**Privacy Act**

**R.S.C., 1985, c. P-21**

An Act to extend the present laws of Canada that protect the privacy of individuals and that provide individuals with a right of access to personal information about themselves

**Short Title**

**Marginal note:Short title**

**1** This Act may be cited as the [*Privacy Act*](http://laws-lois.justice.gc.ca/eng/acts/P-21).

* 1980-81-82-83, c. 111, Sch. II “1”.

**Purpose of Act**

**Marginal note:Purpose**

**2** The purpose of this Act is to extend the present laws of Canada that protect the privacy of individuals with respect to personal information about themselves held by a government institution and that provide individuals with a right of access to that information.

* 1980-81-82-83, c. 111, Sch. II “2”.

**Interpretation**

**Marginal note:Definitions**

**3** In this Act,

***administrative purpose***, in relation to the use of personal information about an individual, means the use of that information in a decision making process that directly affects that individual; (*fins administratives*)

***alternative format***, with respect to personal information, means a format that allows a person with a sensory disability to read or listen to the personal information; (*support de substitution*)

***Court*** means the Federal Court; (*Cour*)

***designated Minister*** means a person who is designated as the Minister under subsection 3.1(1); (*ministre désigné*)

***government institution*** means

* **(a)** any department or ministry of state of the Government of Canada, or any body or office, listed in the schedule, and
* **(b)** any parent Crown corporation, and any wholly-owned subsidiary of such a corporation, within the meaning of section 83 of the [*Financial Administration Act*](http://laws-lois.justice.gc.ca/eng/acts/F-11); (*institution fédérale*)

***head***, in respect of a government institution, means

* **(a)** in the case of a department or ministry of state, the member of the Queen’s Privy Council for Canada who presides over the department or ministry, or
* **(b)** in any other case, either the person designated under subsection 3.1(2) to be the head of the institution for the purposes of this Act or, if no such person is designated, the chief executive officer of the institution, whatever their title; (*responsable d’institution fédérale*)

***personal information*** means information about an identifiable individual that is recorded in any form including, without restricting the generality of the foregoing,

* **(a)** information relating to the race, national or ethnic origin, colour, religion, age or marital status of the individual,
* **(b)** information relating to the education or the medical, criminal or employment history of the individual or information relating to financial transactions in which the individual has been involved,
* **(c)** any identifying number, symbol or other particular assigned to the individual,
* **(d)** the address, fingerprints or blood type of the individual,
* **(e)** the personal opinions or views of the individual except where they are about another individual or about a proposal for a grant, an award or a prize to be made to another individual by a government institution or a part of a government institution specified in the regulations,
* **(f)** correspondence sent to a government institution by the individual that is implicitly or explicitly of a private or confidential nature, and replies to such correspondence that would reveal the contents of the original correspondence,
* **(g)** the views or opinions of another individual about the individual,
* **(h)** the views or opinions of another individual about a proposal for a grant, an award or a prize to be made to the individual by an institution or a part of an institution referred to in paragraph (e), but excluding the name of the other individual where it appears with the views or opinions of the other individual, and
* **(i)** the name of the individual where it appears with other personal information relating to the individual or where the disclosure of the name itself would reveal information about the individual,

but, for the purposes of sections 7, 8 and 26 and section 19 of the [*Access to Information Act*](http://laws-lois.justice.gc.ca/eng/acts/A-1), does not include

* **(j)** information about an individual who is or was an officer or employee of a government institution that relates to the position or functions of the individual including,
  + **(i)** the fact that the individual is or was an officer or employee of the government institution,
  + **(ii)** the title, business address and telephone number of the individual,
  + **(iii)** the classification, salary range and responsibilities of the position held by the individual,
  + **(iv)** the name of the individual on a document prepared by the individual in the course of employment, and
  + **(v)** the personal opinions or views of the individual given in the course of employment,
* **(k)** information about an individual who is or was performing services under contract for a government institution that relates to the services performed, including the terms of the contract, the name of the individual and the opinions or views of the individual given in the course of the performance of those services,
* **(l)** information relating to any discretionary benefit of a financial nature, including the granting of a licence or permit, conferred on an individual, including the name of the individual and the exact nature of the benefit, and
* **(m)** information about an individual who has been dead for more than twenty years; (*renseignements personnels*)

***personal information bank*** means a collection or grouping of personal information described in section 10; (*fichier de renseignements personnels*)

***Privacy Commissioner*** means the Commissioner appointed under section 53; (*Commissaire à la protection de la vie privée*)

***sensory disability*** means a disability that relates to sight or hearing. (*déficience sensorielle*)

* R.S., 1985, c. P-21, s. 3;
* 1992, c. 1, s. 144(F), c. 21, s. 34;
* 2002, c. 8, s. 183;
* 2006, c. 9, s. 181.

