The Freedom of Information and Protection of Privacy Act

being

Chapter F-22.01 of the *Statutes of Saskatchewan, 1990-91*, as amended by the *Statutes of Saskatchewan,* 1992, c.62; 1994, c.27; 1997, c.T-22.2; 1998, c.P-42.1; 1999, c.H-0.021; 2001, c.50; 2003, c.29; 2004, c.A-26.1, T-18.1 and 5; 2005, c.L-11.2 and 25; 2006, c.19; 2008, c.V-7.3; 2009, c.5 and c.32; 2013, c.W-17.11; 2014, c.E-13.1 and c.29; and 2015, c.16 and c.21.

NOTE:

This consolidation is not official. Amendments have been incorporated for convenience of reference and the original statutes and regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the original statutes and regulations, errors that may have appeared are reproduced in this consolidation.

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CHAPTER F-22.01

An Act respecting a right of access to documents of the Government of Saskatchewan and a right of privacy with respect to personal information held by the Government of Saskatchewan

PART I
Short Title, Interpretation and Application

Short title

1 This Act may be cited as *The Freedom of Information and Protection of Privacy Act*.

Interpretation

2(1) In this Act:

(a) **"applicant"** means a person who makes an application for access to a record pursuant to section 6;

(b) **"commissioner"** means the Information and Privacy Commissioner appointed pursuant to Part VI and includes any acting commissioner appointed pursuant to that Part;

(c) **"fiscal year"** means the period commencing on April 1 in one year and ending on March 31 in the following year;

(d) **"government institution"** means, subject to subsection (2):

(i) the office of Executive Council or any department, secretariat or other similar agency of the executive government of Saskatchewan; or

(ii) any prescribed board, commission, Crown corporation or other body, or any prescribed portion of a board, commission, Crown corporation or other body, whose members or directors are appointed, in whole or in part:

(A) by the Lieutenant Governor in Council;

(B) by a member of the Executive Council; or

(C) in the case of:

(I) a board, commission or other body, by a Crown corporation; or

(II) a Crown corporation, by another Crown corporation;

(e) **"head"** means:

(i) in the case of an agency mentioned in subclause (d)(i), the member of the Executive Council responsible for the administration of the agency; and

(ii) in the case of a board, commission, Crown corporation or body mentioned in subclause (d)(ii), the prescribed person;

(f) **"minister"** means the member of the Executive Council to whom for the time being the administration of this Act is assigned;

(g) **"personal information"** means personal information within the meaning of section 24;

(h) **"prescribed"** means prescribed in the regulations;

(i) **"record"** means a record of information in any form and includes information that is written, photographed, recorded or stored in any manner, but does not include computer programs or other mechanisms that produce records;

(j) **"third party"** means a person, including an unincorporated entity, other than an applicant or a government institution.

(2) **"Government institution"** does not include:

(a) a corporation the share capital of which is owned in whole or in part by a person other than the Government of Saskatchewan or an agency of it;

(b) the Legislative Assembly Service or offices of members of the Assembly or members of the Executive Council; or

(c) the Court of Appeal, Her Majesty's Court of Queen's Bench for Saskatchewan or the Provincial Court of Saskatchewan.

1990-91, c.F-22.01, s.2; 1992, c.62, s.25; 1994, c.27, s.25; 2005, c.L-11.2, s.97; 2015, c.16, s.4.

Application

3(1) This Act does not apply to:

(a) published material or material that is available for purchase by the public;

(b) material that is a matter of public record; or

(c) material that is placed in the custody of The Saskatchewan Archives Board by or on behalf of persons or organizations other than government institutions.

(2) This Act binds the Crown.

1990-91, c.F-22.01, s.3.

Existing rights preserved

4 This Act:

(a) complements and does not replace existing procedures for access to government information or records;

(b) does not in any way limit access to the type of government information or records that is normally available to the public;

(c) does not limit the information otherwise available by law to a party to litigation;

(d) does not affect the power of any court or tribunal to compel a witness to testify or to compel the production of documents;

(e) does not prohibit the transfer, storage or destruction of any record in accordance with any other Act or any regulation;

(f) does not prevent access to a registry operated by a government institution where access to the registry is normally allowed to the public.

1990-91, c.F-22.01, s.4.

PART II
Access to Records

Right of access

5 Subject to this Act and the regulations, every person has a right to and, on an application made in accordance with this Part, shall be permitted access to records that are in the possession or under the control of a government institution.

1990-91, c.F-22.01, s.5.

Application

6(1) An applicant shall:

(a) make the application in the prescribed form to the government institution in which the record containing the information is kept; and

(b) specify the subject matter of the record requested with sufficient particularity as to time, place and event to enable an individual familiar with the subject-matter to identify the record.

(2) Subject to subsection (4) and subsection 11(3), an application is deemed to be made when the application is received by the government institution to which it is directed.

(3) Where the head is unable to identify the record requested, the head shall advise the applicant, and shall invite the applicant to supply additional details that might lead to identification of the record.

(4) Where additional details are invited to be supplied pursuant to subsection (3), the application is deemed to be made when the record is identified.

1990-91, c.F-22.01, s.6; 2015, c.21, s.64.

Response required

7(1) Where an application is made pursuant to this Act for access to a record, the head of the government institution to which the application is made shall:

(a) consider the application and give written notice to the applicant of the head's decision with respect to the application in accordance with subsection (2); or

(b) transfer the application to another government institution in accordance with section 11.

(2) The head shall give written notice to the applicant within 30 days after the application is made:

(a) stating that access to the record or part of it will be given on payment of the prescribed fee and setting out the place where, or manner in which, access will be available;

(b) if the record requested is published, referring the applicant to the publication;

(c) if the record is to be published within 90 days, informing the applicant of that fact and of the approximate date of publication;

(d) stating that access is refused, setting out the reason for the refusal and identifying the specific provision of this Act on which the refusal is based;

(e) stating that access is refused for the reason that the record does not exist; or

(f) stating that confirmation or denial of the existence of the record is refused pursuant to subsection (4).

(3) A notice given pursuant to subsection (2) is to state that the applicant may request a review by the commissioner within one year after the notice is given.

(4) Where an application is made with respect to a record that is exempt from access pursuant to this Act, the head may refuse to confirm or deny that the record exists or ever did exist.

(5) A head who fails to give notice pursuant to subsection (2) is deemed to have given notice, on the last day of the period set out in that subsection, of a decision to refuse to give access to the record.

1990-91, c.F-22.01, s.7.

Severability

8 Where a record contains information to which an applicant is refused access, the head shall give access to as much of the record as can reasonably be severed without disclosing the information to which the applicant is refused access.

1990-91, c.F-22.01, s.8.

Fee

9(1) An applicant who is given notice pursuant to clause 7(2)(a) is entitled to obtain access to the record on payment of the prescribed fee.

(2) Where the amount of fees to be paid by an applicant for access to records is greater than a prescribed amount, the head shall give the applicant a reasonable estimate of the amount, and the applicant shall not be required to pay an amount greater than the estimated amount.

(3) Where an estimate is provided pursuant to subsection (2), the time within which the head is required to give written notice to the applicant pursuant to subsection 7(2) is suspended until the applicant notifies the head that the applicant wishes to proceed with the application.

(4) Where an estimate is provided pursuant to subsection (2), the head may require the applicant to pay a deposit of an amount that does not exceed one-half of the estimated amount before a search is commenced for the records for which access is sought.

(5) Where a prescribed circumstance exists, the head may waive payment of all or any part of the prescribed fee.

1990-91, c.F-22.01, s.9.

