

2024 Bill 33

First Session, 31st Legislature, 3 Charles III

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 33

PROTECTION OF PRIVACY ACT

THE MINISTER OF TECHNOLOGY AND INNOVATION

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 33

2024

PROTECTION OF PRIVACY ACT

(Assented to , 2024)

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

Definitions

1 In this Act,

- (a) “biometric information” means information derived from an individual’s unique measurable characteristics;
- (b) “business day” means a day other than
 - (i) a Saturday,
 - (ii) a holiday, or
 - (iii) a day when Government of Alberta offices are closed as part of the Government of Alberta’s Christmas closure;

- (c) “Commissioner” means the Information and Privacy Commissioner appointed under the *Access to Information Act*;
- (d) “common or integrated program or service”, in relation to a public body, means a program or service planned, administered, delivered, managed, monitored or evaluated by
 - (i) the public body working collaboratively with one or more other public bodies, or
 - (ii) another public body working on behalf of
 - (A) the public body, or
 - (B) the public body and one or more other public bodies;
- (e) “data derived from personal information” means data
 - (i) created by data matching, and
 - (ii) that identifies any individual whose personal information was used in the data matching;
- (f) “data matching” means linking personal information between 2 or more databases or other electronic sources of information;
- (g) “educational body” means an educational body as defined in the *Access to Information Act*;
- (h) “employee”, in relation to a public body, includes a person who performs a service for the public body as an appointee, volunteer or student or under a contract or agency relationship with the public body;
- (i) “head”, in relation to a public body, means a head as defined in the *Access to Information Act*;
- (j) “independent adjudicator” means a person designated under section 45;
- (k) “law enforcement” means
 - (i) policing, including criminal intelligence operations,

- (ii) a police, security or administrative investigation, including the complaint giving rise to the investigation, that leads or could lead to a penalty or sanction, including a penalty or sanction imposed by the body conducting the investigation or by another body to which the results of the investigation are referred, or
- (iii) proceedings that lead or could lead to a penalty or sanction, including a penalty or sanction imposed by the body conducting the proceedings or by another body to which the results of the proceedings are referred;
- (l) “local public body” means a local public body as defined in the *Access to Information Act*;
- (m) “Minister” means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act;
- (n) “non-personal data” means data, including data derived from personal information, that has been generated, modified or anonymized so that it does not identify any individual, and includes synthetic data and any other type of non-personal data identified in the regulations;
- (o) “offence” means an offence under an enactment of Alberta or Canada;
- (p) “officer of the Legislature” means the Auditor General, the Ombudsman, the Chief Electoral Officer, the Ethics Commissioner, the Information and Privacy Commissioner, the Child and Youth Advocate or the Public Interest Commissioner;
- (q) “personal information” means recorded information about an identifiable individual, including
 - (i) the individual’s name, home or business address, home or business telephone number, home or business email address, or other contact information, except where the individual has provided the information on behalf of the individual’s employer or principal in the individual’s capacity as an employee or agent,

- (ii) the individual's race, national or ethnic origin, colour or religious or political beliefs or associations,
- (iii) the individual's age, gender identity, sex, sexual orientation, marital status or family status,
- (iv) an identifying number, symbol or other particular assigned to the individual,
- (v) the individual's fingerprints, other biometric information, blood type, genetic information or inheritable characteristics,
- (vi) information about the individual's health and health care history, including information about the individual's physical or mental health,
- (vii) information about the individual's educational, financial, employment or criminal history, including criminal records where a pardon has been given,
- (viii) anyone else's opinions about the individual, and
- (ix) the individual's personal views or opinions, except if they are about someone else;
- (r) "prescribed" means prescribed by the regulations;
- (s) "privacy impact assessment" means a privacy impact assessment prepared under section 26;
- (t) "privacy management program" means a privacy management program established and implemented under section 25;
- (u) "public body" means a public body as defined in the *Access to Information Act*;
- (v) "record" means a record as defined in the *Access to Information Act*;
- (w) "synthetic data" means artificial data created to maintain the structure and patterns of real data without being linked to any individual in the original data set.

Purposes of this Act

2 The purposes of this Act are

- (a) to control the collection, use and disclosure of personal information by a public body,
- (b) to allow individuals a right to request corrections to personal information about themselves that is held by a public body,
- (c) to control the creation, use and disclosure of data derived from personal information and non-personal data by a public body, and
- (d) to provide for independent reviews of decisions made by public bodies under this Act and the resolution of complaints under this Act.

Application of this Act

3(1) This Act applies to all personal information collected, used or disclosed by a public body and all data derived from personal information and non-personal data created, used or disclosed by a public body, but nothing in this Act applies to personal information contained in the following or data derived from personal information or non-personal data contained in or created from the following:

- (a) a court file, court database or any other record system used by a court, a record of a judge of the Court of Appeal, the Court of King's Bench or the Court of Justice, a record of an applications judge of the Court of King's Bench, a record of a justice of the peace other than a non-presiding justice of the peace under the *Justice of the Peace Act*, a judicial administration record or a record relating to support services provided to the judges of any of the courts referred to in this clause;
- (b) a personal note, communication or draft decision created by or on behalf of a person acting in a judicial or quasi-judicial capacity, including any authority designated by the Lieutenant Governor in Council to which the *Administrative Procedures and Jurisdiction Act* applies;
- (c) a quality assurance record as defined in section 9 of the *Alberta Evidence Act*;

- (d) a record that is created by or on behalf of or is in the custody or under the control of an officer of the Legislature and relates to the exercise of that officer's functions under an Act of Alberta;
- (e) information that is collected by or on behalf of or is in the custody or under the control of the Ethics Commissioner and relates to the disclosure statements of deputy ministers and other senior officers that have been filed with the Ethics Commissioner;
- (f) information that is collected by or on behalf of or is in the custody or under the control of the Ethics Commissioner and relates to the disclosure statements of designated senior officials that have been filed with the Ethics Commissioner under Part 4.3 of the *Conflicts of Interest Act*;
- (g) a record that is created by or on behalf of or is in the custody or under the control of the Ethics Commissioner and relates to any advice relating to conflicts of interest whether or not the advice was given under the *Conflicts of Interest Act*;
- (h) a question to be used on an examination or test;
- (i) teaching materials of
 - (i) an employee of a post-secondary educational body,
 - (ii) a post-secondary educational body, or
 - (iii) both an employee of a post-secondary educational body and the post-secondary educational body;
- (j) research information of an employee of a post-secondary educational body;
- (k) material that has been deposited in the Provincial Archives of Alberta or the archives of a public body by or on behalf of a person or entity other than a public body;
- (l) published works collected by a library of a public body in accordance with the library's acquisition of materials policy;

