

The Freedom of Information and Protection of Privacy Act, CCSM c F175

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It has been in effect since April 1, 2022.

It does not include amendments enacted or coming into force on or after June 1, 2022.

See the following:

SM 2022, c. 20, s. 4

SM 2022, c. 24, s. 15

C.C.S.M. c. F175

The Freedom of Information and Protection of Privacy Act

	Bilingual (PDF)
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(Assented to June 28, 1997)

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

PART 1

INTRODUCTORY PROVISIONS

Definitions

1(1) In this Act,

"**adjudicator**" means the Information and Privacy Adjudicator appointed under section 58.1; (« arbitre »)

"**applicant**" means a person who makes a request for access to a record under section 8; (« auteur

de la demande »)

"Cabinet" means the Executive Council appointed under *The Executive Government Organization Act*, and includes a committee of the Executive Council; (« Cabinet »)

"complaint" includes a complaint initiated by the Ombudsman under subsection 59(5); (« plainte »)

"court", for the purpose of an appeal under section 67 or 68, means the Court of Queen's Bench; (« tribunal »)

"department" means a department, branch or office of the executive government of the province; (« ministère »)

"educational body" means

- (a) a school division or school district established under *The Public Schools Act*,
- (b) The University of Manitoba,
- (c) The University of Winnipeg,
- (c.1) Brandon University,
- (c.2) University College of the North,
- (c.3) Université de Saint-Boniface,
- (c.4) St. Paul's College,
- (c.5) St. John's College,
- (d) a college as defined in section 1 of *The Advanced Education Administration Act*, and
- (e) any other body designated as an educational body in the regulations; (« organisme d'éducation »)

"employee", in relation to a public body, includes a person who performs services for the public body under a contract or agency relationship with the public body; (« employé »)

"enactment" means an Act or regulation; (« texte »)

"government agency" means

- (a) any board, commission, association, agency, or similar body, whether incorporated or unincorporated, all the members of which, or all the members of the board of management or board of directors or governing board of which, are appointed by an Act of the Legislature or by the Lieutenant Governor in Council, and
- (b) any other body designated as a government agency in the regulations; (« organisme gouvernemental »)

"head", in relation to a public body, means

- (a) in the case of a department, the minister who presides over it,
- (b) in the case of an incorporated government agency, its chief executive officer or the individual who is responsible for performing functions similar to those normally performed by the chief executive officer of a corporation,
- (c) in the case of an unincorporated government agency, the minister who is charged by the Lieutenant Governor in Council with the administration of the Act under which the agency is established or who is otherwise responsible for the agency, and

- (d) in any other case, the person or group of persons designated under section 80 or the regulations as the head of the public body; (« responsable d'organisme public »)

"health care body" means

- (a) a hospital designated under *The Health Services Insurance Act*,
- (b) a health authority as defined in *The Health System Governance and Accountability Act*,
- (c) the board of a health and social services district established under *The District Health and Social Services Act*, and
- (d) [repealed] S.M. 2017, c. 34, s. 18,
- (e) any other body designated as a health care body in the regulations; (« organisme de soins de santé »)

"information manager" means a person or body that

- (a) processes, stores or destroys personal information for a public body, or
- (b) provides information management or information technology services to a public body; (« gestionnaire de l'information »)

"judicial administration record" means a record containing information relating to a judge, master or justice of the peace, including information relating to

- (a) the scheduling of judges, hearings and trials,
- (b) the content of judicial training programs,
- (c) statistics of judicial activity prepared by or for a judge,
- (d) a judicial directive, and
- (e) any record of the Judicial Inquiry Board, the Judicial Council established under *The Provincial Court Act* or the Masters Judicial Council or a hearing judge under *The Court of Queen's Bench Act*; (« document judiciaire »)

"law enforcement" means any action taken for the purpose of enforcing an enactment, including

- (a) policing,
- (b) investigations or inspections that lead or could lead to a penalty or sanction being imposed, or that are otherwise conducted for the purpose of enforcing an enactment, and
- (c) proceedings that lead or could lead to a penalty or sanction being imposed, or that are otherwise conducted for the purpose of enforcing an enactment; (« exécution de la loi »)

"local government body" means

- (a) The City of Winnipeg,
- (b) a municipality,
- (c) a local government district,
- (d) a council of a community under *The Northern Affairs Act*,
- (e) a planning district established under *The Planning Act*,
- (f) a watershed district established or continued under *The Watershed Districts Act*,
- (g) any other body designated as a local government body in the regulations; (« organisme d'administration locale »)

"local public body" means

- (a) an educational body,
- (b) a health care body, and
- (c) a local government body; (« organisme public local »)

"minister" means a member of Cabinet; (« ministre »)

