## **Summary of Contents**

## Volume 1

Chapter	1.	Introduction:	Right to	Government	Information
---------	----	---------------	----------	------------	-------------

- Chapter 2. Statutory Right of Access
- Chapter 3. Processing of Request by Government
- Chapter 4. Applicable Exclusions and Exemptions
- Chapter 5. Protection of Third Party Information and Third Party Rights to Prevent Disclosure
- Chapter 6. Complaints to an Independent Review Authority
- Chapter 7. Judicial Review and Appeals
- Chapter 8. Management of Personal Information

### **Appendices**

### Appendix A. Access and Privacy Legislation—Federal

- Appendix A1. Access to Information Act
- Appendix A1.50. Can. Reg. 83-507—Access to Information Regulations
- Appendix A2. Privacy Act
- Appendix A3. Can. Reg. 83-508—Privacy Regulations

#### Appendix B. Access and Privacy Legislation—Provincial

- Appendix B1. Freedom of Information and Protection of Privacy Act (Alberta)
- Appendix B2. Freedom of Information and Protection of Privacy Regulation—Alta. Reg. 186/2008
- Appendix B3. Freedom of Information and Protection of Privacy Act (British Columbia)
- Appendix B4. Freedom of Information and Protection of Privacy Regulation—B.C. Reg. 155/2012
- Appendix B5. Table of Concordance B.C. Reg. 323/93—B.C. Reg. 155/2012

Appendix B6. The Freedom of Information and Protection of Privacy Act (Manitoba)

Appendix B6.50. Man. Reg. 64/98—Access and Privacy Regulation

Appendix B7. Right to Information and Protection of Privacy Act (New Brunswick)

Appendix B7.50. N.B. Reg. 2010-111—General Regulation— Right to Information and Protection of Privacy Act

## Volume 2

### **Appendices (Continued)**

Appendix B. Access and Privacy Legislation—Provincial (Continued)

Appendix B8. Access to Information and Protection of Privacy Act, 2015 (Newfoundland and Labrador)

Appendix B8.50. Nfld. Reg. 45/15—Access to Information and Protection of Privacy Regulations

Appendix B9. Freedom of Information and Protection of Privacy Act (Nova Scotia)

Appendix B9.50. N.S. Reg. 105/94—Freedom of Information and Protection of Privacy Regulations

Appendix B10. Freedom of Information and Protection of Privacy Act (Ontario)

Appendix B11. General—Ont. Reg. 460

Appendix B12. Municipal Freedom of Information and Protection of Privacy Act (Ontario)

Appendix B13. General—Ont. Reg. 823

Appendix B14. Freedom of Information and Protection of Privacy Act (Prince Edward Island)

Appendix B15. An Act Respecting Access to Documents
Held by Public Bodies and the Protection
of Personal Information (Quebéc)

Appendix B16. Freedom of Information and Protection of Privacy Act (Saskatchewan)

#### SUMMARY OF CONTENTS

Appendix B17. The Local Authority Freedom of

Information and Protection of Privacy Act

(Saskatchewan)

Appendix C. Access Request Forms

Appendix D. Government Institutions Subject to Access

and Privacy Legislation

Appendix E. Access Fees
Appendix IF. Issues in Focus

Appendix PS. Procedural Summaries

Appendix SLL. Selected Legal Literature

Appendix TC. Table of Concordance

Appendix WP. Words and Phrases

**Table of Added Cases** 

**Table of Cases** 

Index

## **Table of Contents**

### Volume 1

# CHAPTER 1. INTRODUCTION: RIGHT TO GOVERNMENT INFORMATION

- § 1:1 Constitutional (*Charter* and Unwritten Constitutional Principles)
- § 1:2 Quasi-constitutional Legislation (Broad Interpretation and Preeminence over other Statutes)
- § 1:3 Agreement to Exclude the Application of Access Legislation
- § 1:4 General Access Regime versus Specialized Access Regimes
- § 1:5 —Access in the Context of Litigation
- § 1:6 —Access in the Context of Regulated Activities
- § 1:7 Limit on the Use of Information Disclosed under an Access Act