- (m) information relating to a prosecution or potential prosecution, including any charging recommendation, if all proceedings in respect of the prosecution have not been completed;
- (n) information collected, used or disclosed by
 - (i) the Personal Property Registry,
 - (ii) the office of the Registrar of Motor Vehicle Services,
 - (iii) the office of the Registrar of Corporations,
 - (iv) the office of the Registrar of Companies,
 - (v) a Land Titles Office,
 - (vi) the office of the Registrar of Vital Statistics, or
 - (vii) a registry operated by a public body if that registry is authorized or recognized by an enactment and public access to the registry is normally permitted;
- (o) a personal record or constituency record of an elected member of a local public body;
- (p) a personal record of an appointed or elected member of the governing body of a local public body;
- (q) a personal record or constituency record of a member of the Executive Council;
- (r) a record created by or on behalf of the office of the Speaker of the Legislative Assembly or the office of a Member of the Legislative Assembly that is in the custody or under the control of the Legislative Assembly Office;
- (s) a record created by or on behalf of
 - (i) a member of the Executive Council,
 - (ii) a Member of the Legislative Assembly, or
 - (iii) a chair of a Provincial agency, as defined in the *Financial Administration Act*, who is a Member of the Legislative Assembly

that has been sent or is to be sent to a member of the Executive Council, a Member of the Legislative Assembly or a chair of a Provincial agency, as defined in the *Financial Administration Act*, who is a Member of the Legislative Assembly;

- (t) a record of communication between
 - (i) political staff, or
 - (ii) a member of Executive Council and political staffthat does not involve any other employee of a public body;
- (u) a record in the custody or under the control of ATB Financial other than a record that relates to a non-arm's length transaction between the Government of Alberta and another party;
- (v) a record relating to the business or affairs of Credit Union Central Alberta Limited, a credit union or a dissolved credit union or relating to an application for incorporation as a credit union that is obtained or produced in the course of administering or enforcing the *Credit Union Act* or the regulations under it, other than a record that relates to a non-arm's length transaction between the Government and another party;
- (w) a record of the information referred to in section 120(3) of the *Credit Union Act* or respecting loans made by a credit union that are subsequently assumed by the Credit Union Deposit Guarantee Corporation;
- (x) information collected, used or disclosed by
 - (i) the Government of Canada or its agencies, or
 - (ii) the government of a province or territory of Canada or its agencies, other than the Government of Alberta or its agencies.

(2) This Act does not apply to health information, as defined in the *Health Information Act*, that is in the custody or under the control of a public body that is a custodian, as defined in the *Health Information Act*.

(3) In this section, “governing body” means,

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

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

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

(5) In this section, “political staff” means political staff as defined in the regulations under the *Access to Information Act* for the purposes of section 4(1)(w) of that Act.

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

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

Part 1
Personal Information

Division 1
Collection of Personal Information

Purpose of collection of personal information

4 No personal information may be collected by or on behalf of a public body unless

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

Manner of collection of personal information

5(1) Subject to subsection (3), a public body must collect personal information directly from the individual the information is about unless

- (a) another method of collection is authorized by
 - (i) that individual,
 - (ii) another Act or a regulation under another Act, or
 - (iii) the Commissioner under section 27(1)(h),
- (b) the information may be disclosed to the public body under Division 2 of this Part,
- (c) the information is collected in a health or safety emergency where
 - (i) the individual is not able to provide the information directly, or

- (ii) direct collection could reasonably be expected to endanger the mental or physical health or safety of the individual or another person,
- (d) the information concerns an individual who is designated as a person to be contacted in an emergency or other specified circumstances,
- (e) the information is collected for the purpose of determining suitability for an honour or award, including an honorary degree, scholarship, prize or bursary,
- (f) the information is collected from published or other public sources for the purpose of fund-raising,
- (g) the information is collected for the purpose of law enforcement,
- (h) the information is collected for the purpose of collecting a fine or a debt owed to the Government of Alberta or a public body,
- (i) the information concerns the history, release or supervision of an individual under the control or supervision of a correctional authority,
- (j) the information is collected for use in the provision of legal services to the Government of Alberta or a public body,
- (k) the information is necessary
 - (i) to determine the eligibility of an individual to participate in a program of or receive a benefit, product or service from the Government of Alberta or a public body and is collected in the course of processing an application made by or on behalf of the individual the information is about, or
 - (ii) to verify the eligibility of an individual who is participating in a program of or receiving a benefit, product or service from the Government of Alberta or a public body and is collected for that purpose,
- (l) the information is collected for the purpose of informing the Public Trustee or a Public Guardian about clients or potential clients,

- (m) the information is collected for the purpose of enforcing a maintenance order under the *Maintenance Enforcement Act*,
- (n) the information is collected for the purpose of managing or administering personnel of the Government of Alberta or the public body,
- (o) the information is collected for the purpose of assisting in researching or validating the claims, disputes or grievances of aboriginal people, or
- (p) the information is necessary to plan, administer, deliver, manage, monitor or evaluate a common or integrated program or service.

(2) Subject to subsections (3) and (4), a public body that collects personal information that is required by subsection (1) to be collected directly from the individual the information is about must give notice to the individual, at the time of collection, of

- (a) the purpose for which the information is collected,
- (b) the specific legal authority for the collection,
- (c) the email address, telephone number or other contact information to which the individual may direct the individual's questions about the collection, and
- (d) the public body's intention, if any, at that time to input the information into an automated system to generate content or make decisions, recommendations or predictions.

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

(4) Subsection (2) does not apply where a public body previously gave notice to an individual under that subsection and the public body continues to collect personal information from that individual for the same purpose and under the same specific legal authority as identified in the notice.

Accuracy and retention

6 If an individual's personal information will be used by a public body to make a decision that directly affects the individual, including a decision made using an automated system, the public body must

- (a) make every reasonable effort to ensure that the information is accurate and complete, and
- (b) retain the information for at least one year after using it so the individual has a reasonable opportunity to obtain access to it, or for any shorter period of time as agreed to in writing by
 - (i) the individual,
 - (ii) the public body, and
 - (iii) if the body that approves the records retention and disposition schedule for the public body is different from the public body, that body.

