions (each Commission)

Head: Minister of Labour

Public Body: Industry Training Appeal Board

Head: Chair

Public Body: Industry Training Authority

Head: Chair

Public Body: Infrastructure BC Inc.

Head: Chair

Public Body: Innovate BC

Head: Chair

Public Body: Insurance Corporation of British Columbia

Head: President and Chief Executive Officer

Public Body: Integrated Cadastral Information Society

Head: President

Public Body: Interim Authority (*Community Services Interim Authorities Act* (each Authority) )

Head: Chair

Public Body: International Financial Centre British Columbia Society

Head: President, International Financial Centre British Columbia Society

Public Body: Joint Advisory Committee to the Collective Agreement Arbitration Bureau

Head: Chair

Public Body: Justice and Public Safety Council

Head: Chair

Public Body: Justice Development Commission

Head: Chair

Public Body: Knowledge Network Corporation

Head:	Chief Executive Officer
Public Body:	Labour Relations Board
Head:	Chair
Public Body:	Land Title and Survey Authority of British Columbia
Head:	President and Chief Executive Officer
Public Body:	Law Foundation
Head:	Chair
Public Body:	Legal Services Society
Head:	Chair
Public Body:	Medal of Good Citizenship Selection Committee
Head:	Chair
Public Body:	Medical Practitioners Audit Committee ( <i>Medicare Protection Act</i> )
Head:	Minister of Health
Public Body:	Medical Review Board
Head:	Minister of Health
Public Body:	Medical Services Commission
Head:	Minister of Health
Public Body:	Mental Health Review Board ( <i>Mental Health Act</i> )
Head:	<a href="#">Attorney General and Minister Responsible for Housing</a>
Public Body:	Minister's Advisory Council on Indigenous Women
Head:	Chair
Public Body:	Motor Dealer Council
Head:	Chair
Public Body:	Motor Dealer Customer Compensation Fund Board
Head:	Chair, Motor Dealer Council
Public Body:	Multicultural Advisory Council
Head:	Chair
Public Body:	Municipal Pension Board of Trustees

Head:	Chair
Public Body:	Muskwa-Kechika Advisory Board
Head:	Chair
Public Body:	Native Courtworkers and Counselling Association of British Columbia
Head:	President
Public Body:	Native Economic Development Advisory Board
Head:	Minister of Indigenous Relations and Reconciliation
Public Body:	Nechako-Kitimat Development Fund Society
Head:	Chair
Public Body:	New Relationship Trust
Head:	Chair
Public Body:	New Tree Fruit Varieties Development Council
Head:	Chair
Public Body:	North Island-Coast Development Initiative Trust
Head:	Chair
Public Body:	Northern Development Initiative Trust
Head:	Chair
Public Body:	Notaries Public, Board of Examiners
Head:	Chair
Public Body:	Notary Foundation
Head:	Chair
Public Body:	Office of the Auditor General
Head:	Auditor General
Public Body:	Office of the Auditor General for Local Government
Head:	Auditor General for Local Government
Public Body:	Office of the British Columbia Ferries Commissioner
Head:	Commissioner
Public Body:	Office of the Commissioner appointed under the <i>Members' Conflict of Interest Act</i>

Head:	Commissioner
Public Body:	Office of the Human Rights Commissioner
Head:	Human Rights Commissioner
Public Body:	Office of the Information and Privacy Commissioner
Head:	Commissioner
Public Body:	Office of the Merit Commissioner
Head:	Merit Commissioner
Public Body:	Office of the Ombudsperson
Head:	Ombudsperson
Public Body:	Office of the police complaint commissioner appointed under the <i>Police Act</i>
Head:	Police complaint commissioner
Public Body:	Office of the Registrar under the <i>Lobbyists Transparency Act</i>
Head:	Registrar
Public Body:	Office of the Representative for Children and Youth
Head:	Representative for Children and Youth
Public Body:	Office of the Superintendent of Professional Governance
Head:	Superintendent
Public Body:	Oil and Gas Appeal Tribunal
Head:	Chair
Public Body:	Oil and Gas Commission
Head:	Commissioner
Public Body:	Order of British Columbia Advisory Council
Head:	Chair
Public Body:	Organized Crime Agency of B.C.
Head:	Chair
Public Body:	Pacific Carbon Trust
Head:	Chair of the Board of Directors
Public Body:	Pacific National Exhibition

