

## BILL 44

2003

### PERSONAL INFORMATION PROTECTION ACT

(Assented to , 2003)

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

#### **Definitions**

**1** In this Act,

- (a) “business contact information” means an individual’s name, position name or title, business telephone number, business address, business e-mail, business fax number and other similar business information;
- (b) “Commissioner” means the Information and Privacy Commissioner appointed under the *Freedom of Information and Protection of Privacy Act*;
- (c) “domestic” means related to home or family;
- (d) “employee” means an individual employed by an organization and includes an individual who performs a service for or in relation to or in connection with an organization
  - (i) as an apprentice, volunteer, participant or student, or
  - (ii) under a contract or an agency relationship with the organization;
- (e) “investigation” means an investigation related to

- (i) a breach of an agreement,
- (ii) a contravention of an enactment of Alberta or Canada or of another province of Canada,
- (iii) circumstances or conduct that may result in a remedy being available at law,
- (iv) a claim recognized at law by an individual against an organization, or
- (v) a trade in securities that is subject to Alberta securities laws as that term is defined in the *Securities Act*,

if the investigation is undertaken on a reasonably held belief that the breach, contravention, circumstances, conduct or claim in question or the trade in securities has occurred or is likely to occur;

- (f) “legal proceeding” means a civil, criminal or administrative proceeding that is related to
  - (i) a breach of an agreement,
  - (ii) a contravention of an enactment of Alberta or Canada or of another province of Canada, or
  - (iii) a remedy available at law;
- (g) “Minister” means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act;
- (h) “organization” includes
  - (i) a corporation,
  - (ii) an unincorporated association,
  - (iii) a trade union as defined in the *Labour Relations Code*,
  - (iv) a partnership as defined in the *Partnership Act*,
  - (v) an individual acting in a commercial capacity, or

- (vi) any person acting on behalf of a corporation, unincorporated association, trade union or partnership or an individual referred to in subclause (v),

including its heirs, executors, administrators or other legal representatives, as the case may be, but does not include an individual acting in a personal or domestic capacity;

- (i) “personal employee information” means, in respect of an individual who is an employee or a potential employee, personal information reasonably required by an organization that is collected, used or disclosed solely for the purposes of establishing, managing or terminating

- (i) an employment relationship, or

- (ii) a volunteer work relationship

between the organization and the individual but does not include personal information about the individual that is unrelated to that relationship;

- (j) “personal information” means information about an identifiable individual but does not include business contact information;

- (k) “public body” means a public body as defined in the *Freedom of Information and Protection of Privacy Act*;

- (l) “record” means a record of information in any form or in any medium, whether in written, printed, photographic or electronic form or any other form, but does not include a computer program or other mechanism that can produce a record;

- (m) “volunteer work relationship” means a relationship between an organization and an individual under which a service is provided for or in relation to or is undertaken in connection with the organization by an individual who is acting as a volunteer or is otherwise unpaid with respect to that service and includes any similar relationship involving an organization and an individual where, in respect of that relationship, the individual is a participant or a student.

### **Standard as to what is reasonable**

**2** Where in this Act anything or any matter

- (a) is described, characterized or referred to as reasonable or unreasonable, or
- (b) is required or directed to be carried out or otherwise dealt with reasonably or in a reasonable manner,

the standard to be applied under this Act in determining whether the thing or matter is reasonable or unreasonable, or has been carried out or otherwise dealt with reasonably or in a reasonable manner, is what a reasonable person would consider appropriate in the circumstances.

## **Part 1 Purpose and Application**

### **Purpose**

**3** The purpose of this Act is to govern the collection, use and disclosure of personal information by organizations in a manner that recognizes both the right of an individual to have his or her personal information protected and the need of organizations to collect, use or disclose personal information for purposes that are reasonable.

### **Application**

**4(1)** Except as provided in this Act and subject to the regulations, this Act applies to every organization and in respect of all personal information.

**(2)** Subject to the regulations, this Act does not apply to a public body or any personal information that is in the custody of or under the control of a public body.

**(3)** This Act does not apply to the following:

- (a) the collection, use or disclosure of personal information if the collection, use or disclosure, as the case may be, is for personal or domestic purposes of the individual and for no other purpose;

- (b) the collection, use or disclosure of personal information if the collection, use or disclosure, as the case may be, is for artistic or literary purposes and for no other purpose;
- (c) the collection, use or disclosure of personal information, other than personal employee information that is collected, used or disclosed pursuant to section 15, 18 or 21, if the collection, use or disclosure, as the case may be, is for journalistic purposes and for no other purpose;
- (d) personal information that is in the custody of an organization if the *Freedom of Information and Protection of Privacy Act* applies to that information;
- (e) health information, as defined in the *Health Information Act*, to which that Act applies;
- (f) the collection, use or disclosure of personal information by an officer of the Legislature if the collection, use or disclosure, as the case may be, relates to the exercise of that officer's functions under an enactment;
- (g) personal information about an individual if the individual has been dead for at least 20 years;
- (h) personal information about an individual that is contained in a record that has been in existence for at least 100 years;
- (i) personal information contained in a court file, a record of a judge of the Court of Appeal of Alberta, the Court of Queen's Bench of Alberta or The Provincial Court of Alberta, a record of a master in chambers of the Court of Queen's Bench of Alberta, a record of a sitting justice of the peace or a presiding justice of the peace under the *Justice of the Peace Act*, a judicial administration record or a record relating to support services provided to the judges of any of the courts referred to in this clause;
- (j) personal information contained in a record of any type that has been created by or for
  - (i) a Member of the Legislative Assembly, or
  - (ii) an elected or appointed member of a public body;



(k) personal information contained in a personal note, communication or draft decision created by or for a person who is acting in a judicial, quasi-judicial or adjudicative capacity.

(4) If an organization has under its control personal information about an individual that was acquired prior to January 1, 2004, that information, for the purposes of this Act,

- (a) is deemed to have been collected pursuant to consent given by that individual,
- (b) may be used and disclosed by the organization for the purposes for which the information was collected, and
- (c) after the coming into force of this Act, is to be treated in the same manner as information collected under this Act.

(5) This Act is not to be applied so as to

- (a) affect any legal privilege,
- (b) limit the information available by law to a party to a legal proceeding, or
- (c) limit or affect the collection, use or disclosure of information that is the subject of trust conditions or undertakings to which a lawyer is subject.