Right to request correction of personal information

7(1) An individual who believes there is an error or omission in the individual's personal information may request the head of the public body that has the information in its custody or under its control to correct the information.

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

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

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

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

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

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

(7) Within 30 business days after the request under subsection (1) is received, or any longer period allowed by the Commissioner, the head of the public body must give written notice to the individual that

- (a) the correction has been made, or
- (b) an annotation or linkage has been made under subsection (3).

Transferring request to correct personal information

8(1) Within 15 business days after a request to correct personal information under section 7(1) is received by a public body, the head of the public body may transfer the request to another public body if

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

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

- (a) the head of the public body who transferred the request must notify the individual who made the request of the transfer as soon as possible, and
- (b) the head of the public body to which the request is transferred must make every reasonable effort to respond to the request not later than 30 business days after

receiving the request unless the time limit is extended as referred to in section 7(7).

Request under section 7 deemed to be a request under HIA

9(1) If a request is made under section 7(1) to correct personal information that contains information to which the *Health Information Act* applies, the part of the request that relates to that information is deemed to be a request under section 13(1) of the *Health Information Act*, and that Act applies as if the request had been made under section 13(1) of that Act.

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

Protection of personal information

10(1) The head of a public body must protect personal information in the custody or under the control of the public body by making reasonable security arrangements against such risks as unauthorized access, collection, use, disclosure or destruction.

(2) If an incident occurs involving the loss of, unauthorized access to or unauthorized disclosure of personal information in the custody or under the control of a public body where a reasonable person would consider that there exists a real risk of significant harm to an individual as a result of the loss, unauthorized access or unauthorized disclosure, the public body must give notice, without unreasonable delay, of the incident to the following:

- (a) the individual to whom there exists a real risk of significant harm;
- (b) the Commissioner;
- (c) the Minister.

(3) A notice given under subsection (2) must comply with the prescribed requirements.

Division 2 Use and Disclosure of Personal Information

Sale of personal information prohibited

11 A public body is prohibited from selling personal information in any circumstance or for any purpose, including for marketing or advertising purposes.

Use of personal information

12(1) A public body may use personal information only

- (a) for the purpose for which the information was collected or compiled or for a use consistent with that purpose,
- (b) if the individual the information is about has identified the information and consented, in the prescribed manner, to the use, or
- (c) for a purpose for which that information may be disclosed under section 13, 15 or 16.

(2) Despite subsection (1), but subject to subsection (3), a post-secondary educational body may use personal information in its alumni records for the purpose of its own fund-raising activities.

(3) A post-secondary educational body must, when requested to do so by an individual, discontinue using that individual's personal information under subsection (2).

(4) A public body may use personal information only to the extent necessary to enable the public body to carry out its purpose in a reasonable manner.

Disclosure of personal information

13(1) A public body may disclose personal information only

- (a) if the disclosure would not be an unreasonable invasion of personal privacy under section 20 of the *Access to Information Act*,
- (b) for the purpose for which the information was collected or compiled or for a use consistent with that purpose,

- (c) if the individual the information is about has identified the information and consented, in the prescribed manner, to the disclosure,
- (d) for the purpose of complying with an enactment of Alberta or Canada or with a treaty, arrangement or agreement made under an enactment of Alberta or Canada,
- (e) for any purpose in accordance with an enactment of Alberta or Canada that authorizes or requires the disclosure,
- (f) for the purpose of complying with a subpoena, warrant or order issued or made by a court, person or body having jurisdiction in Alberta to compel the production of information or with a rule of court binding in Alberta that relates to the production of information,
- (g) to an officer or employee of the public body or to a member of the Executive Council if the information is necessary for the performance of the duties of the officer, employee or member,
- (h) to an officer or employee of a public body or to a member of the Executive Council if the disclosure is necessary for planning, administering, delivering, managing, monitoring or evaluating a common or integrated program or service and for the performance of the duties of the officer, employee or member to whom the information is disclosed,
- (i) for the purpose of enforcing a legal right that the Government of Alberta or a public body has against any person,
- (j) for the purpose of
 - (i) collecting a fine or debt owing by an individual to the Government of Alberta or to a public body, or to an assignee of either of them, or
 - (ii) making a payment owing by the Government of Alberta or by a public body to an individual,

- (k) for the purpose of determining or verifying an individual's suitability or eligibility for a program or benefit,
- (l) to the Auditor General or any other prescribed person or body for audit purposes,
- (m) to a Member of the Legislative Assembly who has been requested by the individual the information is about to assist in resolving a problem,
- (n) to a representative of a bargaining agent who has been authorized in writing by the employee the information is about to make an inquiry,
- (o) to the Provincial Archives of Alberta or to the archives of a public body for permanent preservation,
- (p) 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,
- (q) if the public body is a law enforcement agency and the information is disclosed
 - (i) to another law enforcement agency in Canada, or
 - (ii) to a law enforcement agency in a foreign country under an arrangement, written agreement, treaty or legislative authority,
- (r) so that the spouse or adult interdependent partner, relative or friend of an injured, ill or deceased individual may be contacted,
- (s) to the surviving spouse or adult interdependent partner or a relative of a deceased individual if, in the opinion of the head of the public body, the disclosure is not an unreasonable invasion of the deceased's personal privacy,
- (t) in accordance with section 15 or 16,

- (u) for use in a proceeding before a court or quasi-judicial body to which the Government of Alberta or a public body is a party,
- (v) when disclosure is by the Minister of Justice or an agent or lawyer of the Minister of Justice to a place of lawful detention,
- (w) for the purpose of managing or administering personnel of the Government of Alberta or the public body, including for conducting workplace investigations,
- (x) to the Director of Maintenance Enforcement for the purpose of enforcing a maintenance order under the *Maintenance Enforcement Act*,
- (y) to an officer of the Legislature if the information is necessary for the performance of the duties of that officer,
- (z) for the purpose of supervising an individual under the control or supervision of a correctional authority,
- (aa) to a lawyer or student-at-law acting for an inmate under the control or supervision of a correctional authority,
- (bb) when the information is available to the public,
- (cc) if the head of the public body believes, on reasonable grounds, that the disclosure will avert or minimize
 - (i) a risk of harm to the health or safety of a minor, or
 - (ii) an imminent danger to the health or safety of any person,
- (dd) to the Administrator of the *Motor Vehicle Accident Claims Act* or to an agent or lawyer of the Administrator for the purpose of dealing with claims under that Act,
- (ee) to a law enforcement agency, an organization providing services to a minor, another public body or any prescribed person or body if the information is in respect of a minor or a parent or guardian of a minor and the head of the public body believes, on reasonable grounds, that the disclosure is in the best interests of that minor, or

(ff) to another public body for the purpose of carrying out data matching to create data derived from personal information under section 17(1).