# CHAPTER 2. STATUTORY RIGHT OF ACCESS

### I. INTRODUCTION

§ 2:1 Generally

# II. INSTITUTIONS SUBJECT TO THE LEGISLATION (LISTS, ADDITIONS, DELETIONS)

- § 2:2 Introduction
- § 2:3 Departments and Ministries
- § 2:4 Government Commissions, Boards and Agencies
- § 2:5 Municipal Corporations and Local Boards and Commissions
- § 2:6 Universities, Colleges, Hospitals, Health Care Bodies and Social Service Establishments
- § 2:7 Governing Bodies of Professions or Occupations

# III. RECORDS SUBJECT TO THE LEGISLATION (LISTS, ADDITIONS, DELETIONS)

§ 2:8 The Nature of a Record

§ 2:9 What is Government Information? What is Control and/or Custody?

## IV. HOW IS GOVERNMENT INFORMATION TO BE LOCATED AND IDENTIFIED?

- § 2:10 Targeting a Government Institution
- § 2:11 Using the Access Guides

### V. DIFFERENCE BETWEEN RIGHT TO INFORMATION AND RIGHT TO ONE'S OWN PERSONAL INFORMATION

- § 2:12 Personal Information not Relating to the Requester
- § 2:13 —The General Prohibition
- § 2:14 —Exceptions to the General Prohibition
- § 2:15 The Types of Personal Information Subject to Disclosure

### VI. THE ACCESS REQUEST (STATUS OF REQUESTER, FORM OF REQUEST, WORDING OF REQUEST, APPLICATION FEE)

- § 2:16 Who May Request Disclosure?
- § 2:17 —The Anonymous Request
- § 2:18 Preparing an Access Request
- § 2:19 Making a Standing Request
- § 2:20 What Forms of Access May be Sought?
- § 2:21 The Access Request for Personal Information
- § 2:22 —Status to Apply
- § 2:23 —Method of Application
- § 2:24 —Notable Procedure: Summary of Information Supplied in Confidence
- § 2:25 No Liability for Making an Access Request
- § 2:26 An Access Request does not Give Rise to the Litigation Privilege

### VII. CORRECTION AND NOTATION OF PERSONAL INFORMATION; PUBLICATION OF EXPENSE REPORTS OF MINISTERS

- § 2:27 Correction and Notation of Personal Information
- § 2:28 Publication of Expense Reports of Ministers

# CHAPTER 3. PROCESSING OF REQUEST BY GOVERNMENT

### I. RESPONSE TIME/EXTENSION/DEEMED REFUSAL/NEITHER CONFIRM NOR DENY EXISTENCE OF A RECORD

- § 3:1 The Initial Period for Response
- § 3:2 Extension of the Response Time
- § 3:3 Complaints about Delayed Responses
- § 3:4 Denial of the Existence of Information
- § 3:5 Neither Denial nor Confirmation of the Existence of Information

## II. ASSISTANCE TO REQUESTERS; APPLICABLE FEES; CONSULTATIONS/TRANSFER

- § 3:6 Assistance to Requesters
- § 3:7 Applicable Fees
- § 3:8 Consultations/Transfer

### III. FORMAT OF RECORDS

- § 3:9 Introduction
- § 3:10 Inspection of the Record
- § 3:11 Receipt of Copies of Relevant Material
- § 3:12 Formats for Personal Information Available

### IV. LANGUAGE OF ACCESS; DECISION-MAKER/ DELEGATION OF AUTHORITY

- § 3:13 Language of Access
- § 3:14 Decision-maker/Delegation of Authority

## V. RESPONSE TO A REQUEST

- § 3:15 The Right to Decline to Act on Access Request
- § 3:16 Refusal of a Request