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

- (a) the other enactment is the *Freedom of Information and Protection of Privacy Act*, or
- (b) another Act or a regulation under this Act expressly provides that the other Act or a regulation, or a provision of it, prevails notwithstanding this Act.

(7) This Act applies notwithstanding any agreement to the contrary, and any waiver or release given of the rights, benefits or protections provided under this Act is against public policy and void.

## **Part 2 Protection of Personal Information**

### **Division 1 Compliance and Policies**

#### **Compliance with Act**

- 5(1)** An organization is responsible for personal information that is in its custody or under its control.
- (2)** An organization must designate one or more individuals to be responsible for ensuring that the organization complies with this Act.
- (3)** An individual designated under subsection (2) may delegate to one or more individuals the duties conferred by that designation.
- (4)** In meeting its responsibilities under this Act, an organization must act in a reasonable manner.

#### **Policies and practices**

- 6** An organization must
- (a)** develop and follow policies and practices that are reasonable for the organization to meet its obligations under this Act, and
  - (b)** make information about the policies and practices referred to in clause (a) available on request.

### **Division 2 Consent**

#### **Consent required**

- 7(1)** Except where this Act provides otherwise, an organization shall not, with respect to personal information about an individual,
- (a)** collect that information unless the individual consents to the collection of that information,
  - (b)** collect that information from a source other than the individual unless the individual consents to the collection of that information from the other source,

- (c) use that information unless the individual consents to the use of that information, or
- (d) disclose that information unless the individual consents to the disclosure of that information.

**(2)** An organization shall not, as a condition of supplying a product or service, require an individual to consent to the collection, use or disclosure of personal information about an individual beyond what is necessary to provide the product or service.

**(3)** An individual may give a consent subject to any reasonable terms, conditions or qualifications established, set, approved by or otherwise acceptable to the individual.

#### **Form of consent**

**8(1)** An individual may give his or her consent in writing or orally to the collection, use or disclosure of personal information about the individual.

**(2)** An individual is deemed to consent to the collection, use or disclosure of personal information about the individual by an organization for a particular purpose if

- (a) the individual, without actually giving a consent referred to in subsection (1), voluntarily provides the information to the organization for that purpose, and
- (b) it is reasonable that a person would voluntarily provide that information.

**(3)** Notwithstanding section 7(1), an organization may collect, use or disclose personal information about an individual for particular purposes if

- (a) the organization
  - (i) provides the individual with a notice, in a form that the individual can reasonably be expected to understand, that the organization intends to collect, use or disclose personal information about the individual for those purposes, and
  - (ii) with respect to that notice, gives the individual a reasonable opportunity to decline or object to having

his or her personal information collected, used or disclosed for those purposes,

- (b) the individual does not, within a reasonable time, give to the organization a response to that notice declining or objecting to the proposed collection, use or disclosure, and
- (c) having regard to the level of the sensitivity, if any, of the information in the circumstances, it is reasonable to collect, use or disclose the information as permitted under clauses (a) and (b).

**(4)** Subsections (2) and (3) are not to be construed so as to authorize an organization to collect, use or disclose personal information for any purpose other than the particular purposes for which the information was collected.

**(5)** Consent in writing may be given or otherwise transmitted by electronic means to an organization if the organization receiving that transmittal produces or is able at any time to produce a printed copy or image or a reproduction of the consent in paper form.

#### **Withdrawal or variation of consent**

**9(1)** Subject to subsection (5), on giving reasonable notice to an organization, an individual may at any time withdraw or vary consent to the collection, use or disclosure by the organization of personal information about the individual.

**(2)** On receipt of notice referred to in subsection (1), an organization must, subject to subsection (3), inform the individual of the likely consequences to the individual of withdrawing or varying the consent.

**(3)** An organization is not required to inform an individual under subsection (2) if the likely consequences of withdrawing or varying the consent would be reasonably obvious to the individual.

**(4)** Except where the collection, use or disclosure of personal information without consent of the individual is permitted under this Act, if an individual withdraws or varies a consent to the collection, use or disclosure of personal information about the individual by an organization, the organization must,

- (a) in the case of the withdrawal of a consent, stop collecting, using or disclosing the information, and
- (b) in the case of a variation of a consent, abide by the consent as varied.

(5) If withdrawing or varying a consent would frustrate the performance of a legal obligation, any withdrawal or variation of the consent does not, unless otherwise agreed to by the parties who are subject to the legal obligation, operate to the extent that the withdrawal or variation would frustrate the performance of the legal obligation owed between those parties.

(6) A withdrawal or variation of a consent by an individual may be given to an organization in the same manner as a consent may be given.

(7) An individual may, subject to this section, withdraw or vary a consent subject to any reasonable terms, conditions or qualifications established, set, approved by or otherwise acceptable to the individual.

(8) Nothing in this section is to be construed so as to empower

- (a) an individual, as part of the withdrawal or variation of a consent, to impose an obligation or a liability on an organization unless the organization agrees otherwise, or
- (b) an organization, as part of the withdrawal or variation of a consent, to impose an obligation or liability on an individual unless the individual agrees otherwise.

**Consent obtained by deception, etc.**

**10** If an organization obtains or attempts to obtain consent to the collection, use or disclosure of personal information by

- (a) providing false or misleading information respecting the collection, use or disclosure of the information, or
- (b) using deceptive or misleading practices,

any consent provided or obtained under those circumstances is negated.

### **Division 3 Collection of Personal Information**

#### **Limitations on collection**

**11(1)** An organization may collect personal information only for purposes that are reasonable.

(2) Where an organization collects personal information, it may do so only to the extent that is reasonable for meeting the purposes for which the information is collected.

#### **Limitation on sources for collection**

**12** An organization may without the consent of the individual collect personal information about an individual from a source other than that individual if the information that is to be collected is information that may be collected without the consent of the individual under section 14, 15 or 22.

#### **Notification required for collection**

**13(1)** Before or at the time of collecting personal information about an individual from the individual, an organization must notify that individual in writing or orally

- (a) as to the purposes for which the information is collected, and
- (b) of the name of a person who is able to answer on behalf of the organization the individual's questions about the collection.

(2) Before or at the time personal information about an individual is collected from another organization with the consent of the individual, the organization collecting the information must notify the organization that is disclosing the information that the individual has consented to the collection of the information.