(2) Notwithstanding subsection (1), a post-secondary educational body may disclose personal information in its alumni records for the purpose of fund-raising activities of the post-secondary educational body if the post-secondary educational body and the person to whom the information is disclosed have entered into a written agreement

- (a) that allows individuals a right of access to personal information that is disclosed about them under this subsection, and
- (b) that provides that the person to whom the information is disclosed must discontinue using the personal information of any individual who so requests.

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

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

Consistent purposes

14 For the purposes of sections 12(1)(a) and 13(1)(b), a use or disclosure of personal information is consistent with the purpose for which the information was collected or compiled if the use or disclosure

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

Disclosure for research or statistical purposes

15 A public body may disclose personal information to a person other than a public body for a research purpose, including statistical research, only if

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

Part 2 Disclosure of Information in Archives

Disclosure of information in archives

16 The Provincial Archives of Alberta and the archives of a public body may disclose the following:

- (a) personal information in a record that
 - (i) has been in existence for 25 years or more if the disclosure
 - (A) would not be an unreasonable invasion of personal privacy under section 20 of the *Access to Information Act*, or
 - (B) is in accordance with section 15,
 - or
 - (ii) has been in existence for 75 years or more;
- (b) information other than personal information in a record that has been in existence for 25 years or more if
 - (i) the disclosure of the information would not be harmful to the business interests of a third party within the meaning of section 19 of the *Access to Information Act*,
 - (ii) the disclosure of the information would not be harmful to a law enforcement matter within the meaning of section 23 of the *Access to Information Act*, and
 - (iii) the information and the record are not information or a record described in section 27 or 32(1)(a) or (2) of the *Access to Information Act*.

**Part 3
Data Matching,
Data Derived from
Personal Information
and Non-personal Data**

**Division 1
Data Matching and
Data Derived from
Personal Information**

Data matching

17(1) A public body may carry out data matching to create data derived from personal information only for one or more of the following purposes:

- (a) research and analysis;
- (b) planning, administering, delivering, managing, monitoring or evaluating a program or service;
- (c) one or more prescribed purposes.

(2) Data matching carried out to create data derived from personal information under subsection (1) must be carried out in accordance with the prescribed security arrangements.

(3) For the purpose of carrying out data matching to create data derived from personal information under subsection (1), a public body must not collect personal information directly from an individual but may do the following:

- (a) collect personal information from another public body;
- (b) use personal information in its custody or under its control.

Retention and use of data derived from personal information

18(1) A public body may retain and use data derived from personal information created under section 17(1) only for

- (a) the purpose for which it was created, and

(b) as long as is reasonably necessary to enable the public body to carry out that purpose.

(2) As soon as reasonably possible after a public body has finished using data derived from personal information created under section 17(1) for the purpose for which it was created, the public body must destroy the data derived from personal information or transform it into non-personal data.

Disclosure of data derived from personal information

19(1) Subject to subsection (2), a public body is prohibited from disclosing data derived from personal information created under section 17(1).

(2) If a public body collected personal information from another public body under section 17(3)(a) for the purpose of carrying out data matching to create data derived from personal information under section 17(1) and that other public body requires that data derived from personal information for the purpose for which it was created, the public body may disclose that data derived from personal information to that other public body for the purpose for which it was created.

Protection of data derived from personal information

20 The head of a public body must protect data derived from personal information created under section 17(1) by making reasonable security arrangements against such risks as unauthorized access, collection, use, disclosure or destruction.

Division 2 Non-personal Data

Creation of non-personal data

21(1) A public body may create non-personal data only for one or more of the following purposes:

- (a) research and analysis;
- (b) planning, administering, delivering, managing, monitoring or evaluating a program or service;
- (c) one or more prescribed purposes.

(2) Non-personal data created under subsection (1) must be created in accordance with

- (a) generally accepted best practices, and
- (b) the prescribed requirements, including,
 - (i) in the case of synthetic data, any prescribed requirements respecting the creation of synthetic data, and
 - (ii) in the case of another type of non-personal data identified in the regulations, any prescribed requirements respecting the creation of that type of non-personal data.

(3) For the purpose of creating non-personal data under subsection (1), a public body may use the following only if it is already in the custody or under the control of the public body:

- (a) personal information;
- (b) data derived from personal information.

(4) Each time a public body creates non-personal data under subsection (1), the public body must maintain a record, in accordance with any prescribed requirements, of

- (a) a description of the personal information or data derived from personal information used to create the non-personal data,
- (b) the purpose for creating the non-personal data,
- (c) the method used for creating the non-personal data, and
- (d) the assessment done to ensure that the identity of the individual who is the subject of the non-personal data cannot be identified or re-identified from the data.

Use of non-personal data

22 A public body may use non-personal data created under section 21(1) for any purpose.

Disclosure of non-personal data

23(1) A public body may disclose non-personal data created under section 21(1)

- (a) to another public body for any purpose, and
- (b) to a person other than a public body only if
 - (i) the disclosure is for one or more of the following purposes:
 - (A) research and analysis;
 - (B) planning, administering, delivering, managing, monitoring or evaluating a program or service;
 - (C) one or more prescribed purposes,
 - (ii) the head of the public body has approved conditions relating to the following:
 - (A) security and confidentiality;
 - (B) the prohibition of any actual or attempted re-identification of the non-personal data;
 - (C) the prohibition of any subsequent use or disclosure of the non-personal data without the express authorization of the public body;
 - (D) the destruction of the non-personal data at the earliest reasonable time after it has served its purpose under subclause (i), unless the public body has given the express authorization referred to in paragraph (C),

and

- (iii) the person has signed an agreement to comply with the approved conditions, this Act, the regulations and any of the public body's policies and procedures relating to non-personal data.

(2) A public body may give the express authorization referred to in subsection (1)(b)(ii)(C) only if

- (a) the subsequent use or disclosure is for one or more of the purposes allowed under subsection (1)(b)(i),
- (b) the head of the public body approves conditions, relating to the matters described in subsection (1)(b)(ii), that apply to the subsequent use or disclosure, and
- (c) there is a signed agreement, as described in subsection (1)(b)(iii), that applies to the subsequent use or disclosure.