Manner of access

10(1) Where an applicant is entitled to access pursuant to subsection 9(1), the head shall provide the applicant with access to the record in accordance with this section.

(2) A head may give access to a record:

(a) by providing the applicant with a copy of the record; or

(b) where it is not reasonable to reproduce the record, by giving the applicant an opportunity to examine the record.

(3) A head may give access to a record that is a microfilm, film, sound recording, machine-readable record or other record of information stored by electronic means:

(a) by permitting the applicant to examine a transcript of the record;

(b) by providing the applicant with a copy of the transcript of the record; or

(c) in the case of a record produced for visual or aural reception, by permitting the applicant to view or hear the record or by providing the applicant with a copy of it.

1990-91, c.F-22.01, s.10.

Transfer of application

11(1) Where the head of the government institution to which an application is made considers that another government institution has a greater interest in the record, the head:

(a) may, within 15 days after the application is made, transfer the application and, if necessary, the record to the other government institution; and

(b) if a record is transferred pursuant to clause (a), shall give written notice of the transfer and the date of the transfer to the applicant.

(2) For the purposes of this section, a government institution has a greater interest in a record if:

(a) the record was originally prepared in or for the government institution; or

(b) the government institution was the first government institution to obtain the record or a copy of the record.

(3) For the purposes of section 7, an application that is transferred pursuant to subsection (1) is deemed to have been made to the government institution on the day of the transfer.

1990-91, c.F-22.01, s.11.

Extension of time

12(1) The head of a government institution may extend the period set out in section 7 or 11 for a reasonable period not exceeding 30 days:

(a) where:

(i) the application is for access to a large number of records or necessitates a search through a large number of records; or

(ii) there is a large number of requests;

and completing the work within the original period would unreasonably interfere with the operations of the government institution;

(b) where consultations that are necessary to comply with the application cannot reasonably be completed within the original period; or

(c) where a third party notice is required to be given pursuant to subsection 34(1).

(2) A head who extends a period pursuant to subsection (l) shall give notice of the extension to the applicant within 30 days after the application is made.

(3) Within the period of extension, the head shall give written notice to the applicant in accordance with section 7.

1990-91, c.F-22.01, s.12.

PART III
Exemptions

Records from other governments

13(1) A head shall refuse to give access to information contained in a record that was obtained in confidence, implicitly or explicitly, from:

(a) the Government of Canada or its agencies, Crown corporations or other institutions;

(b) the government of another province or territory of Canada, or its agencies, Crown corporations or other institutions;

(c) the government of a foreign jurisdiction or its institutions; or

(d) an international organization of states or its institutions;

unless the government or institution from which the information was obtained consents to the disclosure or makes the information public.

(2) A head may refuse to give access to information contained in a record that was obtained in confidence, implicitly or explicitly, from a local authority as defined in the regulations.

1990-91, c.F-22.01, s.13.

Information injurious to intergovernmental relations or national defence

14 A head may refuse to give access to a record, the release of which could reasonably be expected to prejudice, interfere with or adversely affect:

(a) relations between the Government of Saskatchewan and another government; or

(b) the defence or security of Canada or of any foreign state allied or associated with Canada.

1990-91, c.F-22.01, s.14.

Law enforcement and investigations

15(1) A head may refuse to give access to a record, the release of which could:

(a) prejudice, interfere with or adversely affect the detection, investigation, prevention or prosecution of an offence or the security of a centre of lawful detention;

(a.1) prejudice, interfere with or adversely affect the detection, investigation or prevention of an act or omission that might constitute a terrorist activity as defined in the *Criminal Code;*

(b) be injurious to the enforcement of:

(i) an Act or a regulation; or

(ii) an Act of the Parliament of Canada or a regulation made pursuant to an Act of the Parliament of Canada;

(c) interfere with a lawful investigation or disclose information with respect to a lawful investigation;

(d) be injurious to the Government of Saskatchewan or a government institution in the conduct of existing or anticipated legal proceedings;

(e) reveal investigative techniques or procedures currently in use or likely to be used;

(f) disclose the identity of a confidential source of information or disclose information furnished by that source with respect to a lawful investigation or a law enforcement matter;

(g) deprive a person of a fair trial or impartial adjudication;

(h) facilitate the escape from custody of an individual who is under lawful detention;

(i) reveal law enforcement intelligence information;

(j) facilitate the commission of an offence or tend to impede the detection of an offence;

(k) interfere with a law enforcement matter or disclose information respecting a law enforcement matter;

(l) reveal technical information relating to weapons or potential weapons; or

(m) reveal the security arrangements of particular vehicles, buildings or other structures or systems, including computer or communication systems, or methods employed to protect those vehicles, buildings, structures or systems.

(2) Subsection (1) does not apply to a record that:

(a) provides a general outline of the structure or programs of a law enforcement agency; or

(b) reports, by means of statistical analysis or otherwise, on the degree of success achieved in a law enforcement program.

1990-91, c.F-22.01, s.15; 2003, c.29, s.30.

Cabinet documents

16(1) A head shall refuse to give access to a record that discloses a confidence of the Executive Council, including:

(a) records created to present advice, proposals, recommendations, analyses or policy options to the Executive Council or any of its committees;

(b) agendas or minutes of the Executive Council or any of its committees, or records that record deliberations or decisions of the Executive Council or any of its committees;

(c) records of consultations among members of the Executive Council on matters that relate to the making of government decisions or the formulation of government policy, or records that reflect those consultations;

(d) records that contain briefings to members of the Executive Council in relation to matters that:

(i) are before, or are proposed to be brought before, the Executive Council or any of its committees; or

(ii) are the subject of consultations described in clause (c).

(2) Subject to section 30, a head shall not refuse to give access pursuant to subsection (1) to a record where:

(a) the record has been in existence for more than 25 years; or

(b) consent to access is given by:

(i) the President of the Executive Council for which, or with respect to which, the record has been prepared; or

(ii) in the absence or inability to act of the President, by the next senior member of the Executive Council who is present and able to act.

1990-91, c.F-22.01, s.16.

Advice from officials

17(1) Subject to subsection (2), a head may refuse to give access to a record that could reasonably be expected to disclose:

(a) advice, proposals, recommendations, analyses or policy options developed by or for a government institution or a member of the Executive Council;

(b) consultations or deliberations involving:

(i) officers or employees of a government institution;

(ii) a member of the Executive Council; or

(iii) the staff of a member of the Executive Council;

(c) positions, plans, procedures, criteria or instructions developed for the purpose of contractual or other negotiations by or on behalf of the Government of Saskatchewan or a government institution, or considerations that relate to those negotiations;

(d) plans that relate to the management of personnel or the administration of a government institution and that have not yet been implemented;

(e) contents of draft legislation or subordinate legislation;

(f) agendas or minutes of:

(i) a board, commission, Crown corporation or other body that is a government institution; or

(ii) a prescribed committee of a government institution mentioned in subclause (i); or

(g) information, including the proposed plans, policies or projects of a government institution, the disclosure of which could reasonably be expected to result in disclosure of a pending policy or budgetary decision.

(2) This section does not apply to a record that:

(a) has been in existence for more than 25 years;

(b) is an official record that contains a statement of the reasons for a decision that is made in the exercise of a discretionary power or an adjudicative function;

(c) is the result of product or environmental testing carried out by or for a government institution, unless the testing was conducted:

(i) as a service to a person, a group of persons or an organization other than a government institution, and for a fee; or

(ii) as preliminary or experimental tests for the purpose of:

(A) developing methods of testing; or

(B) testing products for possible purchase;

(d) is a statistical survey;

(e) is the result of background research of a scientific or technical nature undertaken in connection with the formulation of a policy proposal; or

(f) is:

(i) an instruction or guide-line issued to the officers or employees of a government institution; or

(ii) a substantive rule or statement of policy that has been adopted by a government institution for the purpose of interpreting an Act or regulation or administering a program or activity of a government institution.