(3) Before or at the time personal information about an individual is collected from another organization without the consent of the individual, the organization collecting the personal information must provide the organization that is disclosing the personal information with sufficient information regarding the purpose for which the personal information is being collected in order to allow

the organization that is disclosing the personal information to make a determination as to whether that disclosure of the personal information would be in accordance with this Act.

(4) Subsection (1) does not apply to the collection of personal information that is carried out pursuant to section 8(2).

#### **Collection without consent**

**14** An organization may collect personal information about an individual without the consent of that individual if

- (a) a reasonable person would consider that the collection of the information is clearly in the interests of the individual and consent of the individual cannot be obtained in a timely way or the individual would not reasonably be expected to withhold consent;
- (b) the collection of the information is pursuant to a statute or regulation of Alberta or Canada that authorizes or requires the collection;
- (c) the collection of the information is reasonable for the purposes of an investigation or a legal proceeding;
- (d) the information is publicly available;
- (e) the collection of the information is necessary to determine the individual's suitability to receive an honour, award or similar benefit, including an honorary degree, scholarship or bursary;
- (f) the information is collected by a credit reporting organization to create a credit report where the individual consented to the disclosure to the credit reporting organization by the organization that originally collected the information;
- (g) the information may be disclosed by an organization without the consent of the individual under section 20;
- (h) the collection of the information is necessary in order to collect a debt owed to the organization or for the organization to repay to the individual money owed by the organization;

- (i) the organization collecting the information is an archival institution and the collection of the information is reasonable for archival purposes or research;
- (j) the collection of the information meets the requirements respecting archival purposes or research set out in the regulations and it is not reasonable to obtain the consent of the individual whom the information is about.

### **Collection of personal employee information**

**15(1)** Notwithstanding anything in this Act other than subsection (2), an organization may collect personal employee information about an individual without the consent of the individual if

- (a) the individual is an employee of the organization, or
- (b) the collection of the information is for the purpose of recruiting a potential employee.

**(2)** An organization shall not collect personal employee information about an individual unless

- (a) the collection is reasonable for the purposes for which it is being collected, and
- (b) the personal employee information includes only personal information that is related to the employment or volunteer work relationship of the individual.

**(3)** An organization may disclose personal employee information about an individual without the consent of the individual where that information is being disclosed to an organization that is collecting that information under subsection (1).

**(4)** If an organization collects personal employee information about an individual in relation to the recruitment of a potential employee and the individual is not hired or otherwise engaged as a result of that recruitment, the organization must, if the information is still under its control, either destroy the information that was collected or turn it over to that individual unless that individual consents otherwise.



## **Division 4 Use of Personal Information**

### **Limitations on use**

**16(1)** An organization may use personal information only for purposes that are reasonable.

**(2)** Where an organization uses personal information, it may do so only to the extent that is reasonable for meeting the purposes for which the information is used.

### **Use without consent**

**17** An organization may use personal information about an individual without the consent of the individual if

- (a) a reasonable person would consider that the use of the information is clearly in the interests of the individual and consent of the individual cannot be obtained in a timely way or the individual would not reasonably be expected to withhold consent;
- (b) the use of the information is pursuant to a statute or regulation of Alberta or Canada that authorizes or requires the use;
- (c) the use of the information is reasonable for the purposes of an investigation or a legal proceeding;
- (d) the information is publicly available;
- (e) the use of the information is necessary to determine the individual's suitability to receive an honour, award or similar benefit, including an honorary degree, scholarship or bursary;
- (f) a credit reporting organization was permitted to collect the information under section 14(f) and the information is not used by the credit reporting organization for any purpose other than to create a credit report;
- (g) the information may be disclosed by an organization without the consent of the individual under section 20;

- (h) the use of the information is necessary to respond to an emergency that threatens the life, health or security of an individual or the public;
- (i) the use of the information is necessary in order to collect a debt owed to the organization or for the organization to repay to the individual money owed by the organization;
- (j) the organization using the information is an archival institution and the use of the information is reasonable for archival purposes or research;
- (k) the use of the information meets the requirements respecting archival purposes or research set out in the regulations and it is not reasonable to obtain the consent of the individual whom the information is about.

#### **Use of personal employee information**

**18(1)** Notwithstanding anything in this Act other than subsection (2), an organization may use personal employee information about an individual without the consent of the individual if

- (a) the individual is an employee of the organization, or
- (b) the use of the information is for the purpose of recruiting a potential employee.

**(2)** An organization shall not use personal employee information about an individual unless

- (a) the use is reasonable for the purposes for which it is being used, and
- (b) the personal employee information includes only personal information that is related to the employment or volunteer work relationship of the individual.

**(3)** If an organization uses personal employee information about an individual in relation to the recruitment of a potential employee and the individual is not hired or otherwise engaged as a result of that recruitment, the organization must, if the information is still under its control, either destroy the information that was used or turn it over to that individual unless that individual consents otherwise.

## **Division 5 Disclosure of Personal Information**

### **Limitations on disclosure**

**19(1)** An organization may disclose personal information only for purposes that are reasonable.

**(2)** Where an organization discloses personal information, it may do so only to the extent that is reasonable for meeting the purposes for which the information is disclosed.

### **Disclosure without consent**

**20** An organization may disclose personal information about an individual without the consent of the individual if

- (a) a reasonable person would consider that the disclosure of the information is clearly in the interests of the individual and consent of the individual cannot be obtained in a timely way or the individual would not reasonably be expected to withhold consent;
- (b) the disclosure of the information is pursuant to a statute or regulation of Alberta or Canada that authorizes or requires the disclosure;
- (c) the disclosure of the information is in accordance with a provision of a treaty that
  - (i) authorizes or requires its disclosure, and
  - (ii) is made under an enactment of Alberta or Canada;
- (d) the disclosure of the information is for the purpose of complying with a subpoena, warrant or order issued or made by a court, person or body having jurisdiction to compel the production of information or with a rule of court that relates to the production of information;
- (e) the disclosure of the information is to a public body or a law enforcement agency in Canada to assist in an investigation
  - (i) undertaken with a view to a law enforcement proceeding, or