## VI. SEVERANCE; LIABILITY AND IMMUNITY FOR ERRORS

- § 3:17 Severance
- § 3:18 Liability and Immunity for Errors

# CHAPTER 4. APPLICABLE EXCLUSIONS AND EXEMPTIONS

- § 4:1 General Principles
- © 2022 Thomson Reuters, Rel. 2, 4/2022

§ 4:2	Exercise of Discretion
§ 4:3	Public Interest Overrides
§ 4:4	Information from Another Government
§ 4:5	Federal-Provincial Affairs
§ 4:6	International Affairs and National Security and Defence
§ 4:7	Law Enforcement and Regulatory Investigations
§ 4:8	Safety of Individuals
§ 4:9	Economic and Other Interests of Government
§ 4:10	Personal Information
§ 4:11	—Personal Information Prejudicial to Health and Safety
§ 4:12	—Personal Information about Another Individual
§ 4:13	—Exempt Banks of Personal Information
§ 4:14	—Personal Information Regarding Correctional and Security Matters
§ 4:15	—Other Types of Personal Information
§ 4:16	Third Party Information
$\S 4:17$	Operations of Government
§ 4:18	Testing Procedures, Tests and Audit-related Information
§ 4:19	Solicitor-Client Privilege
§ 4:20	Other Statutory Provisions—Information Required to be Held in Confidence under Other Legislation
$\S~4:21$	—Taxation Information
§ 4:22	—Information the Disclosure of which would Interfere with Conservation
§ 4:23	—Information relating to Workplace Investigations and Labour Relations Matters
$\S 4:24$	Cabinet Confidences
§ 4:25	Publicly Available Information and Record to be Published
§ 4:26	Special Exclusions
$\S~4:27$	Canada Evidence Act Certificates
§ 4:28	Academic Research

# CHAPTER 5. PROTECTION OF THIRD PARTY INFORMATION AND THIRD PARTY RIGHTS TO PREVENT DISCLOSURE

## I. PURPOSE AND NATURE OF THE EXEMPTION

§ 5:1 Generally

## II. PROTECTED INFORMATION

§ 5:2 Introduction

xxii

### Table of Contents

§ 5:3	Personal Information
§ 5:4	Trade Secrets
§ 5:5	Confidential Information
§ 5:6	—Information of Financial, Commercial, Scientific or Technical Nature
§ 5:7	—Confidential Information
§ 5:8	—Consistently Treated in a Confidential Manner
§ 5:9	—Provided by a Third Party
§ 5:10	Supplementary Federal Exemptions—Information Supplied in Relation to an Emergency Management Plan
§ 5:11	—Exemptions for Public Sector Pension Investment Board and the Canada Pension Plan Investment Board
§ 5:12	Information which Could Cause Financial Harm or Prejudice the Competitive Position of a Third Party—Harmful Information
§ 5:13	—Unduly Beneficial Information
§ 5:14	Information Which Could Interfere with Contractual or Other Negotiations of a Third Party
§ 5:15	Information on Tax Forms
§ 5:16	Financial Accounts and Financial Assistance

## III. EXCEPTIONS TO PROTECTED INFORMATION

§ 5:17	Introduction
§ 5:18	Information on Product or Environmental Testing
§ 5:19	Public Interest Override

§ 5:20 Disclosure on Consent

§ 5:21 Disclosure in Other Circumstances

# IV. OBLIGATION OF THE GOVERNMENT TO CONSULT WITH THIRD PARTIES

§ 5:22 Generally

### V. CONSULTATION PROCESS

§ 5:23	Introduction
§ 5:24	When Notice is Not Required
§ 5:25	When Notice is Required
§ 5:26	The Content of a Third Party Notice
§ 5:27	Timeframe for Third Party Consultations
§ 5:28	Notice of Third Party Consultations to the Requester