Protection of non-personal data

24 The head of a public body must protect non-personal data created under section 21(1) by making reasonable security arrangements against such risks as unauthorized access, collection, use, disclosure or destruction.

Part 4 Privacy Management Programs and Privacy Impact Assessments

Privacy management program

25(1) A public body must establish and implement a privacy management program consisting of documented policies and procedures that promote the public body's compliance with its duties under this Act.

- (2) A privacy management program must
 - (a) be proportional to the volume and sensitivity of the personal information in the custody or under the control of the public body, and
 - (b) comply with the prescribed requirements.
- (3) Any person may request a copy of a public body's privacy management program and the public body must provide the person with a copy, or with directions to where the person may access a copy, within 30 business days of the request.
- (4) A request made and the public body's response under subsection (3) must comply with the prescribed requirements.

(5) Notwithstanding subsections (1) and (3), a public body is not required to do the following until one year after this section comes into force:

- (a) establish and implement a privacy management program;
- (b) provide a person with a copy of its privacy management program or with directions to where the person may access a copy.

Privacy impact assessment

26(1) A public body must prepare a privacy impact assessment in prescribed circumstances and, if required by the regulations, submit it to the Commissioner in accordance with the regulations.

(2) A privacy impact assessment must

- (a) identify and review risks associated with the public body's collection, use and disclosure of personal information,
- (b) develop mitigation strategies and safeguards respecting those risks,
- (c) address how the public body will comply with its duties under this Act, and
- (d) comply with the prescribed requirements.

(3) A public body must provide the Commissioner with a copy of the requested privacy impact assessment of the public body within 30 business days of a request made under section 27(1)(j).

Part 5 Powers of Information and Privacy Commissioner

General powers of Commissioner

27(1) In addition to the Commissioner's powers and duties under Part 6, the Commissioner is generally responsible for monitoring how this Act is administered to ensure that its purposes are achieved and may

- (a) conduct investigations to ensure compliance with any provision of this Act or compliance with rules relating to the destruction of records
 - (i) set out in any other enactment of Alberta, or
 - (ii) set out in a bylaw, resolution or other legal instrument by which a local public body acts or, if a local public body does not have a bylaw, resolution or other legal instrument setting out rules related to the destruction of records, as authorized by the governing body of a local public body,
- (b) make an order under section 42(2) 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 privacy of proposed legislative schemes or programs of public bodies,
- (g) comment on the implications for protection of personal privacy of
 - (i) collecting personal information for the purpose of carrying out data matching to create data derived from personal information,
 - (ii) carrying out data matching to create data derived from personal information,
 - (iii) using or disclosing data derived from personal information, and
 - (iv) creating, using or disclosing non-personal data, including creating non-personal data in a manner that contravenes section 21(3),
- (h) authorize the collection of personal information from sources other than the individual the information is about,

- (i) give advice and recommendations of general application to the head of a public body on matters respecting the rights or obligations of a head under this Act, and
- (j) request a copy of a privacy impact assessment of a public body.

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

- (a) that personal information has been collected, used or disclosed by a public body in contravention of this Act,
- (b) that a correction of personal information requested under section 7(1) has been refused without justification,
- (c) that data derived from personal information or non-personal data has been created, used or disclosed by a public body in contravention of this Act, and
- (d) respecting the actual or attempted re-identification by any person of non-personal data created under section 21(1).

Advice and recommendations

28(1) The head of a public body may ask the Commissioner to give advice and recommendations on any matter respecting any rights or duties under this Act.

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

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

Powers of Commissioner in conducting investigations or inquiries

29(1) In conducting an investigation under section 27(1)(a) or an inquiry under section 41 or in giving advice and recommendations under section 28, the Commissioner has all the powers, privileges

and immunities of a commissioner under the *Public Inquiries Act* and the powers given by subsection (2).

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

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

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

(5) After completing a review or investigation, the Commissioner must

- (a) return any original paper record produced to the Commissioner, and
- (b) destroy any copy of any record, including any electronic record, produced to the Commissioner.

(6) Despite subsections (1) to (3), the Commissioner must not require any of the following records or information to be produced to the Commissioner:

- (a) a record or information described in section 4(1)(a), (t) or (w) of the *Access to Information Act*;
- (b) a record or information described in section 27 of the *Access to Information Act*;
- (c) a record or information described in section 32(1)(a) or (2) of the *Access to Information Act*.

(7) The Commissioner may require the public body who has refused to produce a record or information on the basis that subsection (6)(b) applies to attest, in accordance with the regulations under the *Access to Information Act* respecting attestations under section 50(7) of that Act, that the record or information is a record or information described in section 27 of the *Access to Information Act*.

Statements made to Commissioner not admissible in evidence

30(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 in

- (a) a prosecution for perjury in respect of sworn testimony,
- (b) a prosecution for an offence under this Act, or
- (c) 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.

Privileged information

31 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 by Commissioner and staff

32(1) The Commissioner, and anyone acting for or under the direction of the Commissioner, must not disclose any information obtained in performing their powers, duties and functions under this Act, except as provided in subsections (2) to (5).

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

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

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

authorized to refuse to disclose if it were contained in a record requested under section 7(1) of the *Access to Information Act*.

(4) The Commissioner may disclose to the Minister of Justice information relating to the commission of an offence against an enactment of Alberta or Canada if the Commissioner considers there is evidence of an offence.

(5) The Commissioner may disclose, or may authorize anyone acting for or under the direction of the Commissioner to disclose, information in the course of a prosecution, application or appeal referred to in section 30.

Protection of Commissioner and staff

33 No proceedings lie against the Commissioner, or against a person acting for or under the direction of the Commissioner, for anything done, reported or said in good faith in the exercise or performance, or the intended exercise or performance, of a power, duty or function under this Part or Part 6.

Delegation by Commissioner

34(1) The Commissioner may delegate to any person any power, duty 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.

Role of Ombudsman

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

Annual report of Commissioner

36(1) The Commissioner must submit a written report annually to the Speaker of the Legislative Assembly on

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

- (b) any complaints or reviews under this Act resulting from a decision, act or failure to act of the Commissioner as head of a public body, and
 - (c) any other matters relating to protection of personal privacy that the Commissioner considers appropriate.
- (2) The Speaker must lay each annual report before the Legislative Assembly as soon as possible.