"officer of the Legislative Assembly" means the Speaker of the Legislative Assembly, the Clerk of the Legislative Assembly, the Chief Electoral Officer, the Ombudsman, the Advocate for Children and Youth, the Auditor General, the registrar appointed under *The Lobbyists Registration Act*, the Information and Privacy Adjudicator appointed under this Act, and the commissioner appointed under *The Legislative Assembly and Executive Council Conflict of Interest Act*; (« fonctionnaire de l'Assemblée législative »)

"Ombudsman" means the Ombudsman appointed under *The Ombudsman Act*; (« ombudsman »)

"personal health information" means recorded information about an identifiable individual that relates to

- (a) the individual's health, or health care history, including genetic information about the individual,
- (b) the provision of health care to the individual, or
- (c) payment for health care provided to the individual,

and includes

- (d) the PHIN as defined in *The Personal Health Information Act* and any other identifying number, symbol or particular assigned to an individual, and
- (e) any identifying information about the individual that is collected in the course of, and is incidental to, the provision of health care or payment for health care; (« renseignements médicaux personnels »)

"personal information" means recorded information about an identifiable individual, including

- (a) the individual's name,
- (b) the individual's address, telephone or facsimile number or e-mail address,
- (c) information about the individual's age, sex, sexual orientation, marital or family status,
- (d) information about the individual's ancestry, race, colour, nationality, or national or ethnic origin,
- (e) information about the individual's religion or creed, or religious belief, association or activity,
- (f) personal health information about the individual,
- (g) the individual's blood type, fingerprints or other hereditary characteristics,
- (h) information about the individual's political belief, association or activity,
- (i) information about the individual's education, employment or occupation, or educational, employment or occupational history,
- (j) information about the individual's source of income or financial circumstances, activities or history,

- (k) information about the individual's criminal history, including regulatory offences,
- (l) the individual's own personal views or opinions, except if they are about another person,
- (m) the views or opinions expressed about the individual by another person, and
- (n) an identifying number, symbol or other particular assigned to the individual;
(« renseignements personnels »)

"public body" means

- (a) a department,
- (b) a government agency,
- (c) the Executive Council Office,
- (d) the office of a minister, and
- (e) a local public body,

but does not include

- (f) the office of a Member of the Legislative Assembly who is not a minister,
- (g) the office of an officer of the Legislative Assembly, or
- (h) The Court of Appeal, the Court of Queen's Bench or the Provincial Court; (« organisme public »)

"record" means a record of information in any form, and includes information that is written, photographed, recorded or stored in any manner, on any storage medium or by any means including by graphic, electronic or mechanical means, but does not include electronic software or any mechanism that produces records; (« document »)

"responsible minister" means the minister charged by the Lieutenant Governor in Council with the administration of this Act; (« ministre responsable »)

"third party" means a person, group of persons or an organization other than the applicant or a public body. (« tiers »)

Interpretation of "personal health information"

1(2) For the purpose of the definition "personal health information", **"health"** and **"health care"** have the same meaning as in *The Personal Health Information Act*.

S.M. 1998, c. 6, s. 13; S.M. 1999, c. 18, s. 13; S.M. 1999, c. 34, s. 7; S.M. 2001, c. 39, s. 31; S.M. 2002, c. 49, s. 8; S.M. 2004, c. 16, s. 38; S.M. 2005, c. 8, s. 16; S.M. 2005, c. 13, s. 13; S.M. 2006, c. 34, s. 258; S.M. 2008, c. 40, s. 2; S.M. 2008, c. 43, Sch. A, s. 20; S.M. 2011, c. 16, s. 40; S.M. 2015, c. 11, s. 50; S.M. 2017, c. 8, s. 47; S.M. 2017, c. 34, s. 18; S.M. 2018, c. 6, s. 41; S.M. 2021, c. 15, s. 87; S.M. 2021, c. 43, s. 2.

Purposes of this Act

2 The purposes of this Act are

- (a) to allow any person a right of access to records in the custody or under the control of public bodies, subject to the limited and specific exceptions set out in this Act;
- (b) to allow individuals a right of access to records containing personal information about themselves in the custody or under the control of public bodies, subject to the limited and specific

exceptions set out in this Act;

- (c) to allow individuals a right to request corrections to records containing personal information about themselves in the custody or under the control of public bodies;
- (d) to control the manner in which public bodies may collect personal information from individuals and to protect individuals against unauthorized use or disclosure of personal information by public bodies; and
- (e) to provide for an independent review of the decisions of public bodies under this Act and for the resolution of complaints under this Act.

S.M. 2008, c. 40, s. 3.