(3) A head may refuse to give access to any report, statement, memorandum, recommendation, document, information, data or record, within the meaning of section 10 of *The Evidence Act*, that, pursuant to that section, is not admissible as evidence in any legal proceeding.

1990-91, c.F-22.01, s.17; 2006, c.19, s.7; 2009, c.5, s.14.

Economic and other interests

18(1) A head may refuse to give access to a record that could reasonably be expected to disclose:

(a) trade secrets;

(b) financial, commercial, scientific, technical or other information:

(i) in which the Government of Saskatchewan or a government institution has a proprietary interest or a right of use; and

(ii) that has monetary value or is reasonably likely to have monetary value;

(c) scientific or technical information obtained through research by an employee of a government institution, the disclosure of which could reasonably be expected to deprive the employee of priority of publication;

(d) information, the disclosure of which could reasonably be expected to interfere with contractual or other negotiations of the Government of Saskatchewan or a government institution;

(e) positions, plans, procedures, criteria or instructions developed for the purpose of contractual or other negotiations by or on behalf of the Government of Saskatchewan or a government institution, or considerations that relate to those negotiations;

(f) information, the disclosure of which could reasonably be expected to prejudice the economic interest of the Government of Saskatchewan or a government institution;

(g) information, the disclosure of which could reasonably be expected to be injurious to the ability of the Government of Saskatchewan to manage the economy of Saskatchewan; or

(h) information, the disclosure of which could reasonably be expected to result in an undue benefit or loss to a person.

(2) A head shall not refuse, pursuant to subsection (1), to give access to a record that contains the results of product or environmental testing carried out by or for a government institution, unless the testing was conducted:

(a) as a service to a person, a group of persons or an organization other than a government institution, and for a fee; or

(b) as preliminary or experimental tests for the purpose of:

(i) developing methods of testing; or

(ii) testing products for possible purchase.

1990-91, c.F-22.01, s.18.

Third party information

19(1) Subject to Part V and this section, a head shall refuse to give access to a record that contains:

(a) trade secrets of a third party;

(b) financial, commercial, scientific, technical or labour relations information that is supplied in confidence, implicitly or explicitly, to a government institution by a third party;

(c) information, the disclosure of which could reasonably be expected to:

(i) result in financial loss or gain to;

(ii) prejudice the competitive position of; or

(iii) interfere with the contractual or other negotiations of;

a third party;

(d) a statement of a financial account relating to a third party with respect to the provision of routine services from a government institution;

(e) a statement of financial assistance provided to a third party by a prescribed Crown corporation that is a government institution; or

(f) information supplied by a third party to support an application for financial assistance mentioned in clause (e).

(2) A head may give access to a record that contains information described in subsection (1) with the written consent of the third party to whom the information relates.

(3) Subject to Part V, a head may give access to a record that contains information described in subsection (1) if:

(a) disclosure of that information could reasonably be expected to be in the public interest as it relates to public health, public safety or protection of the environment; and

(b) the public interest in disclosure could reasonably be expected to clearly outweigh in importance any:

(i) financial loss or gain to;

(ii) prejudice to the competitive position of; or

(iii) interference with contractual or other negotiations of;

a third party.

1990-91, c.F-22.01, s.19.

Testing procedures, tests and audits

20 A head may refuse to give access to a record that contains information relating to:

(a) testing or auditing procedures or techniques; or

(b) details of specific tests to be given or audits to be conducted;

if disclosure could reasonably be expected to prejudice the use or results of particular tests or audits.

1990-91, c.F-22.01, s.20.

Danger to health or safety

21 A head may refuse to give access to a record if the disclosure could threaten the safety or the physical or mental health of an individual.

1990-91, c.F-22.01, s.21.

Solicitor-client privilege

22 A head may refuse to give access to a record that:

(a) contains information that is subject to solicitor-client privilege;

(b) was prepared by or for an agent of the Attorney General for Saskatchewan or legal counsel for a government institution in relation to a matter involving the provision of advice or other services by the agent or legal counsel; or

(c) contains correspondence between an agent of the Attorney General for Saskatchewan or legal counsel for a government institution and any other person in relation to a matter involving the provision of advice or other services by the agent or legal counsel.

1990-91, c.F-22.01, s.22.

Confidentiality provisions in other enactments

23(1) Where a provision of:

(a) any other Act; or

(b) a regulation made pursuant to any other Act;

that restricts or prohibits access by any person to a record or information in the possession or under the control of a government institution conflicts with this Act or the regulations made pursuant to it, the provisions of this Act and the regulations made pursuant to it shall prevail.

(2) Subject to subsection (3), subsection (1) applies notwithstanding any provision in the other Act or regulation that states that the provision is to apply notwithstanding any other Act or law.

(3) Subsection (1) does not apply to:

(a) *The Adoption Act, 1998*;

(b) section 27 of *The Archives Act, 2004* ;

(c) section 74 of *The Child and Family Services Act*;

(d) section 7 of *The Criminal Injuries Compensation Act*;

(e) section 12 of *The Enforcement of Maintenance Orders Act*;

(e.1) *The Health Information Protection Act;*

(f) section 38 of *The Mental Health Services Act*;

(f.1) section 91.1 of *The Police Act, 1990;*

(g) section 13 of *The Proceedings against the Crown Act*;

(h) sections 15 and 84 of *The Securities Act, 1988*;

(h.1) section 61 of *The Trust and Loan Corporations Act, 1997*;

(i) section 283 of *The Traffic Safety Act*;

(i.1) subsection 97(4) of *The Traffic Safety Act;*

(j) Part VIII of *The Vital Statistics Act, 2009*;

(j.1) section 12 of *The Vital Statistics Administration Transfer Act;*

(k) sections 172 to 174 of *The Workers' Compensation Act, 2013*;

(l) any prescribed Act or prescribed provisions of an Act; or

(m) any prescribed regulation or prescribed provisions of a regulation;

and the provisions mentioned in clauses (a) to (m) shall prevail.

1990-91, c.F-22.01, s.23; 1997, c.T-22.2, s.90; 1999, c.H-0.021, s.66; 2004, c.A-26.1, s.36; 2004, c.T-18.1, s.300; 2004, c.5, s.3; 2005, c.25, s.37; 2008, c.V-7.3, s.16; 2009, c.32, s.4; 2013, c.W-17.11, s.192; 2014, c.29, s.31.

PART IV
Protection of Privacy

Interpretation

24(1) Subject to subsections (1.1) and (2), **"personal information"** means personal information about an identifiable individual that is recorded in any form, and includes:

(a) information that relates to the race, creed, religion, colour, sex, sexual orientation, family status or marital status, disability, age, nationality, ancestry or place of origin of the individual;

(b) information that relates to the education or the criminal or employment history of the individual or information relating to financial transactions in which the individual has been involved;

(c) **Repealed.** 1999, c.H-0.021, s.66.

(d) any identifying number, symbol or other particular assigned to the individual, other than the individual's health services number as defined in *The Health Information Protection Act*;

(e) the home or business address, home or business telephone number or fingerprints of the individual;

(f) the personal opinions or views of the individual except where they are about another individual;

(g) correspondence sent to a government institution by the individual that is implicitly or explicitly of a private or confidential nature, and replies to the correspondence that would reveal the content of the original correspondence, except where the correspondence contains the views or opinions of the individual with respect to another individual;

(h) the views or opinions of another individual with respect to the individual;

(i) information that was obtained on a tax return or gathered for the purpose of collecting a tax;

(j) information that describes an individual's finances, assets, liabilities, net worth, bank balance, financial history or activities or credit worthiness; or

(k) the name of the individual where:

(i) it appears with other personal information that relates to the individual; or

(ii) the disclosure of the name itself would reveal personal information about the individual.