Head:	President
Public Body:	Pacific Vehicle Testing Technologies Ltd.
Head:	Chief Executive Officer, South Coast British Columbia Transportation Authority
Public Body:	Passenger Transportation Board
Head:	Chair
Public Body:	Patient Care Quality Review Boards appointed under the <i>Patient Care Quality Review Board Act</i> (each review board)
Head:	Chair
Public Body:	PRIMECORP Police Records Information Management Environment Incorporated
Head:	General Manager
Public Body:	Private Managed Forest Land Council
Head:	Chair
Public Body:	Property Assessment Appeal Board
Head:	Chair
Public Body:	Property Assessment Review Panels (each Panel)
Head:	<a href="#">Minister of Finance</a>
Public Body:	Provincial Agricultural Land Commission
Head:	Chair
Public Body:	Provincial Child Care Council
Head:	Minister of Children and Family Development
Public Body:	Provincial Health Services Authority
Head:	Chair
Public Body:	Provincial Rental Housing Corporation
Head:	<a href="#">Attorney General and Minister Responsible for Housing</a>
Public Body:	Public Guardian and Trustee
Head:	Public Guardian and Trustee
Public Body:	Public Sector Employers' Council
Head:	Chair
Public Body:	Public Service Pension Board of Trustees

Head:	Chair
Public Body:	Real Estate Compensation Fund Corporation
Head:	Chair
Public Body:	Real Estate Errors and Omissions Insurance Corporation
Head:	Chair
Public Body:	Real Estate Foundation of British Columbia
Head:	Chair
Public Body:	Regional Advisory Committees (each Committee)
Head:	Chair
Public Body:	Royal British Columbia Museum
Head:	Chair of the Board of Directors
Public Body:	Safety Standards Appeal Board
Head:	Chair
Public Body:	Screening Panels (each panel) under the <i>South Coast British Columbia Transportation Authority Act</i>
Head:	Chair
Public Body:	Skagit Environmental Endowment Commission
Head:	Minister of Forests, Lands, Natural Resource Operations and Rural Development
Public Body:	South Coast British Columbia Transportation Authority Police Board
Head:	Chair
Public Body:	Southern Interior Development Initiative Trust
Head:	Chair
Public Body:	StudentAid BC Appeal Committee
Head:	<a href="#">Minister of Advanced Education and Skills Training</a>
Public Body:	Surface Rights Board
Head:	Chair
Public Body:	Teachers' Pension Board of Trustees
Head:	Chair
Public Body:	The British Columbia Unclaimed Property Society

Head:	President
Public Body:	The ICA Foundation of British Columbia
Head:	Chair
Public Body:	Therapeutics Initiatives
Head:	Chair
Public Body:	Timber Export Advisory Committee
Head:	Minister of Forests, Lands, Natural Resource Operations and Rural Development
Public Body:	TransLink Security Management Ltd.
Head:	Chief Officer, South Coast British Columbia Transportation Authority Police Service
Public Body:	Transportation Investment Corporation
Head:	Chair of the Board of Directors
Public Body:	Vancouver Wharves Ltd.
Head:	Chair
Public Body:	Vancouver Wharves Limited Partnership
Head:	Chair
Public Body:	Victoria Regional Transit Commission
Head:	Chair
Public Body:	West Coast Express Limited
Head:	Chief Executive Officer, South Coast British Columbia Transportation Authority
Public Body:	Woodlot Product Development Council
Head:	Chair
Public Body:	Workers' Compensation Appeal Tribunal
Head:	Chair
Public Body:	Workers' Compensation Board
Head:	Chair of the Board of Directors

### **Schedule 3**

#### **Governing Bodies of Professions or Occupations**

Applied Science Technologists and Technicians of British Columbia



Architectural Institute of British Columbia

Association of British Columbia Forest Professionals

Association of British Columbia Land Surveyors

Association of Professional Engineers and Geoscientists of the Province of British Columbia

British Columbia College of Nurses and Midwives

British Columbia College of Social Workers

British Columbia Institute of Agrologists

British Columbia Registered Music Teachers' Association

British Columbia Society of Landscape Architects

Building Officials' Association of British Columbia

College of Applied Biology

College of Chiropractors of British Columbia

College of Dental Hygienists of British Columbia

College of Dental Surgeons of British Columbia

College of Dental Technicians of British Columbia

College of Denturists of British Columbia

College of Dietitians of British Columbia

College of Massage Therapists of British Columbia

College of Naturopathic Physicians of British Columbia

College of Occupational Therapists of British Columbia

College of Opticians of British Columbia

College of Optometrists of British Columbia

College of Pharmacists of British Columbia

College of Physical Therapists of British Columbia

College of Physicians and Surgeons of British Columbia

College of Psychologists of British Columbia

College of Speech and Hearing Health Professionals of British Columbia

College of Traditional Chinese Medicine Practitioners and Acupuncturists of British Columbia

College of Veterinarians of British Columbia

Insurance Council of British Columbia

Law Society of British Columbia

Organization of Chartered Professional Accountants of British Columbia

Society of Notaries Public of British Columbia

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