[Previous Version](http://laws-lois.justice.gc.ca/eng/acts/P-21/section-3-20061212.html)

**Marginal note:For greater certainty**

* **3.01** **(1)** For greater certainty, any provision of this Act that applies to a government institution that is a parent Crown corporation applies to any of its wholly-owned subsidiaries within the meaning of section 83 of the [*Financial Administration Act*](http://laws-lois.justice.gc.ca/eng/acts/F-11).
* **Marginal note:For greater certainty**

**(2)** For greater certainty, the Canadian Race Relations Foundation and the Public Sector Pension Investment Board are parent Crown corporations for the purposes of this Act.

* 2006, c. 9, s. 182.

**Designation**

**Marginal note:Power to designate Minister**

* **3.1** **(1)** The Governor in Council may designate a member of the Queen’s Privy Council for Canada to be the Minister for the purposes of any provision of this Act.
* **Marginal note:Power to designate head**

**(2)** The Governor in Council may, by order, designate a person to be the head of a government institution, other than a department or ministry of state, for the purposes of this Act.

* 2006, c. 9, s. 182.

**Collection, Retention and Disposal of Personal Information**

**Marginal note:Collection of personal information**

**4** No personal information shall be collected by a government institution unless it relates directly to an operating program or activity of the institution.

* 1980-81-82-83, c. 111, Sch. II “4”.

**Marginal note:Personal information to be collected directly**

* **5** **(1)** A government institution shall, wherever possible, collect personal information that is intended to be used for an administrative purpose directly from the individual to whom it relates except where the individual authorizes otherwise or where personal information may be disclosed to the institution under subsection 8(2).
* **Marginal note:Individual to be informed of purpose**

**(2)** A government institution shall inform any individual from whom the institution collects personal information about the individual of the purpose for which the information is being collected.

* **Marginal note:Exception**

**(3)** Subsections (1) and (2) do not apply where compliance therewith might

* + **(a)** result in the collection of inaccurate information; or
  + **(b)** defeat the purpose or prejudice the use for which information is collected.
* 1980-81-82-83, c. 111, Sch. II “5”.

**Marginal note:Retention of personal information used for an administrative purpose**

* **6** **(1)** Personal information that has been used by a government institution for an administrative purpose shall be retained by the institution for such period of time after it is so used as may be prescribed by regulation in order to ensure that the individual to whom it relates has a reasonable opportunity to obtain access to the information.
* **Marginal note:Accuracy of personal information**

**(2)** A government institution shall take all reasonable steps to ensure that personal information that is used for an administrative purpose by the institution is as accurate, up-to-date and complete as possible.

* **Marginal note:Disposal of personal information**

**(3)** A government institution shall dispose of personal information under the control of the institution in accordance with the regulations and in accordance with any directives or guidelines issued by the designated minister in relation to the disposal of that information.

* 1980-81-82-83, c. 111, Sch. II “6”.

**Protection of Personal Information**

**Marginal note:Use of personal information**

**7** Personal information under the control of a government institution shall not, without the consent of the individual to whom it relates, be used by the institution except

* **(a)** for the purpose for which the information was obtained or compiled by the institution or for a use consistent with that purpose; or
* **(b)** for a purpose for which the information may be disclosed to the institution under subsection 8(2).
* 1980-81-82-83, c. 111, Sch. II “7”.