(1.1) "Personal information" does not include information that constitutes personal health information as defined in *The Health Information Protection Act*.

(2) **"Personal information"** does not include information that discloses:

(a) the classification, salary, discretionary benefits or employment responsibilities of an individual who is or was an officer or employee of a government institution or a member of the staff of a member of the Executive Council;

(b) the salary or benefits of a legislative secretary or a member of the Executive Council;

(c) the personal opinions or views of an individual employed by a government institution given in the course of employment, other than personal opinions or views with respect to another individual;

(d) financial or other details of a contract for personal services;

(e) details of a licence, permit or other similar discretionary benefit granted to an individual by a government institution;

(f) details of a discretionary benefit of a financial nature granted to an individual by a government institution;

(g) expenses incurred by an individual travelling at the expense of a government institution.

(3) Notwithstanding clauses (2)(e) and (f), **"personal information"** includes information that:

(a) is supplied by an individual to support an application for a discretionary benefit; and

(b) is personal information within the meaning of subsection (1).

1990-91, c.F-22.01, s.24; 1999, c.H-0.021, s.66; 2001, c.50, s.5.

Purpose of information

25 No government institution shall collect personal information unless the information is collected for a purpose that relates to an existing or proposed program or activity of the government institution.

1990-91, c.F-22.01, s.25.

Manner of collection

26(1) A government institution shall, where reasonably practicable, collect personal information directly from the individual to whom it relates, except where:

(a) the individual authorizes collection by other methods;

(b) the information is information that may be disclosed to the government institution pursuant to subsection 29(2);

(c) the information:

(i) is collected in the course of, or pertains to, law enforcement activities, including the detection, investigation, prevention or prosecution of an offence and the enforcement of:

(A) an Act or a regulation; or

(B) an Act of the Parliament of Canada or a regulation made pursuant to an Act of the Parliament of Canada; or

(ii) pertains to:

(A) the history, release or supervision of persons in custody, on parole or on probation; or

(B) the security of correctional institutions;

(d) the information is collected for the purpose of commencing or conducting a proceeding or possible proceeding before a court or tribunal;

(e) the information is collected, and is necessary, for the purpose of:

(i) determining the eligibility of an individual to:

(A) participate in a program of; or

(B) receive a product or service from;

the Government of Saskatchewan or a government institution, in the course of processing an application made by or on behalf of the individual to whom the information relates; or

(ii) verifying the eligibility of an individual who is participating in a program of or receiving a product or service from the Government of Saskatchewan or a government institution;

(f) the information is collected for the purpose of:

(i) management;

(ii) audit; or

(iii) administration of personnel;

of the Government of Saskatchewan or one or more government institutions;

(g) the commissioner has, pursuant to clause 33(c), authorized collection of the information in a manner other than directly from the individual to whom it relates; or

(h) another manner of collection is authorized pursuant to another Act or a regulation.

(2) A government institution that collects personal information that is required by subsection (1) to be collected directly from an individual shall inform the individual of the purpose for which the information is collected unless the information is exempted by the regulations from the application of this subsection.

(3) Subsections (1) and (2) do not apply where compliance with them might result in the collection of inaccurate information or defeat the purpose or prejudice the use for which the information is collected.

1990-91, c.F-22.01, s.26.

Standard of accuracy

27 A government institution shall ensure that personal information being used by the government institution for an administrative purpose is as accurate and complete as is reasonably possible.

1990-91, c.F-22.01, s.27.

Use of personal information

28 No government institution shall use personal information under its control without the consent, given in the prescribed manner, of the individual to whom the information relates, except:

(a) for the purpose for which the information was obtained or compiled, or for a use that is consistent with that purpose; or

(b) for a purpose for which the information may be disclosed to the government institution pursuant to subsection 29(2).

1990-91, c.F-22.01, s.28.

Disclosure of personal information

29(1) No government institution shall disclose personal information in its possession or under its control without the consent, given in the prescribed manner, of the individual to whom the information relates except in accordance with this section or section 30.

(2) Subject to any other Act or regulation, personal information in the possession or under the control of a government institution may be disclosed:

(a) for the purpose for which the information was obtained or compiled by the government institution or for a use that is consistent with that purpose;

(b) for the purpose of complying with:

(i) a subpoena or warrant issued or order made by a court, person or body that has the authority to compel the production of information; or

(ii) rules of court that relate to the production of information;

(c) to the Attorney General for Saskatchewan or to his or her agent or legal counsel for use in providing legal services;

(d) to legal counsel for a government institution for use in providing legal services to the government institution;

(e) for the purpose of enforcing any legal right that the Government of Saskatchewan or a government institution has against any individual;

(f) for the purpose of locating an individual in order to:

(i) collect a debt owing to Her Majesty in right of Saskatchewan or to a government institution by that individual; or

(ii) make a payment owing to that individual by Her Majesty in right of Saskatchewan or by a government institution;

(g) to a prescribed law enforcement agency or a prescribed investigative body:

(i) on the request of the law enforcement agency or investigative body;

(ii) for the purpose of enforcing a law of Canada or a province or territory or carrying out a lawful investigation; and

(iii) if any prescribed requirements are met;

(h) pursuant to an agreement or arrangement between the Government of Saskatchewan or a government institution and:

(i) the Government of Canada or its agencies, Crown corporations or other institutions;

(ii) the government of another province or territory of Canada, or its agencies, Crown corporations or other institutions;

(iii) the government of a foreign jurisdiction or its institutions;

(iv) an international organization of states or its institutions; or

(v) a local authority as defined in the regulations;

for the purpose of administering or enforcing any law or carrying out a lawful investigation;

(h.1) for any purpose related to the detection, investigation or prevention of an act or omission that might constitute a terrorist activity as defined in the *Criminal Code*, to:

(i) the Government of Canada or its agencies, Crown corporations or other institutions;

(ii) the government of another province or territory of Canada, or its agencies, Crown corporations or other institutions;

(iii) the government of a foreign jurisdiction or its institutions;

(iv) an international organization of states or its institutions; or

(v) a local authority as defined in the regulations;

(i) for the purpose of complying with:

(i) an Act or a regulation;

(ii) an Act of the Parliament of Canada or a regulation made pursuant to an Act of the Parliament of Canada; or

(iii) a treaty, agreement or arrangement made pursuant to an Act or an Act of the Parliament of Canada;

(j) where disclosure is by a law enforcement agency:

(i) to a law enforcement agency in Canada; or

(ii) to a law enforcement agency in a foreign country;

pursuant to an arrangement, a written agreement or treaty or to legislative authority;

(k) to any person or body for research or statistical purposes if the head:

(i) is satisfied that the purpose for which the information is to be disclosed is not contrary to the public interest and 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 agreement not to make a subsequent disclosure of the information in a form that could reasonably be expected to identify the individual to whom it relates;

(l) for the purpose of:

(i) management;

(ii) audit; or

(iii) administration of personnel;

of the Government of Saskatchewan or one or more government institutions;

(m) where necessary to protect the mental or physical health or safety of any individual;

(n) in compassionate circumstances, to facilitate contact with the next of kin or a friend of an individual who is injured, ill or deceased;

(o) for any purpose where, in the opinion of the head:

(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;

(p) where the information is publicly available;

(q) to the office of the Provincial Auditor, or to any other prescribed person or body, for audit purposes;

(r) to the Ombudsman;

(s) to the commissioner;

(t) for any purpose in accordance with any Act or regulation that authorizes disclosure; or

(u) as prescribed in the regulations.