Scope of this Act

3 This Act

- (a) is in addition to and does not replace existing procedures for access to records or information normally available to the public, including any requirement to pay fees;
- (b) does not prohibit the transfer, storage or destruction of any record in accordance with any other enactment of Manitoba or Canada or a by-law or resolution of a government agency or local public body;
- (c) does not limit the information otherwise available by law to a party to legal proceedings; and
- (d) does not affect the power of a court or tribunal to compel a witness to testify or to compel the production of documents.

Records to which this Act applies

4 This Act applies to all records in the custody or under the control of a public body but does not apply to

- (a) information in a court record, a record of a judge, master or justice of the peace, a judicial administration record or a record relating to support services provided to a judge or judicial officer of a court;
- (b) a note made by or for, or a communication or draft decision of, a person who is acting in a judicial or quasi-judicial capacity;
- (c) a record of a Member of the Legislative Assembly who is not a minister;
- (d) a personal or constituency record of a minister;
- (e) a record made by or for an officer of the Legislative Assembly;
- (f) a record made by or for an elected official of a local public body relating to constituency matters;
- (g) teaching materials or research information of an employee of an educational institution;
- (h) a question that is to be used on an examination or test;
- (i) a record relating to a prosecution or an inquest under *The Fatality Inquiries Act* if all proceedings concerning the prosecution or inquest have not been completed;
- (j) records acquired by the Archives of Manitoba or the archives of a public body from a person or entity other than a public body; and
- (k) a record originating from a credit union that is in the custody or under the control of the Deposit

S.M. 2001, c. 35, s. 38; S.M. 2005, c. 8, s. 16; S.M. 2011, c. 35, s. 16.

5(1) Repealed on May 4, 2001, by subsection (3).

Conflict with another Act

5(2) If a provision of this Act is inconsistent or in conflict with a provision of another enactment, the provision of this Act prevails unless the other enactment expressly provides that the other enactment applies despite this Act.

Sunset provision

5(3) Three years after section 7 comes into force, subsection (1) of this section is repealed and subsection (2) of this section comes into force.

PART 2

ACCESS TO INFORMATION

DIVISION 1

APPLICATION OF THIS PART

Part does not apply to individual's personal health information

6(1) This Part does not apply to a record or part of a record to which an individual seeks access if the record contains the individual's own personal health information.

Deemed request under Personal Health Information Act

6(1.1) If an individual makes a request for access to a record under section 8 that contains their own personal health information, the request or the part of it that relates to their information is deemed to be a request under section 5 of *The Personal Health Information Act*, and that Act applies as if the request had been made under that section.

S.M. 2008, c. 48, s. 4; S.M. 2021, c. 43, s. 3.

Part does not apply to publicly available information

6.1 This Part does not apply to information that is available to the public free of charge or for purchase.

S.M. 2021, c. 43, s. 3.

DIVISION 2

OBTAINING ACCESS TO RECORDS

Right of access

7(1) Subject to this Act, an applicant has a right of access to any record in the custody or under the control of a public body, including a record containing personal information about the applicant.

Severing information

7(2) The right of access to a record does not extend to information that is excepted from disclosure under Division 3 or 4 of this Part, but if that information can reasonably be severed from the

record, an applicant has a right of access to the remainder of the record.

Fee

7(3) The right of access to a record is subject to the payment of any fee required by the regulations.

How to make a request

8(1) To obtain access to a record, a person must make a request to the public body that the person believes has custody or control of the record.

Content of request

8(2) A request must be made in writing and must provide enough detail to enable an experienced officer or employee of the public body to identify the record with a reasonable effort.

Oral request

8(3) Despite subsection (2), an applicant may make an oral request for access to a record if the applicant

- (a) has a limited ability to read or write English or French; or
- (b) has a disability or condition that impairs his or her ability to make a written request.

S.M. 2021, c. 43, s. 4.

Duty to assist applicant

9 The head of a public body shall make every reasonable effort to assist an applicant and to respond without delay, openly, accurately and completely.

Access to records in electronic form

10(1) If information requested is in an electronic form in the custody or under the control of a public body, the head of the public body shall produce a record for the applicant if

- (a) it can be produced using the normal computer hardware and software and technical expertise of the public body; and
- (b) producing it would not interfere unreasonably with the operations of the public body.

Creating a record in the form requested

10(2) If a record exists but is not in the form requested by the applicant, the head of the public body may create a record in the form requested if the head is of the opinion that it would be simpler or less costly for the public body to do so.

Time limit for responding

11(1) The head of a public body shall make every reasonable effort to respond to a request in writing within 45 days after receiving it unless

- (a) the time limit for responding is extended under section 15; or
- (b) the request has been transferred under section 16 to another public body.

Failure to respond

11(2) The failure of the head of a public body to respond to a request within the 45-day period or

any extended period is to be treated as a decision to refuse access to the record.

S.M. 2021, c. 43, s. 5.