Part 6 Reviews and Complaints

Division 1 Reviews by Commissioner

Right to ask for review by Commissioner

- 37(1)** A person who believes that the person's own personal information has been collected, used or disclosed in contravention of this Act may ask the Commissioner to review that matter.
- (2) A person who makes a request under section 7(1) to the head of a public body for correction of personal information may ask the Commissioner to review any decision, act or failure to act of the head that relates to that request.
- (3) The surviving spouse or adult interdependent partner or a relative of a deceased individual may ask the Commissioner to review a decision of a head of a public body under section 13(1)(s) not to disclose personal information.
- (4) This section does not apply
- (a) to a decision, act or failure to act of the Commissioner when acting as the head of the Office of the Information and Privacy Commissioner, or
 - (b) if the person appointed as the Commissioner is, at the same time, appointed as any other officer of the Legislature, to a decision, act or failure to act of that person when acting as the head of that office.

How to ask for review by Commissioner

38(1) To ask for a review under this Division, a written request must be delivered to the Commissioner.

(2) Before delivering a request for a review made under section 37(1) to the Commissioner, a person must make a complaint to the public body concerned respecting the matter that will be the subject of the request.

(3) If the public body concerned decides to respond to a complaint made under subsection (2), it must respond within 30 business days after it receives the complaint.

(4) A request for a review must be delivered

(a) if the request is made under section 37(1), no sooner than the end of the period set out in subsection (3) and,

(i) if the public body concerned responds under subsection (3) to the complaint made under subsection (2) by the person asking for the review, within 60 business days after the person receives the response, or

(ii) if the public body concerned does not respond under subsection (3) to the complaint made under subsection (2) by the person asking for the review, within 60 business days after the end of the period set out in subsection (3),

or

(b) if the request is made under section 37(2) or (3), within 60 business days after the person asking for the review is notified of the decision, act or failure to act that is the subject of the request.

Notifying others of review by Commissioner

39(1) On receiving a request for a review, the Commissioner must, as soon as practicable,

(a) give a copy of the request

(i) to the head of the public body concerned, and

- (ii) to any other person who, in the opinion of the Commissioner, is affected by the request,

and

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

(2) The Commissioner may sever any information in the request that the Commissioner considers appropriate before giving a copy of the request under this section.

Mediation may be authorized

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

Inquiry by Commissioner

41(1) Subject to subsections (2), (3) and (4), if a matter is not settled under section 40, the Commissioner must conduct an inquiry and decide all questions of fact and law arising in the course of the inquiry.

(2) The Commissioner may refuse to conduct an inquiry if, in the opinion of the Commissioner,

- (a) the subject-matter of the request for a review has been dealt with in an order or investigation report of the Commissioner,
- (b) the request for a review was made under section 37(1) and the person who asked for the review did not make a complaint under section 38(2), or
- (c) the circumstances otherwise warrant refusing to conduct an inquiry.

(3) The Commissioner must not commence an inquiry until the Commissioner notifies the person who asked for the review of the pending inquiry, and the person who asked for the review confirms in writing to the Commissioner that the person wants the inquiry to proceed.

(4) If the person who asked for the review does not confirm in writing, within 30 business days of being notified of the pending inquiry under subsection (3), that the person wants the inquiry to proceed, the inquiry will not be conducted.

(5) An inquiry may be conducted in private.

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

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

(8) The person who asked for the review, the head of the public body concerned and any other person given a copy of the request for the review may be represented at the inquiry by counsel or an agent.

(9) The Commissioner must complete an inquiry within 180 business days after receiving the request for the review unless

- (a) the Commissioner has refused under subsection (2) to conduct an inquiry,
- (b) the inquiry will not be conducted pursuant to subsection (4),
- (c) the Commissioner discontinues the inquiry under subsection (11), or
- (d) the Commissioner
 - (i) notifies the person who asked for the review, the head of the public body concerned and any other person given a copy of the request for the review that the Commissioner is extending that period, and

- (ii) provides an anticipated date for the completion of the inquiry.

(10) An extension under subsection (9)(d) must not exceed a total of 180 business days beyond the original 180 business days for completing an inquiry.

(11) The Commissioner may discontinue an inquiry if, in the opinion of the Commissioner, it is appropriate to do so.

(12) If the Commissioner discontinues an inquiry under subsection (11), the Commissioner must give notice in writing to the person who asked for the review, the head of the public body concerned and any other person given a copy of the request for the review and the notice must include the reasons for the discontinuation.

Commissioner's orders

42(1) On completing an inquiry under section 41, the Commissioner must dispose of the issues by making an order under this section.

(2) The Commissioner, by order, may do one or more of the following:

- (a) require that a duty imposed by this Act or the regulations be performed;
- (b) require a public body to stop collecting, using or disclosing personal information in contravention of Part 1;
- (c) require the head of a public body to destroy personal information collected in contravention of this Act;
- (d) confirm a decision not to correct personal information or specify how personal information is to be corrected;
- (e) require a public body to stop doing any of the following in contravention of Part 3:
 - (i) collecting personal information for the purpose of carrying out data matching to create data derived from personal information;
 - (ii) carrying out data matching to create data derived from personal information;

(iii) using or disclosing data derived from personal information;

(iv) creating or disclosing non-personal data, including creating non-personal data in a manner that contravenes section 21(3);

(f) require the head of a public body to destroy data derived from personal information or non-personal data created in contravention of this Act.

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

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

(a) the person who asked for the review,

(b) the head of the public body concerned,

(c) any other person given a copy of the request for the review, and

(d) the Minister.

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

No appeal

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

Duty to comply with orders

44(1) Subject to subsection (2), not later than 50 business days after being given a copy of an order of the Commissioner, the head of a public body concerned must comply with the order.

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

(3) An application for judicial review of a Commissioner's order must be made to the Court of King's Bench not later than 45

business days after the person making the application is given a copy of the order.

(4) If an application for judicial review is made in accordance with subsection (3), the Commissioner's order is stayed until

- (a) the application is dealt with by the Court of King's Bench and the period for making an appeal of the decision of the Court of King's Bench to the Court of Appeal ends, or
- (b) the appeal of the decision of the Court of King's Bench to the Court of Appeal is dealt with by the Court of Appeal, if an appeal of that decision is made to the Court of Appeal.