- (ii) from which a law enforcement proceeding is likely to result;
- (f) the disclosure of the information is necessary to respond to an emergency that threatens the life, health or security of an individual or the public;
- (g) the disclosure of the information is for the purposes of contacting the next of kin or a friend of an injured, ill or deceased individual;
- (h) the disclosure of the information is necessary in order to collect a debt owed to the organization or for the organization to repay to the individual money owed by the organization;
- (i) the information is publicly available;
- (j) the disclosure of the information is to the surviving spouse or adult interdependent partner or to a relative of a deceased individual if, in the opinion of the organization, the disclosure is reasonable;
- (k) the disclosure of the information is necessary to determine the individual's suitability to receive an honour, award or similar benefit, including an honorary degree, scholarship or bursary;
- (l) the disclosure of the information is reasonable for the purposes of an investigation or a legal proceeding;
- (m) the disclosure of the information is for the purposes of protecting against or for the prevention, detection or suppression of fraud and the organization disclosing the information is permitted or otherwise empowered or recognized under an enactment of Alberta or Canada to carry out those purposes;
- (n) a credit reporting organization is permitted to disclose the information under Part 5 of the *Fair Trading Act*;
- (o) the organization disclosing the information is an archival institution and the disclosure of the information is reasonable for archival purposes or research;

- (p) the disclosure of the information meets the requirements respecting archival purposes or research set out in the regulations and it is not reasonable to obtain the consent of the individual whom the information is about.

#### **Disclosure of personal employee information**

**21(1)** Notwithstanding anything in this Act other than subsection (2), an organization may disclose personal employee information about an individual without the consent of the individual if

- (a) the individual is or was an employee of the organization, or
- (b) the disclosure of the information is for the purpose of recruiting a potential employee.

**(2)** An organization shall not disclose personal employee information about an individual unless

- (a) the disclosure is reasonable for the purposes for which it is being disclosed, and
- (b) the personal employee information includes only personal information that is related to the employment or volunteer work relationship of the individual.

**(3)** If an organization discloses personal employee information about an individual in relation to the recruitment of a potential employee and the individual is not hired or otherwise engaged as a result of that recruitment, the organization must, if the information is still under its control, either destroy the information that was being disclosed or turn it over to that individual unless that individual consents otherwise.

## **Division 6 Business Transactions**

#### **Disclosure respecting acquisition of a business, etc.**

**22(1)** In this section,

- (a) “business transaction” means a transaction consisting of the purchase, sale, lease, merger or amalgamation or any other type of acquisition or disposal of, or the taking of a security interest in respect of, an organization or a portion

of an organization or any business or activity or business asset of an organization and includes a prospective transaction of such a nature;

(b) “party” includes a prospective party.

(2) For the purposes of a business transaction between 2 or more organizations, the organizations that are the parties to that business transaction may,

- (a) during the period leading up to and including the completion, if any, of the business transaction, collect, use and disclose personal information about individuals without the consent of the individuals if
  - (i) the parties have entered into an agreement under which the collection, use and disclosure of the information is restricted to those purposes that relate to the business transaction, and
  - (ii) the information is necessary
    - (A) for the parties to determine whether to proceed with the business transaction, and
    - (B) if the determination is to proceed with the business transaction, for the parties to carry out and complete the business transaction,

and

- (b) where the business transaction is completed, collect, use and disclose personal information about individuals without the consent of the individuals if
  - (i) the parties have entered into an agreement under which the parties undertake to use and disclose the information only for those purposes for which the information was initially collected from or in respect of the individuals, and
  - (ii) the information relates solely to the carrying on of the business or activity or the carrying out of the objects for which the business transaction took place.

(3) If a business transaction does not proceed or is not completed, the party to whom the personal information was disclosed must, if the information is still in the custody of or under the control of that party, either destroy the information or turn it over to the party that disclosed the information.

(4) Nothing in this section is to be construed so as to restrict a party to a business transaction from obtaining consent of an individual to the collection, use or disclosure of personal information about the individual for purposes that are beyond the purposes for which the party obtained the information under this section.

(5) This section does not apply to a business transaction where the primary purpose, objective or result of the transaction is the purchase, sale, lease, transfer, disposal or disclosure of personal information.

### **Part 3 Access to and Correction and Care of Personal Information**

#### **Division 1 Access and Correction**

##### **Definitions**

**23** In this Division,

- (a) “applicant” means an individual who makes a written request in accordance with section 26;
- (b) “organization” does not include any person acting on behalf of an organization.

##### **Access**

**24(1)** Subject to subsections (2) to (4), on the request of an individual for access to personal information about the individual and taking into consideration what is reasonable, an organization must provide the individual with access to the following:

- (a) the individual’s personal information that is in the custody or under the control of the organization;

- (b) the purposes for which the personal information referred to in clause (a) has been and is being used by the organization;
- (c) the names of the persons to whom and circumstances in which the personal information referred to in clause (a) has been and is being disclosed.

**(2)** An organization may refuse to provide access to personal information under subsection (1) if

- (a) the information is protected by any legal privilege;
- (b) the disclosure of the information would reveal confidential information that is of a commercial nature and it is not unreasonable to withhold that information;
- (c) the information was collected for an investigation or legal proceeding;
- (d) the disclosure of the information might result in that type of information no longer being provided to the organization when it is reasonable that that type of information would be provided;
- (e) the information was collected by a mediator or arbitrator or was created in the conduct of a mediation or arbitration for which the mediator or arbitrator was appointed to act
  - (i) under an agreement,
  - (ii) under an enactment, or
  - (iii) by a court;
- (f) the information relates to or may be used in the exercise of prosecutorial discretion.

**(3)** An organization shall not provide access to personal information under subsection (1) if

- (a) the disclosure of the information could reasonably be expected to threaten the life or security of another individual;



- (b) the information would reveal personal information about another individual;
- (c) the information would reveal the identity of an individual who has provided an opinion about another individual and the individual providing the opinion does not consent to disclosure of his or her identity.

**(4)** If, in respect of a record, an organization is reasonably able to sever the information referred to in subsection (2)(b) or (3)(a), (b) or (c) from a copy of the record that contains personal information about the individual who requested it, the organization must provide the individual with access to the record after the information referred to in subsection (2)(b) or (3)(a), (b) or (c) has been severed.

#### **Right to request correction**

**25(1)** An individual may request an organization to correct an error or omission in the personal information about the individual that is under the control of the organization.

**(2)** If there is an error or omission in personal information in respect of which a request for a correction is received by an organization under subsection (1), the organization must, subject to subsection (3),

- (a) correct the information as soon as reasonably possible, and
- (b) where the organization has disclosed the incorrect information to other organizations, send a notification containing the corrected information to each organization to which the incorrect information has been disclosed, if it is reasonable to do so.