**Marginal note:Disclosure of personal information**

* **8** **(1)** Personal information under the control of a government institution shall not, without the consent of the individual to whom it relates, be disclosed by the institution except in accordance with this section.
* **Marginal note:Where personal information may be disclosed**

**(2)** Subject to any other Act of Parliament, personal information under the control of a government institution may be disclosed

* + **(a)** for the purpose for which the information was obtained or compiled by the institution or for a use consistent with that purpose;
  + **(b)** for any purpose in accordance with any Act of Parliament or any regulation made thereunder that authorizes its disclosure;
  + **(c)** for the purpose of complying with a subpoena or warrant issued or order made by a court, person or body with jurisdiction to compel the production of information or for the purpose of complying with rules of court relating to the production of information;
  + **(d)** to the Attorney General of Canada for use in legal proceedings involving the Crown in right of Canada or the Government of Canada;
  + **(e)** to an investigative body specified in the regulations, on the written request of the body, for the purpose of enforcing any law of Canada or a province or carrying out a lawful investigation, if the request specifies the purpose and describes the information to be disclosed;
  + **(f)** under an agreement or arrangement between the Government of Canada or an institution thereof and the government of a province, the council of the Westbank First Nation, the council of a participating First Nation — as defined in subsection 2(1) of the [*First Nations Jurisdiction over Education in British Columbia Act*](http://laws-lois.justice.gc.ca/eng/acts/F-11.75) —, the government of a foreign state, an international organization of states or an international organization established by the governments of states, or any institution of any such government or organization, for the purpose of administering or enforcing any law or carrying out a lawful investigation;
  + **(g)** to a member of Parliament for the purpose of assisting the individual to whom the information relates in resolving a problem;
  + **(h)** to officers or employees of the institution for internal audit purposes, or to the office of the Comptroller General or any other person or body specified in the regulations for audit purposes;
  + **(i)** to the Library and Archives of Canada for archival purposes;
  + **(j)** to any person or body for research or statistical purposes if the head of the government institution
    - **(i)** is satisfied that the purpose for which the information is disclosed cannot reasonably be accomplished unless the information is provided in a form that would identify the individual to whom it relates, and
    - **(ii)** obtains from the person or body a written undertaking that no subsequent disclosure of the information will be made in a form that could reasonably be expected to identify the individual to whom it relates;
  + **(k)** to any aboriginal government, association of aboriginal people, Indian band, government institution or part thereof, or to any person acting on behalf of such government, association, band, institution or part thereof, for the purpose of researching or validating the claims, disputes or grievances of any of the aboriginal peoples of Canada;
  + **(l)** to any government institution for the purpose of locating an individual in order to collect a debt owing to Her Majesty in right of Canada by that individual or make a payment owing to that individual by Her Majesty in right of Canada; and
  + **(m)** for any purpose where, in the opinion of the head of the institution,
    - **(i)** the public interest in disclosure clearly outweighs any invasion of privacy that could result from the disclosure, or
    - **(ii)** disclosure would clearly benefit the individual to whom the information relates.
* **Marginal note:Personal information disclosed by Library and Archives of Canada**

**(3)** Subject to any other Act of Parliament, personal information under the custody or control of the Library and Archives of Canada that has been transferred there by a government institution for historical or archival purposes may be disclosed in accordance with the regulations to any person or body for research or statistical purposes.

* **Marginal note:Copies of requests under paragraph (2)(e) to be retained**

**(4)** The head of a government institution shall retain a copy of every request received by the government institution under paragraph (2)(e) for such period of time as may be prescribed by regulation, shall keep a record of any information disclosed pursuant to the request for such period of time as may be prescribed by regulation and shall, on the request of the Privacy Commissioner, make those copies and records available to the Privacy Commissioner.

* **Marginal note:Notice of disclosure under paragraph (2)(m)**

**(5)** The head of a government institution shall notify the Privacy Commissioner in writing of any disclosure of personal information under paragraph (2)(m) prior to the disclosure where reasonably practicable or in any other case forthwith on the disclosure, and the Privacy Commissioner may, if the Commissioner deems it appropriate, notify the individual to whom the information relates of the disclosure.

* **Definition of *Indian band***

**(6)** In paragraph (2)(k), ***Indian band*** means

* + **(a)** a band, as defined in the [*Indian Act*](http://laws-lois.justice.gc.ca/eng/acts/I-5);
  + **(b)** a band, as defined in the [*Cree-Naskapi (of Quebec) Act*](http://laws-lois.justice.gc.ca/eng/acts/C-45.7), chapter 18 of the Statutes of Canada, 1984;
  + **(c)** the Band, as defined in the [*Sechelt Indian Band Self-Government Act*](http://laws-lois.justice.gc.ca/eng/acts/S-6.6), chapter 27 of the Statutes of Canada, 1986; or
  + **(d)** a first nation named in Schedule II to the [*Yukon First Nations Self-Government Act*](http://laws-lois.justice.gc.ca/eng/acts/Y-2.6).
* **Definition of *aboriginal government***