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

Division 2 Investigations and Reviews by Independent Adjudicator

Independent adjudicator to investigate complaints and review decisions

45(1) The Minister may make an order designating a judge of the Court of King's Bench to act as an independent adjudicator

- (a) to investigate complaints made against the Commissioner as the head of the Office of the Information and Privacy Commissioner with respect to any matter referred to in section 27(2),
- (b) if the person appointed as the Commissioner is, at the same time, appointed as any other officer of the Legislature, to investigate complaints respecting any matter referred to in section 27(2) made against that person when acting as the head of that office,
- (c) to investigate complaints respecting any matter referred to in section 27(2) made against a head of a public body if the Commissioner was a member, employee or head of that public body during the relevant period or, in the Commissioner's opinion, the Commissioner has a conflict with respect to that public body,

- (d) to review, if requested under section 47, any decision, act or failure to act of the Commissioner as the head of the Office of the Information and Privacy Commissioner,
- (e) if the person appointed as the Commissioner is, at the same time, appointed as any other officer of the Legislature, to review, if requested under section 47, any decision, act or failure to act of that person when acting as the head of that office, and
- (f) to review, if requested under section 48, a decision, act or failure to act of a head of a public body if the Commissioner was a member, employee or head of that public body during the relevant period or, in the Commissioner's opinion, the Commissioner has a conflict with respect to that public body.

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

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

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

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

Powers, duties, functions and protections of independent adjudicator

46(1) For the purposes of section 45, an independent adjudicator has the powers, duties and functions given to the Commissioner by sections 27(2), 29 and 32(1), (2)(a) and (3) to (5).

(2) Sections 30, 31, 33 and 35 apply for the purposes of an investigation, inquiry or review by an independent adjudicator.

Right to ask for review by independent adjudicator

47(1) This section applies

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

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

(3) A person who makes a request under section 7(1) for correction of personal information may ask an independent adjudicator to review any decision, act or failure to act that relates to that request.

(4) The surviving spouse or adult interdependent partner or a relative of a deceased individual may ask an independent adjudicator to review a decision under section 13(1)(s) not to disclose personal information.

Review where Commissioner in conflict

48(1) This section applies where the Commissioner is asked under section 37(1), (2) or (3) to review a matter, decision, act or failure to act and the Commissioner was, during the relevant period, a member, employee or head of the public body that the matter, decision, act or failure to act concerns or, in the Commissioner's opinion, the Commissioner has a conflict with respect to that public body.

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

(3) A person who makes a request under section 7(1) to the head of a public body for correction of personal information may ask an independent adjudicator to review any decision, act or failure to act of the head of the public body that relates to that request.

(4) The surviving spouse or adult interdependent partner or a relative of a deceased individual may ask an independent adjudicator to review a decision of a head of a public body under section 13(1)(s) not to disclose personal information.

How to ask for review by independent adjudicator

49(1) To ask for a review under this Division, a written request must be delivered to the Minister.

(2) A request for a review must be delivered within

- (a) 60 business days after the person asking for the review is notified of the matter, decision, act or failure to act that is the subject of the request, or
- (b) any longer period allowed by the independent adjudicator.

Notifying others of review by independent adjudicator

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

- (a) give the request to an independent adjudicator,
- (b) give a copy of the request to
 - (i) the Commissioner, and
 - (ii) any other person who, in the opinion of the Minister, is affected by the request,

and

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

Conduct and outcome of review

51(1) An independent adjudicator has the powers and duties given to the Commissioner by sections 40 and 41(1), (2), (3), (5), (7),

(11) and (12), and section 41(4), (6) and (8) apply to an inquiry conducted by an independent adjudicator.

(2) On completing an inquiry, an independent adjudicator has the same duty to dispose of the issues, the same power to make orders and the same duty to give copies of those orders as the Commissioner has under section 42(1) to (4).

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

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

(5) Section 44 applies to an order of an independent adjudicator.

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

Division 3 Disclosure to Commissioner

Disclosure to Commissioner

52(1) An employee of a public body may disclose to the Commissioner any personal information, data derived from personal information or non-personal data that the employee is required to keep confidential and that the employee, acting in good faith, believes is being created, collected, used or disclosed in contravention of this Act.

(2) The Commissioner must investigate and review any disclosure made under subsection (1).

(3) If an employee makes a disclosure under subsection (1), the Commissioner must not disclose the identity of the employee to any person without the employee's consent.

(4) An employee is not liable to a prosecution for an offence under any Act for doing any of the following, unless the employee acted in bad faith:

- (a) copying a record or disclosing it to the Commissioner;

(b) disclosing personal information, data derived from personal information or non-personal information to the Commissioner.

(5) A public body or person acting on behalf of a public body must not take any adverse employment action against an employee because the employee, acting in good faith, has

(a) disclosed personal information, data derived from personal information or non-personal data to the Commissioner under this section, or

(b) exercised or may exercise a right under this section.

(6) A person who contravenes subsection (5) is guilty of an offence and liable to a fine of not more than \$10 000.

(7) In carrying out an investigation and review under this section, the Commissioner has all of the powers and duties set out in sections 29, 32, 40, 41 and 42(1) to (4), and sections 30, 31, 33 and 35 apply.

Part 7 General Provisions

Manner of giving notice

53 Where this Act requires any notice or other document to be given to a person, it is to be given

(a) by sending it to that person by prepaid mail to the last known address of that person,

(b) by personal service,

(c) by substitutional service if so authorized by the Commissioner,

(d) by fax, or

(e) in electronic form other than fax if that person's contact information for that electronic form is publicly available or has been provided by that person.

Exercise of rights by other persons

54(1) Any right or power conferred on an individual by this Act may be exercised

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

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

Delegation by head of public body

55(1) The head of a public body may delegate to any person any power, duty or function of the head under this Act, except the power to delegate under this section.

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

Annual report of Minister

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

Directory of personal information banks

57(1) In this section, “personal information bank” means a collection of personal information that is organized or retrievable by the name of an individual or by an identifying number, symbol or other particular assigned to an individual.

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

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

- (a) the title and location of the personal information bank;
- (b) a description of the kind of personal information and the categories of individuals whose personal information is included;
- (c) the authority for collecting the personal information;
- (d) the purposes for which the personal information was collected or compiled and the purposes for which it is used or disclosed.

(4) If personal information is used or disclosed by a public body for a purpose that is not included in the directory published under subsection (2), the head of the public body must

- (a) keep a record of the purpose and either attach or link that record to the personal information, and
- (b) ensure that the purpose is included in the next publication of the directory.

(5) The head of a public body must ensure that the directory referred to in subsection (2) is kept as current as is practicable and that access to the directory is available to the public.