**(3)** If an organization makes a determination not to make the correction under subsection (2)(a), the organization must annotate the personal information under its control with the correction that was requested but not made.

**(4)** On receiving a notification under subsection (2)(b) containing corrected personal information, an organization must correct the personal information in its custody or under its control.

(5) Notwithstanding anything in this section, an organization shall not correct or otherwise alter an opinion, including a professional or expert opinion.

**How to make a request**

**26(1)** For an individual to obtain access to personal information about that individual or make a request for a correction to personal information about that individual, the individual must make a written request to the organization setting out sufficient detail to enable the organization, with a reasonable effort, to identify the information in respect of which the written request is made.

(2) The applicant may ask for a copy of the record, or ask to examine the record, that contains personal information about the applicant.

**Duty to assist**

**27(1)** An organization must

- (a) make every reasonable effort
  - (i) to assist applicants, and
  - (ii) to respond to each applicant as accurately and completely as reasonably possible,

and

- (b) at the request of an applicant provide, if it is reasonable to do so, an explanation of any term, code or abbreviation used in any record provided to the applicant or that is referred to.

(2) An organization must, with respect to an applicant's personal information, create a record for the applicant if

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

### **Time limit for responding**

**28(1)** Subject to this section, an organization must respond to an applicant not later than

- (a) 45 days from the day that the organization receives the applicant's written request referred to in section 26, or
- (b) the end of an extended time period if the time period is extended under section 31.

**(2)** An organization is not required to comply with subsection (1)(a) if the time period is extended under section 31.

**(3)** If an organization asks the Commissioner under section 37 for authorization to disregard a request, the 45-day period referred to in subsection (1) does not include the period from the start of the day in which the request is made under section 37 to the end of the day in which a decision is made by the Commissioner with respect to giving the authorization.

**(4)** If an applicant asks the Commissioner under section 46 to review a fee estimate or a refusal to excuse the payment of all or part of the fee required by the organization, the 45-day period referred to in subsection (1) does not include the period from the start of the day in which the applicant asks for the review to the end of the day in which the decision is made by the Commissioner with respect to the review.

### **Contents of response**

**29** In a response to a request made under section 24, the organization must inform the applicant

- (a) as to whether or not the applicant is entitled to or will be given access to all or part of his or her personal information,
- (b) if the applicant is entitled to or will be given access, when access will be given, and
- (c) if access to all or part of the applicant's personal information is refused,
  - (i) of the reasons for the refusal and the provision of this Act on which the refusal is based,

- (ii) of the name of the person who can answer on behalf of the organization the applicant's questions about the refusal, and
- (iii) that the applicant may ask for a review under section 46.

**How access will be given**

**30** Where an applicant is informed under section 29 that access will be given, the organization must,

- (a) if an applicant has asked for a copy of the applicant's personal information and the information can reasonably be reproduced,
  - (i) provide with the response a copy of the information or the record or part of the record relating to the information, or
  - (ii) give the applicant reasons for the delay in providing the information or record,

or

- (b) if an applicant has asked to examine the record relating to the applicant's personal information or if the record cannot reasonably be reproduced,
  - (i) permit the applicant to examine the record or part of the record, or
  - (ii) give the applicant access in accordance with the regulations.

**Extending the time limit for responding**

**31(1)** An organization may, with respect to a request made under section 24, extend the time period for responding to the request by up to an additional 30 days or, with the Commissioner's permission, to a longer period, if

- (a) the applicant does not give enough detail to enable the organization to identify the personal information or the record relating to the information,

- (b) a large amount of personal information is requested or must be searched,
- (c) meeting the time limit would unreasonably interfere with the operations of the organization, or
- (d) more time is needed to consult with another organization or with a public body before the organization is able to determine whether or not to give the applicant access to the requested personal information or record relating to the information.

**(2)** If the time period is extended under subsection (1), the organization must inform the applicant of the following:

- (a) the reason for the extension;
- (b) the time when a response from the organization can be expected;
- (c) that the applicant may ask for a review under section 46.

### **Fees**

**32(1)** An organization may charge an applicant who makes a request under section 24 a reasonable fee for access to the applicant's personal information or a record relating to the information.

**(2)** Subject to the regulations, a fee is not payable by an applicant in respect of a request made under section 25.

**(3)** If an organization is intending to charge an applicant a fee for a service, the organization

- (a) must give the applicant a written estimate of the total fee before providing the service, and
- (b) may require the applicant to pay a deposit in the amount determined by the organization.

## **Division 2 Care of Personal Information**

### **Accuracy of information**

**33** An organization must make a reasonable effort to ensure that any personal information collected, used or disclosed by or on behalf of an organization is accurate and complete.

### **Protection of information**

**34** An organization must protect personal information that is in its custody or under its control by making reasonable security arrangements against such risks as unauthorized access, collection, use, disclosure, copying, modification, disposal or destruction.

### **Retention of information**

**35** Notwithstanding that a consent has been withdrawn or varied under section 9, an organization may for legal or business purposes retain personal information as long as is reasonable.

## **Part 4 Role of Commissioner**

### **General powers of Commissioner**

**36(1)** In addition to the Commissioner's powers and duties under Part 5 with respect to reviews, the Commissioner is generally responsible for monitoring how this Act is administered to ensure that its purposes are achieved, and may

- (a) conduct investigations to ensure compliance with any provision of this Act;
- (b) make an order described in section 52 whether or not a review is requested;
- (c) inform the public about this Act;
- (d) receive comments from the public concerning the administration of this Act;
- (e) engage in or commission research into anything affecting the achievement of the purposes of this Act;

- (f) comment on the implications for protection of personal information in relation to existing or proposed programs of organizations;
- (g) bring to the attention of an organization any failure by the organization to assist applicants as required under section 27;
- (h) give advice and recommendations of general application to an organization on matters respecting the rights or obligations of an organization under this Act.

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

- (a) a duty imposed by section 27 has not been performed;
- (b) an extension of a time period under section 31 for responding to a request is not justified;
- (c) a fee estimated or required by an organization under this Act is inappropriate;
- (d) a correction of personal information requested under section 25 has been refused without justification;
- (e) personal information has been collected, used or disclosed by an organization in contravention of this Act or in circumstances that are not in compliance with this Act;
- (f) an organization is not in compliance with this Act.

**(3)** The Commissioner may, on request, give advance rulings in respect of any matters that are or could potentially be the subject of an investigation by the Commissioner under this Act.