Contents of response

- 12(1) In a response under section 11, the head of the public body shall inform the applicant
- (a) whether access to the record or part of the record is granted or refused;
 - (b) if access to the record or part of the record is granted, where, when and how access will be given; and
 - (c) if access to the record or part of the record is refused,
 - (i) in the case of a record that does not exist or cannot be located, that the record does not exist or cannot be located,
 - (ii) in the case of a record that exists and can be located, the reasons for the refusal and the specific provision of this Act on which the refusal is based,
 - (iii) of the title and contact information of an officer or employee of the public body who can answer the applicant's questions about the refusal, and
 - (iv) that the applicant may make a complaint to the Ombudsman about the refusal.

Refusal to confirm or deny existence of record

- 12(2) Despite clause (1)(c), the head of a public body may, in a response, refuse to confirm or deny the existence of
- (a) a record containing information described in section 24 or 25; or
 - (b) a record containing personal information about a third party if disclosing the existence of the record would be an unreasonable invasion of the third party's privacy.

S.M. 2021, c. 43, s. 6.

Additional information

- 12.1(1) The head of a public body may require an applicant to provide additional information in relation to an application, including requesting additional information that is necessary to identify a requested record.

Request to be in writing

- 12.1(2) A request from the head must be given to the applicant in writing.

Information to be provided within 30 days

- 12.1(3) An applicant has up to 30 days from the day the request is given to provide the additional information, and if the additional information is not provided within that time, the head may determine that the applicant has abandoned the application.

Effect of request on time limits

- 12.1(4) When a request is given to an applicant under this section, the time within which the head is required to respond under subsection 11(1) is suspended until the applicant provides the additional information.

Notice

12.1(5) If the head determines that the application has been abandoned, the head must notify the applicant in writing of the determination, and of the applicant's right to make a complaint about the determination to the Ombudsman under Part 5.

S.M. 2021, c. 43, s. 7.

Public body may disregard certain requests

13(1) The head of a public body may disregard a request for access if the head is of the opinion that

- (a) the request is trivial, frivolous or vexatious;
- (b) the request is for information already provided to the applicant;
- (c) the request amounts to an abuse of the right to make a request because it is
 - (i) unduly repetitive or systematic,
 - (ii) excessively broad or incomprehensible, or
 - (iii) otherwise not made in good faith; or
- (d) responding to the request would unreasonably interfere with the operations of the public body.

Considerations

13(1.1) In making a determination under clause (1)(c) or (d), the head of a public body may take into account

- (a) the number of requests made by the same applicant; or
- (b) whether the request is reasonably related to requests that have been made by two or more applicants who are associated within the meaning of the regulations.

Notice

13(2) In the circumstances mentioned in subsection (1), the head shall state in the response given under section 11

- (a) that the request is refused and the reason why;
- (b) the reasons for the head's decision; and
- (c) that the applicant may make a complaint to the Ombudsman about the refusal.

S.M. 2008, c. 40, s. 5; S.M. 2021, c. 43, s. 8.

How access will be given

14(1) Subject to subsection 7(2), the right of access is met under this Part,

- (a) if the applicant has asked for a copy and the record can reasonably be reproduced, by giving the applicant a copy of the record; or
- (b) if the applicant has asked to examine a record or has asked for a copy of a record that cannot reasonably be reproduced, by permitting the applicant to examine the record or a part of it or by giving him or her access in accordance with the regulations.

Explanation

14(2) The head of a public body who gives access to a record may give the applicant any additional information that the head believes may be necessary to explain it.

Extending the time limit for responding

15(1) The head of a public body may extend the time for responding to a request for up to an additional 30 days, or for a longer period if the Ombudsman agrees, if

- (a) [repealed] S.M. 2021, c. 43, s. 9;
- (b) responding within the time period set out in section 11 is unreasonable because of
 - (i) the large number of records requested or that must be searched, or
 - (ii) the number of requests made by the applicant or by two or more applicants who are associated within the meaning of the regulations;
- (c) time is needed to consult with a third party or another public body, or to obtain legal advice, before deciding whether or not to grant access to a record;
- (d) a third party makes a complaint under subsection 59(2);
- (e) the applicant consents to the extension; or
- (f) exceptional circumstances warrant the extension.

Notice of extension to applicant

15(2) If the time is extended under subsection (1), the head of the public body shall send a written notice to the applicant setting out

- (a) the reason for the extension;
- (b) when a response can be expected; and
- (c) that the applicant may make a complaint to the Ombudsman about the extension.

S.M. 2021, c. 43, s. 9.

Transferring a request

16(1) Within 10 days after a public body receives a request for access to a record, the head of the public body may transfer it to another public body if

- (a) the record was produced by or for the other public body;
- (b) the other public body was the first to obtain the record; or
- (c) the record is in the custody or under the control of the other public body.