Protection of public body from legal suit

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

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

Protection of employee

59(1) A public body, or person acting on behalf of a public body, must not take any adverse employment action against an employee as a result of the employee properly disclosing personal information, data derived from personal information or non-personal data in accordance with this Act.

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

Offences and penalties

60(1) A person must not knowingly

- (a) collect, use or disclose personal information in contravention of Part 1,
- (b) gain or attempt to gain access to personal information in contravention of this Act,
- (c) do any of the following in contravention of Part 3:
 - (i) collect personal information for the purpose of carrying out data matching to create data derived from personal information;
 - (ii) carry out data matching to create data derived from personal information;

- (iii) use or disclose data derived from personal information;
- (iv) create or disclose non-personal data, including create non-personal data in a manner that contravenes section 21(3),
- (d) gain or attempt to gain access to data derived from personal information or non-personal data in contravention of this Act,
- (e) re-identify or attempt to re-identify non-personal data created under section 21(1),
- (f) make a false statement to, or mislead or attempt to mislead, the Commissioner or another person in the performance of the powers, duties or functions of the Commissioner or other person under this Act,
- (g) obstruct the Commissioner or another person in the performance of the powers, duties or functions of the Commissioner or other person under this Act, or
- (h) fail to comply with an order made by the Commissioner under section 42 or by an independent adjudicator under section 51(2).

(2) A person who contravenes subsection (1), other than subsection (1)(c), (d) or (e), is guilty of an offence and liable,

- (a) in the case of an individual, to a fine of not more than \$125 000, and
- (b) in the case of any other person, to a fine of not more than \$750 000.

(3) A person who contravenes subsection (1)(c), (d) or (e) is guilty of an offence and liable,

- (a) in the case of an individual, to a fine of not more than \$200 000, and
- (b) in the case of any other person, to a fine of not more than \$1 000 000.

(4) A person must not knowingly disclose personal information, data derived from personal information or non-personal data to

which this Act applies in accordance with a subpoena, warrant or order issued or made by a court, person or body having no jurisdiction in Alberta to compel the production of information or in accordance with a rule of court that is not binding in Alberta.

(5) A person who contravenes subsection (4) is guilty of an offence and liable,

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

(6) A prosecution under this Act may be commenced within 2 years after the day on which evidence of the alleged offence first came to the attention of the Commissioner, but not afterwards.

Lieutenant Governor in Council regulations

61 The Lieutenant Governor in Council may make regulations

- (a) prescribing the manner of giving consent for the purposes of sections 12(1)(b) and 13(1)(c);
- (b) prescribing persons to whom a public body may disclose personal information under section 13(1)(l) for audit purposes;
- (c) prescribing persons or bodies for the purposes of section 13(1)(ee);
- (d) respecting forms for the purposes of this Act;
- (e) defining, enlarging or restricting the meaning of any term used in this Act but not defined in this Act;
- (f) requiring public bodies to provide to the Minister information that relates to the administration of this Act or is required for preparing the Minister's annual report;
- (g) exempting any public body or class of public body from the operation of a regulation made under this section;
- (h) respecting any other matter or thing that the Lieutenant Governor in Council considers necessary to carry out the intent of this Act.

Ministerial regulations

62 The Minister may make regulations

- (a) identifying safeguards and technical standards to be observed for the security and protection of personal information, data derived from personal information and non-personal data and requiring public bodies to comply with those safeguards and technical standards;
- (b) identifying types of non-personal data;
- (c) respecting a notice given under section 10(2), including prescribing requirements for the purposes of section 10(3);
- (d) respecting data matching by public bodies to create data derived from personal information, including prescribing purposes for the purposes of section 17(1)(c) and prescribing security arrangements for the purposes of section 17(2);
- (e) respecting the creation of non-personal data by public bodies, including prescribing purposes for the purposes of section 21(1)(c) and prescribing requirements for the purposes of section 21(2)(b) and (4);
- (f) respecting the disclosure of non-personal data by public bodies, including prescribing purposes for the purposes of section 23(1)(b)(i)(C);
- (g) respecting privacy management programs, including prescribing requirements for the purposes of section 25(2)(b) and (4);
- (h) respecting privacy impact assessments, including respecting in what circumstances and manner a public body must submit a privacy impact assessment to the Commissioner under section 26(1), prescribing circumstances for the purposes of section 26(1) and prescribing requirements for the purposes of section 26(2)(d).

Review of Act

63(1) A special committee of the Legislative Assembly must begin a comprehensive review of this Act and the regulations

- (a) within 6 years after this Act comes into force, and
 - (b) thereafter, every 6 years after the date on which the previous special committee submits its report under subsection (2).
- (2) A special committee must submit a final report to the Legislative Assembly within 18 months after beginning a review under subsection (1).
- (3) The report of a special committee may include the special committee's recommendations for amendments to this Act, the regulations or any other enactment.

Part 8

Transitional Provisions and Coming into Force

Transitional

64(1) In this section, "former Act" means the *Freedom of Information and Protection of Privacy Act*.

- (2) Notwithstanding the repeal of the former Act,
- (a) a person designated as the head of a public body for the purposes of section 1(f)(ii) of the former Act continues as the head of the public body for the purposes of this Act until a new person is designated as the head of the public body for the purposes of section 1(h)(ii) of the *Access to Information Act*,
 - (b) a person or group of persons designated as the head of a local public body under section 95(a) of the former Act continues as the head of the local public body under this Act until a new person or group of persons is designated as the head of the local public body under section 98(a) of the *Access to Information Act*, and
 - (c) the former Act as it read immediately before its repeal continues in effect and applies
 - (i) to a review, inquiry or investigation if the matter, decision, disclosure, act or failure to act that is the subject of the review, inquiry or investigation occurred before the repeal of the former Act, and

(ii) subject to subsection (3), to an offence committed under the former Act before its repeal.

(3) A prosecution under the former Act of an offence committed under that Act before its repeal may be commenced in accordance with section 60(6) of this Act.

Coming into force

65 This Act comes into force on the coming into force of the *Access to Information Act*.

RECORD OF DEBATE

Stage	Date	Member	From	To
		Interventions	From	To
Stage	Date	Member	From	To
		Interventions	From	To
Stage	Date	Member	From	To
		Interventions	From	To
Stage	Date	Member	From	To
		Interventions	From	To
Stage	Date	Member	From	To
		Interventions	From	To