(3) A government institution that is a telephone utility may disclose names, addresses and telephone numbers in accordance with customary practices.

(4) Subject to any other Act or regulation, the Provincial Archivist may release personal information that is in the possession or under the control of The Saskatchewan Archives Board where, in the opinion of the Provincial Archivist, the release would not constitute an unreasonable invasion of privacy.

1990-91, c.F-22.01, s.29; 2003, c.29, s.31.

Personal information of deceased individual

30(1) Subject to subsection (2) and to any other Act, the personal information of a deceased individual shall not be disclosed until 25 years after the death of the individual.

(2) Where, in the opinion of the head, disclosure of the personal information of a deceased individual to the individual's next of kin would not constitute an unreasonable invasion of privacy, the head may disclose that personal information before 25 years have elapsed after the individual's death.

1990-91, c.F-22.01, s.30.

Individual's access to personal information

31(1) Subject to Part III and subsection (2), an individual whose personal information is contained in a record in the possession or under the control of a government institution has a right to, and:

(a) on an application made in accordance with Part II; and

(b) on giving sufficient proof of his or her identity;

shall be given access to the record.

(2) A head may refuse to disclose to an individual personal information that is evaluative or opinion material compiled solely for the purpose of determining the individual's suitability, eligibility or qualifications for employment or for the awarding of government contracts and other benefits, where the information is provided explicitly or implicitly in confidence.

1990-91, c.F-22.01, s.31.

Right of correction

32(1) An individual who is given access to a record that contains personal information with respect to himself or herself is entitled:

(a) to request correction of the personal information contained in the record if the person believes that there is an error or omission in it; or

(b) to require that a notation be made that a correction was requested but not made.

(2) Within 30 days after a request pursuant to clause (1)(a) is received, the head shall advise the individual in writing that:

(a) the correction has been made; or

(b) a notation pursuant to clause (1)(b) has been made.

(3) Section 12 applies, with any necessary modification, to the extension of the period set out in subsection (2).

1990-91, c.F-22.01, s.32.

Privacy powers of commissioner

33 The commissioner may:

(a) offer comment on the implications for privacy protection of proposed legislative schemes or government programs;

(b) after hearing the head, recommend that a government institution:

(i) cease or modify a specified practice of collecting, using or disclosing information that contravenes this Act; and

(ii) destroy collections of personal information that is collected in contravention of this Act;

(c) in appropriate circumstances, authorize the collection of personal information in a manner other than directly from the individual to whom it relates;

(d) from time to time, carry out investigations with respect to personal information in the possession or under the control of government institutions to ensure compliance with this Part.

1990-91, c.F-22.01, s.33.

PART V
Third Party Intervention

Notice to third party

34(1) Where a head intends to give access to a record that the head has reason to believe may contain:

(a) information described in subsection 19(1) that affects the interest of a third party; or

(b) personal information that may be disclosed pursuant to clause 29(2)(o) and that relates to a third party;

and, in the opinion of the head, the third party can reasonably be located, the head shall give written notice to the third party in accordance with subsection (2).

(2) The notice mentioned in subsection (1):

(a) is to include:

(i) a statement that:

(A) an application for access to a record described in subsection (1) has been made; and

(B) the head intends to give access to the record or to part of it;

(ii) a description of the record that the head has reason to believe may contain:

(A) information described in subsection 19(1) that affects the interest of the third party; or

(B) personal information that may be disclosed pursuant to clause 29(2)(o) and that relates to the third party; and

(iii) a statement that the third party may, within 20 days after the notice is given, make representations to the head as to why access to the record or part of the record should not be given; and

(b) subject to subsection (3), is to be given within 30 days after the application is made.

(3) Section 12 applies, with any necessary modification, to the extension of the period set out in clause (2)(b).

(4) Where, in the opinion of the head, it is not reasonable to provide a notice to a third party pursuant to subsection (1), the head may dispense with the giving of notice.

1990-91, c.F-22.01, s.34.

Waiver of notice

35(1) A third party to whom a notice is required to be given pursuant to subsection 34(1) may waive the requirement for notice.

(2) A third party who consents to the giving of access to a record containing information described in subsection 34(1) is deemed to have waived the requirement for notice.

1990-91, c.F-22.01, s.35.

Right to make representations

36(1) A third party who is given notice pursuant to subsection 34(1):

(a) is entitled to make representations to the head as to why access to the record or part of the record should not be given; and

(b) within 20 days after the notice is given, shall be given the opportunity to make those representations.

(2) Representations made by a third party pursuant to clause (1)(b) shall be made in writing unless the head waives that requirement, in which case they may be made orally.

1990-91, c.F-22.01, s.36.

Decision

37(1) After a third party has been given an opportunity to make representations pursuant to clause 36(1)(b), the head shall, within 30 days after the notice is given:

(a) decide whether or not to give access to the record or part of the record; and

(b) give written notice of the decision to the third party and the applicant.

(2) A notice given pursuant to clause (1)(b) is to include:

(a) a statement that the third party and applicant are entitled to request a review pursuant to section 49 within 20 days after the notice is given; and

(b) in the case of a decision to give access, a statement that the applicant will be given access to the record or to the part of it specified unless, within 20 days after the notice is given, the third party requests a review pursuant to section 49.

(3) Where, pursuant to clause (1)(a), the head decides to give access to the record or a specified part of it, the head shall give the applicant access to the record or the specified part unless, within 20 days after a notice is given pursuant to clause (1)(b), a third party requests a review pursuant to section 49.

(4) A head who fails to give notice pursuant to clause (1)(b) is deemed to have given notice, on the last day of the period set out in subsection (1), of a decision to refuse to give access to the record.

1990-91, c.F-22.01, s.37.

PART VI
Information and Privacy Commissioner

Appointment of commissioner

38(1) The office of the Information and Privacy Commissioner is continued.

(2) The commissioner is an Officer of the Legislative Assembly.

(3) The commissioner shall be appointed by order of the Legislative Assembly.

(4) Subject to sections 39 and 40, unless he or she resigns, dies or is removed from office, the commissioner holds office for a term of five years.

(5) The commissioner may be reappointed for one additional term of five years.

(6) The commissioner may resign the office at any time by giving written notice to the Speaker.

2015, c.16, s.4.

Removal or suspension

39(1) The Legislative Assembly may, by order, remove the commissioner from office, or suspend the commissioner, for cause.

(2) If the commissioner is suspended pursuant to subsection (1), the Legislative Assembly, by order, shall appoint an acting commissioner to hold office until:

(a) the suspension is revoked by the Legislative Assembly; or

(b) the commissioner is removed from office by the Legislative Assembly pursuant to subsection (1) and a person is appointed as commissioner pursuant to section 38.

2015, c.16, s.4.

Suspension when Legislative Assembly not in session

40(1) If the Legislative Assembly is not in session, the Board of Internal Economy may suspend the commissioner for incapacity to act, neglect of duty or misconduct that is proved to the satisfaction of the Board of Internal Economy.

(2) No suspension imposed pursuant to subsection (1) continues past the end of the next session of the Legislative Assembly.

(3) If the office of the commissioner is vacant or the commissioner is suspended pursuant to subsection (1), the Board of Internal Economy shall appoint an acting commissioner to hold office until:

(a) a person is appointed as commissioner pursuant to section 38;

(b) the suspension is revoked by the Legislative Assembly; or

(c) the commissioner is removed from office by the Legislative Assembly pursuant to subsection 39(1) and a person is appointed as commissioner pursuant to section 38.