Response within 45 days after transfer

16(2) If a request is transferred under subsection (1),

- (a) the head of the public body who transferred the request shall notify the applicant of the transfer in writing as soon as possible; and
- (b) the head of the public body to which the request is transferred shall make every reasonable effort to respond to the request within 45 days after receiving it unless that time limit is extended under section 15.

S.M. 2021, c. 43, s. 10.

DIVISION 3

MANDATORY EXCEPTIONS TO DISCLOSURE

PRIVACY OF A THIRD PARTY

Disclosure harmful to a third party's privacy

17(1) The head of a public body shall refuse to disclose personal information to an applicant if the disclosure would be an unreasonable invasion of a third party's privacy.

Disclosures deemed to be an unreasonable invasion of privacy

17(2) A disclosure of personal information about a third party is deemed to be an unreasonable invasion of the third party's privacy if

- (a) the personal information is personal health information;
- (b) the personal information was compiled and is identifiable as part of an investigation into a possible violation of a law, except to the extent that disclosure is necessary to prosecute the violation or to continue the investigation;
- (c) disclosure could reasonably be expected to reveal the identity of a third party who has provided information in confidence to a public body for the purposes of law enforcement or the administration of an enactment;
- (d) the personal information relates to eligibility for or receipt of income assistance, legal aid benefits, social service benefits or similar benefits, or to the determination of benefit levels;
- (e) the personal information relates to the third party's employment, occupational or educational history;
- (f) the personal information was collected on a tax return or for the purpose of determining tax liability or collecting a tax;
- (g) the personal information describes the third party's source of income or financial circumstances, activities or history;
- (h) the personal information consists of personal recommendations or evaluations, character references or personnel evaluations;
- (h.1) disclosure could reasonably be expected to reveal personal information about the applicant that a third party provided in confidence to the applicant's employer, and the disclosure could reasonably be expected to reveal the identity of the third party; or
- (i) the personal information indicates the third party's racial or ethnic origin, religious or political beliefs or associations, or sexual orientation.

Determining unreasonable invasion of privacy

17(3) In determining under subsection (1) whether a disclosure of personal information not described in subsection (2) would unreasonably invade a third party's privacy, the head of a public body shall consider all the relevant circumstances including, but not limited to, whether

- (a) the disclosure is desirable for the purpose of subjecting the activities of the Government of Manitoba or a public body to public scrutiny;
- (b) the disclosure is likely to promote public health or safety or protection of the environment;

- (c) the disclosure will assist in a fair determination of the applicant's rights;
- (d) the disclosure may unfairly expose the third party to harm;
- (e) the personal information has been provided, explicitly or implicitly, in confidence;
- (f) the personal information is highly sensitive;
- (g) the personal information is likely to be inaccurate or unreliable;
- (h) the disclosure may unfairly damage the reputation of any person referred to in the record requested by the applicant; and
- (i) the disclosure would be inconsistent with the purpose for which the personal information was obtained.

When disclosure not unreasonable

17(4) Despite subsection (2), disclosure of personal information is not an unreasonable invasion of a third party's privacy if

- (a) the third party has consented to or requested the disclosure;
- (b) there are compelling circumstances affecting the mental or physical health or the safety of the applicant or another person and notice of the disclosure is mailed to the last known address of the third party;
- (c) an enactment of Manitoba or Canada expressly authorizes or requires the disclosure;
- (d) the disclosure is for research purposes and is in accordance with section 47;
- (e) the information is about the third party's job classification, salary range, benefits, employment responsibilities or employment expenses
 - (i) as an officer or employee of a public body,
 - (ii) as a minister, or
 - (iii) as an elected or appointed member of the governing council or body of a local public body or as a member of the staff of such a council or body;
- (f) the disclosure reveals financial or other details of a contract to supply goods or services to or on behalf of a public body;
- (g) the disclosure reveals information about a discretionary benefit of a financial nature granted to the third party by a public body, including the granting of a licence or permit;
- (h) the information is about an individual who has been dead for 25 years or more;
- (h.1) the information concerns a deceased individual and is disclosed to a relative of the deceased or an individual with whom the deceased shared a close personal relationship, if the head of the public body is satisfied that in the circumstances the disclosure is desirable for compassionate reasons; or
- (i) the record requested by the applicant is publicly available.

Summary of information

17(4.1) On refusing to disclose personal information under clause (2)(h.1), the head of the public body must give the applicant a summary of the information unless a summary cannot be prepared without revealing the identity of a third party who provided the personal information.

Disclosure with third party's consent

17(5) If the third party consents to or requests disclosure under clause (4)(a), the head of the public body may

- (a) require the consent or request to be in writing; and
- (b) comply with the requirement to disclose by disclosing the information directly to the third party rather than to the applicant.