#### **Power to authorize an organization to disregard requests**

**37** If an organization asks, the Commissioner may authorize the organization to disregard one or more requests made under section 24 or 25 if

- (a) because of their repetitious or systematic nature, the requests would unreasonably interfere with the operations of the organization or amount to an abuse of the right to make those requests, or

- (b) one or more of the requests are frivolous or vexatious.

#### **Powers of Commissioner re investigations or inquiries**

**38(1)** In conducting an investigation under section 36 or an inquiry under section 50, the Commissioner has all the powers, privileges and immunities of a commissioner under the *Public Inquiries Act* and the powers given by subsection (2) of this section.

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

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

(4) If an organization is required to produce a record under subsection (1) or (2) and it is not reasonable to make a copy of the record, the organization may require the Commissioner to examine the original record 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.

(6) The Commissioner may publish in a complete or abridged form a report made in respect of an investigation.

#### **Statements not admissible in evidence**

**39(1)** A statement made or an answer given by a person during an investigation or inquiry by the Commissioner is inadmissible in evidence in court or in any other proceeding, except

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



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

#### **Privileged information**

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

#### **Restrictions on disclosure of information**

**41(1)** The Commissioner and anyone acting for or under the direction of the Commissioner shall not disclose any information obtained in performing their duties, powers and functions under this Act, except as provided in subsections (2) to (4).

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

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

(3) In conducting an investigation or inquiry under this Act and in a report under this Act, the Commissioner and anyone acting for or under the direction of the Commissioner must take every reasonable precaution to avoid disclosing, and shall not disclose, any information that an organization would be required or permitted to refuse access to if access to personal information were requested under section 24.

(4) 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 39.

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

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

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

**43(1)** The Commissioner may delegate to any person any duty, power or function of the Commissioner under this Act except the power to delegate.

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

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

**44(1)** The Commissioner must report annually to the Speaker of the Legislative Assembly on

- (a) the work of the Commissioner's office under this Act, and
- (b) any other matters relating to protection of personal information that the Commissioner considers appropriate.

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

## **Part 5 Reviews and Orders**

#### **Definition**

**45** In this Part, "review" means a review asked for under section 46.

#### **Right to ask for a review or initiate a complaint**

**46(1)** An individual who makes a request to an organization respecting personal information about that individual may ask the Commissioner to review any decision, act or failure to act of the organization.

**(2)** An individual may initiate a complaint with respect to the issues referred to in section 36(2).

**(3)** If the Commissioner is satisfied that there are other grievance, complaint or review procedures available for the purposes of resolving issues for which a review may be requested or a complaint may be initiated under this Part, the Commissioner may require that an individual asking for a review or initiating a complaint under this Part must first exhaust those other procedures

with a view to resolving the matter before the Commissioner proceeds to hear or otherwise deal with the review or complaint.

#### **How to ask for a review or initiate a complaint**

**47(1)** To ask for a review or to initiate a complaint under this Part, an individual must, as soon as reasonable, deliver a written request to the Commissioner.

**(2)** A written request to the Commissioner for a review of a decision of an organization must be delivered within

- (a) 30 days from the day that the individual asking for the review is notified of the decision, or
- (b) a longer period allowed by the Commissioner.

**(3)** A written request to the Commissioner initiating a complaint must be delivered within a reasonable time.

**(4)** The time limit in subsection (2)(a) does not apply to delivering a written request for a review concerning an organization's failure to respond within a required time period.

#### **Notifying others of review or complaint**

**48(1)** On receiving a written request for a review, the Commissioner must give a copy of the written request to

- (a) the organization concerned, and
- (b) any other person that the Commissioner considers appropriate.

**(2)** On receiving a written request initiating a complaint, the Commissioner may give a copy of the written request to

- (a) the organization concerned, and
- (b) any other person that the Commissioner considers appropriate.

**(3)** Notwithstanding subsection (1)(a) or (2)(a), the Commissioner may sever any information contained in the written request that the Commissioner considers appropriate before giving a copy of the

written request to the organization or any other person affected by the request.

### **Mediation**

**49** The Commissioner may authorize a person to investigate and attempt to mediate and, where possible, to mediate a settlement of any matter under review or relating to a complaint.

### **Inquiry by Commissioner**

**50(1)** If a matter under review or relating to a complaint

- (a) is not referred to mediation,
- (b) is not settled pursuant to mediation under section 49, or
- (c) is not resolved,

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)** An individual who asks for a review or initiates a complaint, the organization concerned and any person given a copy of the written request for the review or initiating the complaint

- (a) must be given an opportunity to make representations to the Commissioner during the inquiry, and
- (b) may be represented at the inquiry by a lawyer or an agent.

**(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)** An inquiry into a matter that is the subject of a written request referred to in section 47 must be completed within 90 days from the day that the written request was received by the Commissioner unless the Commissioner

- (a) notifies the person who made the written request, the organization concerned and any other person given a copy of the written request that the Commissioner is extending that period, and
- (b) provides an anticipated date for the completion of the review.

**Burden of proof**

**51** At an inquiry into a decision under which an individual was refused

- (a) access to all or part of the personal information about the individual or a record relating to the information, or
- (b) information respecting the collection, use or disclosure of personal information about the individual,

it is up to the organization to establish to the satisfaction of the Commissioner that the individual has no right of access to the personal information about the individual or no right to the information requested respecting the collection, use or disclosure of the personal information about the individual.

**Commissioner's orders**

**52(1)** On completing an inquiry under section 50, the Commissioner must dispose of the issues by making an order under this section.

**(2)** If the inquiry relates to a decision of an organization to give or refuse to give access to all or part of the personal information about the individual or a record relating to the information, the Commissioner must, by order, do one of the following:

- (a) direct the organization to give the individual access to all or part of the personal information about the individual or any record relating to the information that is under the control of the organization if the Commissioner determines that the organization is not permitted under this Act to refuse access;
- (b) either confirm the decision of the organization or require the organization to reconsider its decision concerning

access if the Commissioner determines that the organization may under this Act refuse access;

- (c) direct the organization to refuse the individual access to all or part of the personal information about the individual or any record relating to the information if the Commissioner determines that the organization is required under this Act to refuse access.