(4) For the purposes of this section, the Legislative Assembly is not in session when it:

(a) is prorogued or dissolved; or

(b) is adjourned for an indefinite period or to a day more than seven days after the date on which the Board of Internal Economy made the order suspending the commissioner.

2015, c.16, s.4.

Acting commissioner

40.1 If the commissioner has resigned or is ill or otherwise unable to act, the Board of Internal Economy may appoint another person as acting commissioner until:

(a) the commissioner is able to act; or

(b) another commissioner is appointed pursuant to this Act.

2015, c.16, s.4.

Salary of commissioner

41(1) Subject to subsections (2) and (3), the commissioner is to be paid a salary equal to the average salary of all the deputy ministers and acting deputy ministers of the Government calculated as at April 1 in each year.

(2) Any benefits or payments that may be characterized as deferred income, retirement allowances, separation allowances, severance allowances or payments in lieu of notice are not to be included in calculating the average salary of all the deputy ministers and acting deputy ministers pursuant to subsection (1).

(3) If, as a result of a calculation made pursuant to subsection (1), the salary of the commissioner would be less than the commissioners previous salary, the commissioner is to be paid not less than his or her previous salary.

(4) The commissioner is entitled to receive any benefits of office and economic adjustments that are provided generally to deputy ministers.

(5) The commissioner is entitled to be paid an allowance for travel and other expenses incurred in the performance of the duties of the commissioner at a rate approved pursuant to *The Public Service Act, 1998* for employees of the public service.

(6) The salary of the commissioner shall be paid out of the general revenue fund.

2015, c.16, s.4.

Application of certain Acts to commissioner

42(1) *The Public Service Act, 1998* does not apply to the commissioner.

(2) *The Public Service Superannuation Act* and *The Superannuation (Supplementary Provisions) Act* apply to the commissioner.

1998, c.P-42.1, s.42.

Staff of commissioner

43(1) The commissioner may appoint the employees that are required in order to exercise the powers and perform the duties of the commissioner effectively.

(2) *The Public Service Superannuation Act* and *The Public Employees Pension Plan Act* apply to the members of the staff of the commissioner.

(3) Members of the staff of the commissioner are employees of the Legislative Assembly and are not members of the public service of Saskatchewan.

(4) The employee benefits applicable to the public servants of Saskatchewan apply or continue to apply, as the case may be, to the staff of the commissioner's office.

(5) The commissioner shall:

(a) administer, manage and control the commissioner's office and the general business of the office; and

(b) oversee and direct the staff of the commissioner's office.

2015, c.16, s.4.

Human resources and financial management policies

43.1 The commissioner shall:

(a) prepare and maintain human resources and financial management policies that apply to his or her staff and operations; and

(b) within the period set by the Board of Internal Economy, table with the Board a copy of the policies mentioned in clause (a).

2015, c.16, s.4.

Expenses limited to appropriation

43.2(1) In this section, **"appropriation"** means:

(a) an appropriation for the expenses of the commissioner's office made by an *Appropriation Act*;

(b) an appropriation by special warrant; and

(c) any other amount that is permitted or directed to be paid out of the general revenue fund pursuant to this or any other Act for the expenses of the commissioner's office.

(2) The commissioner shall not incur expenses for a fiscal year in excess of the appropriation for that fiscal year.

2015, c.16, s.4.

Quarterly financial forecasts

43.3 Within 30 days after the end of each quarter in each fiscal year, the commissioner shall prepare and present to the Board of Internal Economy financial forecasts respecting the commissioner's actual and anticipated operations for that fiscal year.

2015, c.16, s.4.

Unprovided for or unforeseen expenses

43.4(1) For the purposes of this section, the Legislative Assembly is not in session if it:

(a) is prorogued; or

(b) is adjourned for an indefinite period or to a day more than seven days after the Lieutenant Governor in Council made the order directing the preparation of the special warrant pursuant to this section.

(2) If the Legislative Assembly is not in session, the commissioner may report to the Board of Internal Economy that:

(a) a matter has arisen with respect to the administration of this Act respecting an expense required by the commissioner's office that was not foreseen or provided for, or was insufficiently provided for; and

(b) the commissioner is of the opinion that there is no appropriation for the expense or that the appropriation is exhausted or insufficient and that the expense is urgently and immediately required for the public good.

(3) On receipt of a report of the commissioner pursuant to subsection (2), the Board of Internal Economy:

(a) shall review the report and make any alterations to the funding request in the report that the Board considers appropriate; and

(b) may recommend to the Minister of Finance that a special warrant be issued authorizing the expense in the amount the Board determines to be appropriate.

(4) On receipt of a recommendation of the Board of Internal Economy pursuant to subsection (3), the Minister of Finance shall recommend to the Lieutenant Governor in Council that a special warrant be issued authorizing the expense in the amount recommended by the Board.

(5) On receipt of a recommendation of the Minister of Finance pursuant to subsection (4), the Lieutenant Governor in Council may order a special warrant to be prepared for the signature of the Lieutenant Governor authorizing the expense in the amount recommended by the Board of Internal Economy.

(6) For the purposes of *The Financial Administration Act, 1993* and this Act, a special warrant issued pursuant to this section is deemed to be a special warrant issued pursuant to section 14 of *The Financial Administration Act, 1993*, and that Act applies to a special warrant issued pursuant to this section as if it were issued pursuant to section 14 of that Act.

2015, c.16, s.4.

Oath or affirmation

44(1) Before entering on the duties of office, the commissioner shall take and subscribe the prescribed oath or affirmation before the Speaker of the Assembly or the Clerk of the Assembly.

(2) Before entering on the duties of office, every member of the staff of the commissioner shall take and subscribe the prescribed oath or affirmation before the commissioner.

1990-91, c.F-22.01, s.44.

General powers of commissioner

45 The commissioner may:

(a) engage in or commission research into matters affecting the carrying out of the purposes of this Act;

(b) conduct public education programs and provide information concerning this Act and the commissioner's role and activities;

(c) receive representations concerning the operation of this Act.

1990-91, c.F-22.01, s.45.

Confidentiality

46(1) The commissioner shall not disclose any information that comes to the knowledge of the commissioner in the exercise of the powers, performance of the duties or carrying out of the functions of the commissioner pursuant to this Act.

(2) Subsection (1) applies, with any necessary modification, to the staff of the commissioner.

(3) Notwithstanding subsection (1), the commissioner may disclose:

(a) in the course of a review pursuant to section 49, any matter that the commissioner considers necessary to disclose to facilitate the review; and

(b) in a report prepared pursuant to this Act, any matter that the commissioner considers necessary to disclose to establish grounds for the findings and recommendations in the report.

(4) When making a disclosure pursuant to subsection (3), the commissioner shall take every reasonable precaution to avoid disclosure, and shall not disclose:

(a) any information or other material if the nature of the information or material could justify a refusal by a head to give access to a record or part of a record; or

(b) any information as to whether a record exists if the head, in refusing to give access, does not indicate whether the record exists.

(5) Notwithstanding subsection (1), the commissioner may disclose to the Attorney General for Saskatchewan or the Attorney General of Canada information that relates to the commission of an offence against:

(a) an Act or a regulation; or

(b) an Act of the Parliament of Canada or a regulation made pursuant to an Act of the Parliament of Canada;

by an officer or employee of a government institution if, in the opinion of the commissioner, there is evidence of the commission of the offence.

1990-91, c.F-22.01, s.46.

Non-compellability

47(1) The commissioner is not compellable to give evidence in a court or in a proceeding of a judicial nature concerning any information that comes to the knowledge of the commissioner in the exercise of the powers, performance of the duties or carrying out of the functions of the commissioner pursuant to this Act.