Volume disclosure from a public registry

17(6) The head of a public body shall not disclose to an applicant under this Part personal information in a public registry on a volume or bulk basis.

S.M. 2021, c. 43, s. 11.

BUSINESS INTERESTS OF THIRD PARTIES

Disclosure harmful to a third party's business interests

18(1) The head of a public body shall refuse to disclose to an applicant information that would reveal

- (a) a trade secret of a third party;
- (b) commercial, financial, labour relations, scientific or technical information supplied to the public body by a third party, explicitly or implicitly, on a confidential basis and treated consistently as confidential information by the third party; or
- (c) commercial, financial, labour relations, scientific or technical information the disclosure of which could reasonably be expected to
 - (i) harm the competitive position of a third party,
 - (ii) interfere with contractual or other negotiations of a third party,
 - (iii) result in significant financial loss or gain to a third party,
 - (iv) result in similar information no longer being supplied to the public body when it is in the public interest that similar information continue to be supplied, or
 - (v) reveal information supplied to, or the report of, an arbitrator, mediator, labour relations officer or other person or body appointed to resolve or inquire into a labour relations dispute.

Tax return information

18(2) The head of a public body shall refuse to disclose to an applicant information about a third party that was collected on a tax return or for the purpose of determining tax liability or collecting a tax.

Exceptions

18(3) Subsections (1) and (2) do not apply if

- (a) the third party consents to the disclosure;
- (b) the information is publicly available;
- (c) an enactment of Manitoba or Canada expressly authorizes or requires the disclosure; or
- (d) the information discloses the final results of a product or environmental test conducted by or for the public body, unless the test was done for a fee paid by the third party.

Disclosure in the public interest

18(4) Subject to section 33 and the other exceptions in this Act, a head of a public body may disclose a record that contains information described in subsection (1) or (2) if, in the opinion of the head, the private interest of the third party in non-disclosure is clearly outweighed by the public interest in disclosure for the purposes of

- (a) public health or safety or protection of the environment;
- (b) improved competition; or
- (c) government regulation of undesirable trade practices.

CABINET CONFIDENCES

Cabinet confidences

19(1) The head of a public body shall refuse to disclose to an applicant information that would reveal the substance of deliberations of Cabinet, including

- (a) an agenda, minute or other record of the deliberations or decisions of Cabinet;
- (b) discussion papers, policy analyses, proposals, advice or similar briefing material submitted or prepared for submission to Cabinet;
- (c) a proposal or recommendation prepared for, or reviewed and approved by, a minister for submission to Cabinet;
- (d) a record that reflects communications among ministers relating directly to the making of a government decision or the formulation of government policy; and
- (e) a record prepared to brief a minister about a matter that is before, or is proposed to be brought before, Cabinet or that is the subject of communications among ministers relating directly to government decisions or the formulation of government policy.

Exceptions

19(2) Subsection (1) does not apply if

- (a) the record is more than 20 years old; or
- (b) consent to disclosure is given
 - (i) in the case of a record prepared for or in respect of the current government, by the Executive Council, and
 - (ii) in the case of a record prepared for or in respect of a previous government, by the President of the Executive Council of that government or, if he or she is absent or unable to act, by the next senior member of that government's Executive Council who is present and able to act.

S.M. 2008, c. 40, s. 6.

INFORMATION PROVIDED BY ANOTHER GOVERNMENT

Information provided by another government to department or government agency

20(1) The head of a department or government agency shall refuse to disclose information to an applicant if disclosure could reasonably be expected to reveal information provided, explicitly or

implicitly, in confidence by any of the following or their agencies:

- (a) the Government of Canada;
- (b) the government of another province or territory of Canada;
- (c) a local public body;
- (c.1) the council of a band as defined in the *Indian Act* (Canada), or an organization performing government functions on behalf of one or more bands;
- (d) the government of a foreign country, or of a state, province or territory of a foreign country;
- (e) an organization representing one or more governments; or
- (f) an international organization of states.

Information provided by another government to a local public body

20(2) The head of a local public body shall refuse to disclose information to an applicant if disclosure could reasonably be expected to reveal information provided, explicitly or implicitly, in confidence by

- (a) a government, local public body, organization or agency described in subsection (1); or
- (b) the Government of Manitoba or a government agency.

Exceptions

20(3) Subsections (1) and (2) do not apply if

- (a) the record is more than 20 years old; or
- (b) the government, local public body, organization or agency that provided the information
 - (i) consents to the disclosure, or
 - (ii) makes the information public.

S.M. 2008, c. 40, s. 7; S.M. 2021, c. 43, s. 12.