- § 5:29 Nature of Third Party Representations§ 5:30 Decision Following Third Party Consultations
- VI. THIRD PARTY RECOURSES
- § 5:31 Introduction
- § 5:32 When There Was No Third Party Notice/ Consultations—the Absence of Standing
- § 5:33 Decision Made Following Third Party Notice/Consultations—Notice and Review of a Decision Not to Disclose
- § 5:34 —Review of a Decision to Disclose

# CHAPTER 6. COMPLAINTS TO AN INDEPENDENT REVIEW AUTHORITY

- § 6:1 Initiation of the Review Process
- § 6:2 The Commissioner/Ombudsman/Reviewing Officer
- § 6:3 Resolution through Investigation and/or Adjudication and/or Mediation
- § 6:4 —The Investigative Approach
- § 6:5 —The Adjudicative Approach
- § 6:6 —Complaints into Matters other than the Non-Disclosure of Information
- § 6:7 Reports to Parliament/Legislatures
- § 6:8 Immunity of Commissioners

# CHAPTER 7. JUDICIAL REVIEW AND APPEALS

### I. INTRODUCTION

§ 7:1 Generally

### II. THE APPELLATE COURTS

- § 7:2 Introduction
- § 7:3 Who Can Launch an Application or Appeal in respect of an Access request and under what Conditions
- § 7:4 The Role of the Commissioner/Ombudsman/ Reviewing Officer
- § 7:5 Claiming new exemptions during a Judicial Review
- § 7:6 Court Application or Appeal in respect of the Management of Personal Information

## III. THE CONDUCT OF A JUDICIAL REVIEW OR AN APPEAL

§ 7:7	Decisions Made by a Government Institution:
	Applicable Standards of Review
§ 7:7.50	Decisions Made by a Government Institution: Required Reasons and Supporting Evidence
§ 7:8	Decisions Made by a Commissioner
§ 7:9	Who has the Burden on an Appeal/Application
§ 7:10	Appeals Relating to Delays in Disclosure
§ 7:11	Appeals Relating to Quality of Search
§ 7:12	Appeals Relating to Fees
§ 7:13	The Award of Costs
§ 7:14	The Award of Damages
§ 7:15	The Applicable Standard of Review when
	Reviewing the Decision of a Lower Court

### IV. SPECIAL RULES FOR SOME APPEAL/ APPLICATIONS

- § 7:16 Maintaining the Confidentiality of Underlying Records
- § 7:17 Accepting New Evidence on Judicial Review

# CHAPTER 8. MANAGEMENT OF PERSONAL INFORMATION

### I. INTRODUCTION

§ 8:1 Generally

### II. DEFINITION OF PERSONAL INFORMATION

- § 8:2 Introduction
- § 8:3 Definitions of Personal Information
- § 8:4 Examples of Personal Information
- § 8:5 An Individual's Name as Personal Information
- § 8:6 Exclusions from Personal Information
- § 8:7 Unrecorded Information

### III. COLLECTION

- § 8:8 Collection of Personal Information
- § 8:9 Purpose of Collection
- § 8:10 Manner of Collection
- § 8:11 Safeguards for Personal Information during Collection

## IV. PERMITTED USES AND DISCLOSURES

§ 8:12	Use of Personal Information
§ 8:13	Currency and Accuracy of Personal Information Used
§ 8:14	Each Use of Personal Information must be Published
§ 8:15	Permitted Disclosure of Personal Information
§ 8:16	Disclosure with the Consent of the Individual Concerned
§ 8:17	Disclosure for a Purpose for which the Information was Collected
§ 8:18	Disclosure for Certain Specified Governmental Purposes
§ 8:19	—Law Enforcement and Judicial Proceedings
§ 8:20	—Other Purposes
§ 8:21	Disclosure in Accordance with Statute or Regulation
§ 8:22	Disclosure on Compulsion of Court Order
§ 8:23	Disclosure for Research Purposes
§ 8:24	Disclosure on Compassionate Grounds or in Cases of Emergency
§ 8:25	Disclosure to Elected Representatives
§ 8:26	Transfer of Records to the Archives
§ 8:27	Disclosure on the Basis of a Substantial Public Interest
§ 8:28	Disclosure of Personal Information Relating to Government Employment Contracts and Benefits
§ 8:29	Disclosure on Other Grounds
§ 8:30	Disclosure Subject to Conditions
§ 8:31	Use and Disclosure of Publicly Available Personal Information