(2) Subsection (1) applies, with any necessary modification, to the staff of the commissioner.

1990-91, c.F-22.01, s.47.

PART VII
Review and Appeal

Interpretation of Part

48 In this Part, **"court"** means Her Majesty's Court of Queen's Bench for Saskatchewan.

1990-91, c.F-22.01, s.48.

Application for review

49(1) Where:

(a) an applicant is not satisfied with the decision of a head pursuant to section 7, 12 or 37;

(b) a head fails to respond to an application for access to a record within the required time; or

(c) an applicant requests a correction of personal information pursuant to clause 32(1)(a) and the correction is not made;

the applicant may apply in the prescribed form and manner to the commissioner for a review of the matter.

(2) An applicant may make an application pursuant to subsection (1) within one year after being given written notice of the decision of the head or of the expiration of the time mentioned in clause (1)(b).

(3) A third party may apply in the prescribed form and manner to the commissioner for a review of a decision pursuant to section 37 to give access to a record that affects the interest of the third party.

(4) A third party may make an application pursuant to subsection (3) within 20 days after being given notice of the decision.

1990-91, c.F-22.01, s.49.

Review or refusal to review

50(1) Where the commissioner is satisfied that there are reasonable grounds to review any matter set out in an application pursuant to section 49, the commissioner shall review the matter.

(2) The commissioner may refuse to conduct a review or may discontinue a review if, in the opinion of the commissioner, the application for review:

(a) is frivolous or vexatious;

(b) is not made in good faith; or

(c) concerns a trivial matter.

1990-91, c.F-22.01, s.50.

Notice of intention to review

51 Not less than 30 days before commencing a review, the commissioner shall inform the head of:

(a) the commissioner's intention to conduct the review; and

(b) the substance of the application for review.

1990-91, c.F-22.01, s.51.

Notice of application for review

52(1) A head who has refused an application for access to a record or part of a record shall, immediately on receipt of a notice of review pursuant to section 49 by an applicant, give written notice of the review to any third party that the head:

(a) has notified pursuant to subsection 34(1); or

(b) would have notified pursuant to subsection 34(1) if the head had intended to give access to the record or part of the record.

(2) A head shall, immediately on receipt of a notice of review pursuant to section 49 by a third party, give written notice of the review to the applicant.

1990-91, c.F-22.01, s.52.

Conduct of review

53(1) The commissioner shall conduct every review in private.

(2) The:

(a) person who applies for a review;

(b) third party or applicant who is entitled to notice pursuant to section 52; and

(c) head whose decision is the subject of a review;

are entitled to make representations to the commissioner in the course of the review.

(3) No one is entitled as of right:

(a) to be present during a review; or

(b) before or after a review:

(i) to have access to; or

(ii) to comment on;

representations made to the commissioner by any other person.

1990-91, c.F-22.01, s.53.

Powers of commissioner

54(1) Notwithstanding any other Act or any privilege that is available at law, the commissioner may, in a review:

(a) require to be produced and examine any record that is in the possession or under the control of a government institution; and

(b) enter and inspect any premises occupied by a government institution.

(2) For the purposes of conducting a review, the commissioner may summon and enforce the appearance of persons before the commissioner and compel them:

(a) to give oral or written evidence on oath or affirmation; and

(b) to produce any documents or things;

that the commissioner considers necessary for a full review, in the same manner and to the same extent as the court.

(3) For the purposes of subsection (2), the commissioner may administer an oath or affirmation.

1990-91, c.F-22.01, s.54.

Commissioner to report

55(1) On completing a review, the commissioner shall:

(a) prepare a written report setting out the commissioner's recommendations with respect to the matter and the reasons for those recommendations; and

(b) forward a copy of the report to the head and:

(i) where the matter was referred to the commissioner by an applicant, to the applicant and to any third party notified by the head pursuant to section 52; and

(ii) where the matter was referred to the commissioner by a third party, to the third party and to the applicant.

(2) In the report, the commissioner may make any recommendations with respect to the matter under review that the commissioner considers appropriate.

1990-91, c.F-22.01, s.55.

Decision of head

56 Within 30 days after receiving a report of the commissioner pursuant to subsection 55(1), a head shall:

(a) make a decision to follow the recommendation of the commissioner or any other decision that the head considers appropriate; and

(b) give written notice of the decision to the commissioner and the persons mentioned in clause 55(1)(b).

1990-91, c.F-22.01, s.56.

Appeal to court

57(1) Within 30 days after receiving a decision of the head pursuant to section 56 that access is granted or refused, an applicant or a third party may appeal that decision to the court.

(2) A head who has refused an application for access to a record or part of a record shall, immediately on receipt of a notice of appeal by an applicant, give written notice of the appeal to any third party that the head:

(a) has notified pursuant to subsection 34(1); or

(b) would have notified pursuant to subsection 34(1) if the head had intended to give access to the record or part of the record.

(3) A head who has granted an application for access to a record or part of a record shall, immediately on receipt of a notice of appeal by a third party, give written notice of the appeal to the applicant.

(4) A third party who has been given notice of an appeal pursuant to subsection (2) or an applicant who has been given notice of an appeal pursuant to subsection (3) may appear as a party to the appeal.

(5) The commissioner shall not be a party to an appeal.

1990-91, c.F-22.01, s.57.

Powers of court on appeal

58(1) On an appeal, the court:

(a) shall determine the matter *de novo*; and

(b) may examine any record *in camera* in order to determine on the merits whether the information in the record may be withheld pursuant to this Act.

(2) Notwithstanding any other Act or any privilege that is available at law, the court may, on an appeal, examine any record in the possession or under the control of a government institution, and no information shall be withheld from the court on any grounds.

(3) The court shall take every reasonable precaution, including, where appropriate, receiving representations *ex parte* and conducting hearings *in camera*, to avoid disclosure by the court or any person of:

(a) any information or other material if the nature of the information or material could justify a refusal by a head to give access to a record or part of a record; or

(b) any information as to whether a record exists if the head, in refusing to give access, does not indicate whether the record exists.

(4) The court may disclose to the Attorney General for Saskatchewan or the Attorney General of Canada information that relates to the commission of an offence against:

(a) an Act or a regulation; or

(b) an Act of the Parliament of Canada or a regulation made pursuant to an Act of the Parliament of Canada;

by an officer or employee of a government institution if, in the opinion of the court, there is evidence of the commission of the offence.

(5) Where a head has refused to give access to a record or part of it, the court, if it determines that the head is not authorized to refuse to give access to the record or part of it, shall:

(a) order the head to give the applicant access to the record or part of it, subject to any conditions that the court considers appropriate; or

(b) make any other order that the court considers appropriate.

(6) Where the court finds that a record falls within an exemption, the court shall not order the head to give the applicant access to the record, regardless of whether the exemption requires or merely authorizes the head to refuse to give access to the record.

1990-91, c.F-22.01, s.58.

PART VIII
General

Exercise of rights by other persons

59 Any right or power conferred on an individual by this Act may be exercised:

(a) where 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) where a personal guardian or property guardian has been appointed for the individual, by the guardian if the exercise of the right or power relates to the powers and duties of the guardian;

(c) where a power of attorney has been granted, 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;

(d) where the individual is less than 18 years of age, by the individual's legal custodian in situations where, in the opinion of the head, the exercise of the right or power would not constitute an unreasonable invasion of the privacy of the individual; or

(e) by any person with written authorization from the individual to act on the individual's behalf.

1990-91, c.F-22.01, s.59.