DIVISION 4

DISCRETIONARY EXCEPTIONS TO DISCLOSURE

RELATIONS BETWEEN MANITOBA AND OTHER GOVERNMENTS

Disclosure harmful to relations between Manitoba and other governments

21(1) The head of a public body may refuse to disclose information to an applicant if disclosure could reasonably be expected to harm relations between the Government of Manitoba or a government agency and any of the following or their agencies:

- (a) the Government of Canada;
- (b) the government of another province or territory of Canada;
- (c) a local public body;
- (c.1) the council of a band as defined in the *Indian Act* (Canada), or an organization performing

- government functions on behalf of one or more bands;
- (d) the government of a foreign country, or of a state, province or territory of a foreign country;
- (e) an organization representing one or more governments; or
- (f) an international organization of states.

Consent required for disclosure by local public body

21(2) When the request for access has been received by a local public body, the head of the local public body may disclose information referred to in subsection (1) only with the consent of the head of the department of the Government of Manitoba or government agency affected.

S.M. 2008, c. 40, s. 8.

LOCAL PUBLIC BODY CONFIDENCES

Local public body confidences

22(1) The head of a local public body may refuse to disclose information to an applicant if disclosure could reasonably be expected to reveal

- (a) a draft of a resolution, by-law or other legal instrument by which the local public body acts; or
- (b) the substance of deliberations of a meeting of its elected officials or of its governing body or a committee of its elected officials or governing body, if an enactment or a resolution, by-law or other legal instrument by which the local public body acts authorizes the holding of that meeting in the absence of the public.

Exceptions

22(2) Subsection (1) does not apply if

- (a) the draft of the resolution, by-law or other legal instrument or the subject matter of the deliberations has been considered in a meeting open to the public; or
- (b) the information referred to in subsection (1) is in a record that is more than 20 years old.

S.M. 2008, c. 40, s. 9.

ADVICE TO A PUBLIC BODY

Advice to a public body

23(1) The head of a public body may refuse to disclose information to an applicant if disclosure could reasonably be expected to reveal

- (a) advice, opinions, proposals, recommendations, analyses or policy options developed by or for the public body or a minister;
- (b) consultations or deliberations involving officers or employees of the public body or a minister;
- (c) positions, plans, procedures, criteria or instructions developed for the purpose of contractual or other negotiations by or on behalf of the Government of Manitoba or the public body, or considerations that relate to those negotiations;
- (d) plans relating to the management of personnel or the administration of the public body that have not yet been implemented;

- (e) the content of draft legislation, regulations, and orders of ministers or the Lieutenant Governor in Council; or
- (f) information, including the proposed plans, policies or projects of a public body, the disclosure of which could reasonably be expected to result in disclosure of a pending policy or budgetary decision.

Exceptions

23(2) Subsection (1) does not apply if the information

- (a) is in a record that is more than 20 years old;
- (b) is an instruction or guideline issued to officers or employees of the public body;
- (c) is a substantive rule or statement of policy that has been adopted by the public body for the purpose of interpreting an enactment or administering a service, program or activity of the public body;
- (d) is the result of a product or environmental test conducted by or for the public body;
- (e) is a statement of the reasons for a decision made in the exercise of a quasi-judicial function or a discretionary power that affects the applicant;
- (f) is the result of background research of a scientific or technical nature undertaken in connection with the formulation of a policy proposal;
- (f.1) is a public opinion poll;
- (g) is a statistical survey; or
- (h) is a final report or final audit on the performance or efficiency of the public body or of any of its programs or policies, except where the information is a report or appraisal of the performance of an individual who is or was an officer or employee of the public body.

Interpretation of "background research"

23(3) For the purpose of clause (2)(f), background research of a technical nature does not include economic or financial research undertaken in connection with the formulation of a tax policy or other economic policy of the public body.

S.M. 2008, c. 40, s. 10.

INDIVIDUAL OR PUBLIC SAFETY

Disclosure harmful to individual or public safety

24 The head of a public body may refuse to disclose to an applicant information, including personal information about the applicant, if disclosure could reasonably be expected to

- (a) threaten or harm the mental or physical health or the safety of another person;
- (b) result, in the opinion of a duly qualified physician, psychologist, or other appropriate expert, in serious harm to the applicant's mental or physical health or safety; or
- (c) threaten public safety.