**(3)** If the inquiry relates to any matter other than a matter referred to in subsection (2), the Commissioner may by order do one or more of the following:

- (a) confirm that a duty imposed by this Act or the regulations has been performed or require that a duty imposed by this Act or the regulations be performed;
- (b) confirm or reduce a time period that was extended under section 31;
- (c) confirm, excuse or reduce a fee, or order a refund of a fee, in the appropriate circumstances;
- (d) confirm a decision not to correct personal information or specify how personal information is to be corrected;
- (e) require an organization to stop collecting, using or disclosing personal information in contravention of this Act or in circumstances that are not in compliance with this Act;
- (f) confirm a decision of an organization to collect, use or disclose personal information;
- (g) require an organization to destroy personal information collected in contravention of this Act or in circumstances that are not in compliance with this Act;
- (h) with respect to a personal information code established under Part 6 by a professional regulatory organization, require the professional regulatory organization to amend or otherwise change the personal information code so that it is consistent with the purposes and intent of sections 1 to 35.

(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 individual who asked for the review or initiated the complaint;
- (b) the organization concerned;
- (c) any person given a copy of the written request under section 48;
- (d) the Minister.

**No appeal**

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

**Duty to comply with orders**

**54(1)** Subject to subsection (2), not later than 50 days from the day that an organization is given a copy of an order of the Commissioner, the organization concerned must comply with the order.

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

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

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

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

## **Part 6 Professional Regulatory and Non-profit Organizations**

### **Professional regulatory organizations**

**55(1)** In this section,

- (a) “member” means a member of a professional regulatory organization;
- (b) “personal information code” means a code governing the collection, use and disclosure of personal information in a manner that is consistent with the purposes and intent of sections 1 to 35 of this Act;
- (c) “professional Act” means an enactment under which a professional or occupational group or discipline is organized and that provides for the membership in and the regulation of the members of the professional or occupational group or discipline, including the registration, competence, conduct, practice and discipline of its members;
- (d) “professional regulatory organization” means an organization incorporated under a professional Act.

(2) Parts 4 and 5 of this Act apply, with all necessary modifications, to matters dealt with under a personal information code in the same manner as those Parts apply to sections 1 to 35 of this Act.

(3) With respect to matters under this Act as they relate to a professional regulatory organization, the Ombudsman may not, unless the Commissioner agrees otherwise, investigate any matter that the Commissioner has the power to investigate, review or hold an inquiry into under this Act.

(4) The Lieutenant Governor in Council may make regulations



- (a) authorizing a professional regulatory organization to establish a personal information code;
- (b) governing personal information codes established under this Part and the requirements to be met by those codes;
- (c) authorizing the Minister, subject to any terms or conditions that the Minister considers appropriate,
  - (i) to grant to any professional regulatory organization that has filed a personal information code with the Minister an exemption from the operation of sections 1 to 35 of this Act or any one or more of those provisions, and
  - (ii) to revoke any exemption referred to in subclause (i) that was granted by the Minister to a professional regulatory organization;
- (d) governing the granting of and the revoking of exemptions referred to in clause (c);
- (e) governing the coming into force of this Act or any provision of this Act with respect to a professional regulatory organization;
- (f) providing that this Act or any provision of this Act commences to apply to a professional regulatory organization at a date that is later than January 1, 2004;
- (g) providing for and governing any transitional matter relating to the application of this Act to a professional regulatory organization.

(5) Any regulation made under this section may be general or specific in its application.

#### **Non-profit organizations**

**56(1)** In this section,

- (a) “commercial activity” means
  - (i) any transaction, act or conduct, or
  - (ii) any regular course of conduct,

that is of a commercial character and, without restricting the generality of the foregoing, includes the following:

- (iii) the selling, bartering or leasing of membership lists or of donor or other fund-raising lists;
  - (iv) the operation of a private school or an early childhood services program as defined in the *School Act*;
  - (v) the operation of a private college as defined in the *Colleges Act*;
- (b) “non-profit organization” means an organization
- (i) that is incorporated under the *Societies Act* or the *Agricultural Societies Act* or that is registered under Part 9 of the *Companies Act*, or
  - (ii) that meets the criteria established under the regulations to qualify as a non-profit organization.

**(2)** Subject to subsection (3), this Act does not apply to a non-profit organization or any personal information that is in the custody of or under the control of a non-profit organization.

**(3)** This Act applies to a non-profit organization in the case of personal information that is collected, used or disclosed by the non-profit organization in connection with any commercial activity carried out by the non-profit organization.

**(4)** The Lieutenant Governor in Council may make regulations

- (a) establishing, for the purposes of subsection (1)(b)(ii), the criteria to be met by an organization to qualify as a non-profit organization;
- (b) establishing the criteria to be met by non-profit organizations to qualify as non-profit organizations that are restricted or otherwise limited in the scope of their operations and exempting those non-profit organizations from the operation of subsection (3);
- (c) governing the coming into force of this Act or any provision of this Act with respect to a non-profit organization;

- (d) providing that this Act or any provision of this Act commences to apply to a non-profit organization at a date that is later than January 1, 2004;
- (e) providing for and governing any transitional matter relating to the application of this Act to a non-profit organization.

(5) Any regulation made under this section may be general or specific in its application.

## **Part 7 General Provisions**

### **Protection of organization from legal actions**

**57** No action lies and no proceeding may be brought against an organization, or any person acting on behalf of or under the direction of an organization, for damages resulting from

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

### **Protection of employee**

**58** An organization shall not take any adverse employment action against an employee of the organization, or deny an employee a benefit, on account of or for any reason arising out of the situation where

- (a) the employee, acting in good faith and on the basis of reasonable belief, has disclosed to the Commissioner that the organization or any other person has contravened or is about to contravene this Act,
- (b) 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,

- (c) 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
- (d) the organization believes that the employee will do anything described in clause (a), (b) or (c).

#### **Offences and penalties**

**59(1)** Subject to subsections (3) and (4), a person commits an offence if the person

- (a) wilfully collects, uses or discloses personal information in contravention of Part 2;
- (b) wilfully attempts to gain or gains access to personal information in contravention of this Act;
- (c) disposes of or alters, falsifies, conceals or destroys personal information or any record relating to personal information, or directs another person to do so, with an intent to evade a request for access to the information or the record;
- (d) obstructs the Commissioner or an authorized delegate of the Commissioner in the performance of the Commissioner's duties, powers or functions under this Act;
- (e) knowingly makes a false statement to the Commissioner, or knowingly misleads or attempts to mislead the Commissioner, in the course of the Commissioner's performance of the Commissioner's duties, powers or functions under this Act;
- (f) fails to comply with an order made by the Commissioner under this Act.