Delegation

60(1) A head may delegate to one or more officers of the government institution a power granted to the head or a duty vested in the head.

(2) A delegation pursuant to subsection (1):

(a) is to be in writing; and

(b) may contain any limitations, restrictions, conditions or requirements that the head considers necessary.

1990-91, c.F-22.01, s.60.

Burden of proof

61 In any proceeding pursuant to this Act, the burden of establishing that access to the record applied for may or must be refused or granted is on the head concerned.

1990-91, c.F-22.01, s.61.

Annual report

62(1) Within three months after the end of each fiscal year, the commissioner shall prepare and submit an annual report to the Speaker of the Assembly, and the Speaker shall cause the report to be laid before the Assembly in accordance with section 13 of *The Executive Government Administration Act*.

(2) The annual report of the commissioner is to provide details of the activities of the office in relation to the commissioner's responsibilities pursuant to this Act during that fiscal year and, in particular, concerning any instances where the commissioner's recommendations made after a review have not been complied with.

1990-91, c.F-22.01, s.62; 2014, c.E-13.1, s.62.

Minister's report

63(1) The minister shall prepare and submit an annual report to the Speaker of the Assembly on the administration of this Act and the regulations within each government institution during the year, and the Speaker shall cause the report to be laid before the Assembly in accordance with section 13 of *The Executive Government Administration Act*.

(2) The annual report of the minister is to provide details of:

(a) the number of applications received by each government institution during the year;

(b) the number of times during the year that the head of each government institution refused an application for access to a record, and the specific provisions of this Act or the regulations on which the refusals were based; and

(c) the fees charged and collected by each government institution for access to records during the year.

(3) The minister may require government institutions to produce the information or records that, in the opinion of the minister, are necessary to enable the minister to fulfil the requirements of this section.

1990-91, c.F-22.01, s.63; 2014, c.E-13.1, s.62.

Directory

64(1) The minister shall cause to be produced, and updated as reasonably required, a directory containing:

(a) a list of all government institutions;

(b) a general description of the categories of records in the possession or under the control of each government institution; and

(c) the title and address of the appropriate officer for each government institution to whom applications for access to records should be sent.

(2) The minister shall cause a copy of the directory to be made available to any government offices, public libraries and municipal offices that the minister considers appropriate.

1990-91, c.F-22.01, s.64.

Access to manuals

65(1) Within two years after this section comes into force, every head shall provide facilities at:

(a) the headquarters of the government institution; and

(b) any offices of the government institution that, in the opinion of the head, are reasonably practicable;

where the public may inspect any manual, handbook or other guide-line used in decision-making processes that affect the public by employees of the government institution in administering or carrying out programs or activities of the government institution.

(2) Any information in a record that a head would be authorized to refuse to give access to pursuant to this Act may be excluded from manuals, handbooks or guide-lines that may be inspected pursuant to subsection (1).

1990-91, c.F-22.01, s.65.

Proceedings prohibited

66(1) No proceeding lies or shall be instituted against the Government of Saskatchewan, a government institution, a head or other officer or employee of a government institution for:

(a) the giving or withholding in good faith of access to any record pursuant to this Act;

(b) any consequences that flow from the giving or withholding of access mentioned in clause (a); or

(c) the failure to give any notice required pursuant to this Act, if reasonable care is taken to give the required notice.

(2) For the purposes of clause (1)(c), reasonable care is deemed to have been taken if notice required to be sent to an applicant is sent to the address of the applicant given on the prescribed application form.

(3) No proceeding lies or shall be instituted against the commissioner or any employee or agent of the commissioner, where the commissioner, employee or agent is acting pursuant to the authority of this Act or the regulations made pursuant to this Act, for any loss or damage suffered by a person by reason of anything in good faith done, caused, permitted or authorized to be done, attempted to be done or omitted to be done, by any of them, pursuant to or in the exercise of or supposed exercise of any power conferred by this Act or the regulations or in the carrying out or supposed carrying out of any order made pursuant to this Act or any duty imposed by this Act or the regulations.

1990-91, c.F-22.01, s.66.

Immunity from prosecution

67 No person is liable to prosecution for an offence against any Act or regulation by reason of that person's compliance with a requirement of the commissioner pursuant to this Act.

1990-91, c.F-22.01, s.67.

Offence

68(1) Every person who knowingly collects, uses or discloses personal information in contravention of this Act or the regulations is guilty of an offence and liable on summary conviction to a fine of not more than $1,000, to imprisonment for not more than three months or to both fine and imprisonment.

(2) No proceeding shall be instituted pursuant to subsection (1) except with the consent of the Attorney General.

(3) Any person who:

(a) without lawful justification or excuse wilfully obstructs, hinders or resists the commissioner or any other person in the exercise of the powers, performance of the duties or the carrying out of the functions of the commissioner or other person pursuant to this Act;

(b) without lawful justification or excuse, refuses or wilfully fails to comply with any lawful requirement of the commissioner or any other person pursuant to this Act; or

(c) wilfully makes any false statement to, or misleads or attempts to mislead, the commissioner or any other person in the exercise of the powers, performance of the duties or carrying out of the functions of the commissioner or other person pursuant to this Act;

is guilty of an offence and liable on summary conviction to a fine of not more than $1,000, to imprisonment for not more than three months or to both fine and imprisonment.

1990-91, c.F-22.01, s.68.

Regulations

69 The Lieutenant Governor in Council may make regulations:

(a) defining, enlarging or restricting the meaning of any term used in this Act but not defined in this Act;

(b) for the purposes of subclause 2(1)(d)(ii), prescribing boards, commissions, Crown corporations or other bodies to be government institutions;

(c) for the purposes of subclause 2(1)(e)(ii), prescribing persons to be heads of government institutions;

(d) prescribing the oath or affirmation to be taken by the commissioner and the commissioner's staff;

(e) prescribing procedures to be followed in taking and processing applications for access;

(f) prescribing fees to be paid pursuant to this Act;

(g) for the purposes of subsection 9(2), prescribing an amount of fees in excess of which an estimate is required to be given;

(h) for the purposes of subsection 9(5), prescribing circumstances in which a head may waive the payment of all or any part of a prescribed fee;

(i) for the purposes of subclause 17(1)(f)(ii), prescribing committees of government institutions;

(j) for the purposes of clause 19(1)(e), prescribing Crown corporations;

(k) exempting from the application of this Act provisions of Acts or regulations that restrict or prohibit access to records of government institutions;

(l) exempting any information or category of information from the application of subsection 26(2);

(m) for the purposes of clause 29(2)(g):

(i) prescribing law enforcement agencies or investigative bodies;

(ii) prescribing requirements to be met with respect to disclosures of information to law enforcement agencies or investigative bodies;

(n) prescribing persons or bodies for the purposes of clause 29(2)(q);

(o) for the purposes of clause 29(2)(u), prescribing:

(i) purposes for which personal information may be disclosed;

(ii) circumstances in which personal information may be disclosed;

(iii) persons to whom personal information may be disclosed;

(p) prescribing manners in which the consent of an individual may be given;

(q) prescribing the manner in which persons may apply to the commissioner for a review;

(r) prescribing any matter that is to be included in a notice that is required by this Act;

(s) prescribing forms for the purposes of this Act;

(t) prescribing any other matter or thing required or authorized by this Act to be prescribed in the regulations;

(u) respecting any other matter or thing that the Lieutenant Governor in Council considers necessary to carry out the intent of this Act.

1990-91, c.F-22.01, s.69.

Coming into force

70 This Act or any provision of this Act comes into force on a day or days to be fixed by proclamation of the Lieutenant Governor.

1990-91, c.F-22.01, s.70.

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