## V. RETENTION, ACCURACY AND DISPOSAL

§ 8:32	Introduction
§ 8:33	Minimum Period of Retention
§ 8:34	Manner of Retention—Personal Information Banks
§ 8:35	Exempt Banks
§ 8:36	Disposal of Personal Information
§ 8:37	Territorial Concerns Relating to the Protection and Retention of Personal Information in British Columbia, Nova Scotia and Quebec

xxvi

## VI. RECOVERY OF UNLAWFULLY POSSESSED PERSONAL INFORMATION

§ 8:38 Generally

### APPENDICES

Appendix	A.	Access	and	<b>Privacy</b>	Legisla	ation—	Federal
----------	----	--------	-----	----------------	---------	--------	---------

Appendix A1. Access to Information Act

Appendix A1.50. Can. Reg. 83-507—Access to Information

Regulations

Appendix A2. Privacy Act

Appendix A3. Can. Reg. 83-508—Privacy Regulations

Appendix B. Access and Privacy Legislation—Provincial

Appendix B1. Freedom of Information and Protection of

Privacy Act (Alberta)

Appendix B2. Freedom of Information and Protection of

Privacy Regulation—Alta. Reg.

186/2008

Appendix B3. Freedom of Information and Protection of

Privacy Act (British Columbia)

Appendix B4. Freedom of Information and Protection of

Privacy Regulation—B.C. Reg. 155/2012

Appendix B5. Table of Concordance B.C. Reg. 323/93—

B.C. Reg. 155/2012

Appendix B6. The Freedom of Information and

Protection of Privacy Act (Manitoba)

Appendix B6.50. Man. Reg. 64/98—Access and Privacy

Regulation

Appendix B7. Right to Information and Protection of

Privacy Act (New Brunswick)

Appendix B7.50. N.B. Reg. 2010-111—General

Regulation—Right to Information and

Protection of Privacy Act

## Volume 2

Appendix B8. Access to Information and Protection of Privacy Act, 2015 (Newfoundland and

Labrador)

Appendix B8.50. Nfld. Reg. 45/15—Access to Information and Protection of Privacy Regulations

### GOVERNMENT INFORMATION

Appendix B9.	Freedom of Information and Protection of Privacy Act (Nova Scotia)			
Appendix B9.50.	N.S. Reg. 105/94—Freedom of Information and Protection of Privacy Regulations			
Appendix B10.	Freedom of Information and Protection of Privacy Act (Ontario)			
Appendix B11.	General—Ont. Reg. 460			
Appendix B12.	Municipal Freedom of Information and Protection of Privacy Act (Ontario)			
Appendix B13.	General—Ont. Reg. 823			
Appendix B14.	Freedom of Information and Protection of Privacy Act (Prince Edward Island)			
Appendix B15.	An Act Respecting Access to Documents Held by Public Bodies and the Protection of Personal Information (Quebéc)			
Appendix B16.	Freedom of Information and Protection of Privacy Act (Saskatchewan)			
Appendix B17.	The Local Authority Freedom of Information and Protection of Privacy Act (Saskatchewan)			
Appendix C.	Access Request Forms			
Appendix D.	Government Institutions Subject to Access and Privacy Legislation			
Appendix E.	Access Fees			
Appendix IF.	Issues in Focus			
Appendix PS.	Procedural Summaries			
Appendix SLL.	Selected Legal Literature			
Appendix TC.	Table of Concordance			
Appendix WP.	Words and Phrases			
Table of Added Cases				

**Table of Cases** 

Index