**(2)** A person who commits an offence under subsection (1) is liable,

- (a) in the case of an individual, to a fine of not more than \$10 000, and

(b) in the case of a person other than an individual, to a fine of not more than \$100 000.

(3) No person is liable to prosecution for an offence against this or any other Act by reason only of complying with a requirement of the Commissioner under this Act.

(4) Neither an organization nor an individual is guilty of an offence under this Act if it is established to the satisfaction of the court that the organization or individual, as the case may be, acted reasonably in the circumstances that gave rise to the offence.

#### **Damages for breach of this Act**

**60(1)** If the Commissioner has made an order under this Act against an organization and the order has become final as a result of there being no further right of appeal, an individual affected by the order has a cause of action against the organization for damages for loss or injury that the individual has suffered as a result of the breach by the organization of obligations under this Act or the regulations.

(2) If a person has been convicted of an offence under this Act and the conviction has become final as a result of there being no further right of appeal, an individual affected by the conduct that gave rise to the offence has a cause of action against the person convicted of the offence for damages for loss or injury that the individual has suffered as a result of the conduct.

#### **Exercise of rights by other persons**

**61(1)** Any right or power conferred on an individual by this Act may be exercised

- (a) if the individual is 18 years of age or older, by the individual;
- (b) if the individual is under 18 years of age and understands the nature of the right or power and the consequences of exercising the right or power, by the individual;
- (c) if the individual is under 18 years of age but does not meet the criterion in clause (b), by the guardian of the individual;

- (d) if the individual is deceased, by the individual's personal representative if the exercise of the right or power relates to the administration of the individual's estate;
- (e) if a guardian or trustee has been appointed for the individual under the *Dependent Adults Act*, by the guardian or trustee if the exercise of the right or power relates to the powers and duties of the guardian or trustee;
- (f) if an agent has been designated under a personal directive under the *Personal Directives Act*, by the agent if the directive so authorizes;
- (g) if a power of attorney has been granted by the individual, by the attorney if the exercise of the right or power relates to the powers and duties conferred by the power of attorney;
- (h) by any person with written authorization from the individual to act on the individual's behalf.

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

### **General regulations**

**62(1)** The Lieutenant Governor in Council may make regulations

- (a) defining for the purposes of this Act any term that is used in this Act but is not defined in this Act;
- (b) governing procedures to be followed in making and responding to requests under this Act and for gaining and giving access to personal information or records;
- (c) governing the giving of consent and any other direction under this Act;
- (d) governing the application of this Act to persons who collect, use or disclose personal information in the course of carrying out investigations or similar inquiries as part of their functions or duties pursuant to an authority given to those persons under an enactment or in the course of acting as peace officers;

- (e) governing the collection, use and disclosure of personal information for archival purposes or research and respecting requirements concerning archival purposes or research;
- (f) expressly providing that another enactment or a provision of it prevails notwithstanding this Act;
- (g) governing forms or notices to be used under this Act;
- (h) governing fees, including circumstances in which fees
  - (i) are or are not payable, or
  - (ii) must not be above a prescribed amount or percentage;
- (i) respecting the application of this Act to a public body;
- (j) prescribing additional subject-matter in respect to which or circumstances under which personal information or a specific type of personal information may be collected, used or disclosed without the consent of the individual that are in addition to the subject-matter in respect of which or circumstances under which personal information may be collected, used or disclosed without the consent of the individual under section 14, 17 or 20;
- (k) prescribing or otherwise determining whether or not personal information or a specific type of personal information does or does not come within the meaning of a provision of section 14, 15, 17, 18, 20, 21 or 22 under which personal information may be collected, used or disclosed without the consent of the individual;
- (l) prescribing or otherwise determining whether or not personal information or a specific type of personal information does or does not come within the meaning of a provision of section 4(3).

**(2) Where a regulation made**

- (a) under subsection (1)(j) prescribes additional subject-matter with respect to which or circumstances under which personal information may be collected, used or disclosed without the consent of the individual, that

information is to be treated in the same manner as if it had been collected, used or disclosed under section 14, 17 or 20, as the case may be;

- (b) under subsection (1)(k) prescribes or otherwise determines that personal information
  - (i) comes within the meaning of a provision of section 14, 15, 17, 18, 20, 21 or 22, as the case may be, that information is to be treated in the same manner as any other personal information that is dealt with under that provision, or
  - (ii) does not come within the meaning of a provision of section 14, 15, 17, 18, 20, 21 or 22, as the case may be, that information is to be treated in the same manner as any other personal information that does not come within the meaning of that provision;
- (c) under subsection (1)(l) prescribes or otherwise determines that personal information
  - (i) comes within the meaning of a provision of section 4(3), that information is to be treated in the same manner as any other personal information that comes within the meaning of that provision, or
  - (ii) does not come within the meaning of a provision of section 4(3), that information is to be treated in the same manner as any other personal information that does not come within the meaning of that provision.

**(3)** A regulation made under subsection (1) may be general or specific in its application.

#### **Regulations re unforeseen matters**

**63(1)** The Lieutenant Governor in Council may make regulations in respect of matters coming under this Act that the Minister, after consulting with the Commissioner, considers to be unforeseen, that are not provided for or are insufficiently provided for under this Act.

**(2)** A regulation made under subsection (1) is repealed on the earliest of the following:



- (a) the coming into force of an amendment to a statute that provides for the matter dealt with in the regulation;
- (b) the coming into force of a regulation that repeals the regulation made under subsection (1);
- (c) the expiration of 3 years from the day that the regulation made under subsection (1) comes into force.

(3) The repeal of a regulation under subsection (2)(b) or (c) does not affect anything done, incurred or acquired under the authority of that regulation before the repeal of that regulation.

(4) A regulation shall not be made under subsection (1) after the expiration of 3 years from the day that this section comes into force, but any regulation made under subsection (1) that is in force on the expiration of that 3-year period remains in force until it is repealed under subsection (2).

(5) A regulation shall not be made under subsection (1) altering the provisions of subsection (2) or extending the 3-year period provided for in subsection (4).

#### **Review of Act**

**64(1)** At least once every 3 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 18 months after beginning the review.

(2) A report submitted under subsection (1) may include any amendments to this Act or any other Act that are recommended by the committee.

(3) For the purposes of subsection (1), the first 3-year period begins on January 1, 2004.

#### **Coming into force**

**65** This Act comes into force on January 1, 2004.