**(7)** The expression ***aboriginal government*** in paragraph (2)(k) means

* + **(a)** Nisga’a Government, as defined in the Nisga’a Final Agreement given effect by the [*Nisga’a Final Agreement Act*](http://laws-lois.justice.gc.ca/eng/acts/N-23.3);
  + **(b)** the council of the Westbank First Nation;
  + **(c)** the Tlicho Government, as defined in section 2 of the [*Tlicho Land Claims and Self-Government Act*](http://laws-lois.justice.gc.ca/eng/acts/T-11.3);
  + **(d)** the Nunatsiavut Government, as defined in section 2 of the [*Labrador Inuit Land Claims Agreement Act*](http://laws-lois.justice.gc.ca/eng/acts/L-4.3);
  + **(e)** the council of a participating First Nation as defined in subsection 2(1) of the [*First Nations Jurisdiction over Education in British Columbia Act*](http://laws-lois.justice.gc.ca/eng/acts/F-11.75);
  + **(*e.1*)** the Tla’amin Government, as defined in subsection 2(2) of the *[Tla’amin Final Agreement Act](http://laws-lois.justice.gc.ca/eng/acts/T-11.2)*;
  + **(f)** the Tsawwassen Government, as defined in subsection 2(2) of the [*Tsawwassen First Nation Final Agreement Act*](http://laws-lois.justice.gc.ca/eng/acts/T-21.5);
  + **(g)** a Maanulth Government, within the meaning of subsection 2(2) of the *[Maanulth First Nations Final Agreement Act](http://laws-lois.justice.gc.ca/eng/acts/M-0.55)*; or
  + **(h)** Sioux Valley Dakota Oyate Government, within the meaning of subsection 2(2) of the [*Sioux Valley Dakota Nation Governance Act*](http://laws-lois.justice.gc.ca/eng/acts/S-10.2).
* **Definition of *council of the Westbank First Nation***

**(8)** The expression ***council of the Westbank First Nation*** in paragraphs (2)(f) and (7)(b) means the council, as defined in the Westbank First Nation Self-Government Agreement given effect by the *[Westbank First Nation Self-Government Act](http://laws-lois.justice.gc.ca/eng/acts/W-6.2)*.

(…)

# Access to Personal Information

## **Right of Access**

###### Marginal note:Right of access

* **12** **(1)** Subject to this Act, every individual who is a Canadian citizen or a permanent resident within the meaning of subsection 2(1) of the [*Immigration and Refugee Protection Act*](http://laws-lois.justice.gc.ca/eng/acts/I-2.5) has a right to and shall, on request, be given access to
  + **(a)** any personal information about the individual contained in a personal information bank; and
  + **(b)** any other personal information about the individual under the control of a government institution with respect to which the individual is able to provide sufficiently specific information on the location of the information as to render it reasonably retrievable by the government institution.

###### Marginal note:Other rights relating to personal information

**(2)** Every individual who is given access under paragraph (1)(a) to personal information that has been used, is being used or is available for use for an administrative purpose is entitled to

* + **(a)** request correction of the personal information where the individual believes there is an error or omission therein;
  + **(b)** require that a notation be attached to the information reflecting any correction requested but not made; and
  + **(c)** require that any person or body to whom that information has been disclosed for use for an administrative purpose within two years prior to the time a correction is requested or a notation is required under this subsection in respect of that information
    - **(i)** be notified of the correction or notation, and
    - **(ii)** where the disclosure is to a government institution, the institution make the correction or notation on any copy of the information under its control.

###### Marginal note:Extension of right of access by order

**(3)** The Governor in Council may, by order, extend the right to be given access to personal information under subsection (1) to include individuals not referred to in that subsection and may set such conditions as the Governor in Council deems appropriate.

## **Requests for Access**

###### Marginal note:Request for access under paragraph 12(1)(a)

* **13** **(1)** A request for access to personal information under paragraph 12(1)(a) shall be made in writing to the government institution that has control of the personal information bank that contains the information and shall identify the bank.

###### Marginal note:Request for access under 12(1)(b)

**(2)** A request for access to personal information under paragraph 12(1)(b) shall be made in writing to the government institution that has control of the information and shall provide sufficiently specific information on the location of the information as to render it reasonably retrievable by the government institution.