LAW ENFORCEMENT AND LEGAL PROCEEDINGS

Disclosure harmful to law enforcement or legal proceedings

25(1) The head of a public body may refuse to disclose information to an applicant if disclosure could reasonably be expected to

- (a) harm a law enforcement matter;
- (b) prejudice the defence of Canada or of a foreign state allied to or associated with Canada or harm the detection, prevention or suppression of espionage, sabotage or terrorism;
- (c) harm the effectiveness of investigative techniques and procedures currently used, or likely to be used, in law enforcement;
- (d) interfere with the gathering of, or reveal criminal intelligence that has a reasonable connection with, the detection, prevention or suppression of organized criminal activities or of serious and repetitive criminal activities;
- (e) endanger the life or safety of a law enforcement officer or any other person;
- (f) deprive a person of the right to a fair trial or impartial adjudication;
- (g) disclose a record that has been confiscated from a person by a peace officer in accordance with an enactment of Manitoba or Canada;
- (h) facilitate the escape from custody of an individual who is lawfully detained;
- (i) facilitate the commission of an unlawful act or interfere with the control of crime;
- (j) disclose technical information relating to weapons or potential weapons;
- (k) interfere with the proper custody or supervision of an individual who is lawfully detained;
- (l) reveal information in a correctional record supplied, explicitly or implicitly, in confidence;
- (m) expose to civil liability the author of a law enforcement record or a person who has been quoted or paraphrased in the record; or
- (n) be injurious to the conduct of existing or anticipated legal proceedings.

No disclosure if offence

25(2) The head of a public body shall refuse to disclose information to an applicant if the information is in a law enforcement record and the disclosure is prohibited under an enactment of Canada.

Exceptions

25(3) Subsection (1) does not apply to

- (a) a report, including statistical analysis, on the degree of success achieved by a law enforcement program, unless disclosure of the report could reasonably be expected to cause any harm or interference referred to in subsection (1); or
- (b) a record that provides a general outline of the structure or programs of a law enforcement agency.

SECURITY OF PROPERTY

Disclosure harmful to security of property

26 The head of a public body may refuse to disclose information to an applicant if disclosure

could reasonably be expected to harm or threaten the security of any property or system, including a building, a vehicle, an electronic information system or a communications system.

LEGAL PRIVILEGE

Privileged information

27(1) The head of a public body may refuse to disclose to an applicant

- (a) information that is subject to any type of legal privilege, including solicitor-client privilege and litigation privilege;
- (b) information prepared by or for an agent or lawyer of the Minister of Justice and Attorney-General or the public body in relation to a matter involving the provision of legal advice or legal services or in relation to the investigation or prosecution of an offence; or
- (c) information in correspondence between an agent or lawyer of the Minister of Justice and Attorney-General or the public body and any other person in relation to a matter involving the provision of legal advice or legal services or in relation to the investigation or prosecution of an offence.

Third party's legal privilege

27(2) The head of a public body shall refuse to disclose to an applicant information that is subject to a legal privilege of a person other than the public body.

S.M. 2021, c. 43, s. 13.

ECONOMIC AND OTHER INTERESTS OF A PUBLIC BODY

Disclosure harmful to economic and other interests of a public body

28(1) The head of a public body may refuse to disclose information to an applicant if disclosure could reasonably be expected to harm the economic or financial interests or negotiating position of a public body or the Government of Manitoba, including the following information:

- (a) a trade secret of a public body or the Government of Manitoba;
- (b) financial, commercial, scientific, technical or other information in which a public body or the Government of Manitoba has a proprietary interest or right of use;
- (c) information the disclosure of which could reasonably be expected to
 - (i) result in financial loss to,
 - (ii) prejudice the competitive position of, or
 - (iii) interfere with or prejudice contractual or other negotiations of,a public body or the Government of Manitoba;
- (d) innovative scientific or technical information obtained through research by an employee of a public body or the Government of Manitoba;
- (e) information the disclosure of which could reasonably be expected to result in an undue loss or benefit to a person, or premature disclosure of a pending policy decision, including but not limited to,

- (i) a contemplated change in taxes or other source of revenue,
- (ii) a contemplated change in government borrowing,
- (iii) a contemplated change in the conditions of operation of a financial institution, stock exchange, or commodities exchange, or of any self-regulating association recognized by The Manitoba Securities Commission under an enactment of Manitoba, or
- (iv) a contemplated sale or purchase of securities, bonds or foreign or Canadian currency.

Exception

28(2) Subsection (1) does not apply to the results of a product or environmental test conducted by or for a public body, unless the test was done for the purpose of developing methods of testing or for the purpose of testing products for possible purchase.

S.M. 1998, c. 45, s. 10; S.M. 2011, c. 35, s. 16.

TESTING PROCEDURES, TESTS AND AUDITS

Testing procedures, tests and audits

29 The head of a public body may refuse to disclose to an applicant 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.

LABOUR RELATIONS INFORMATION

Disclosure harmful to public body's labour relations

29.1 The head of a public body may refuse to disclose information to an applicant if

- (a) disclosure would reveal labour relations information of the public body as an employer;
- (b) the information was prepared by or supplied to the public body, explicitly or implicitly, on a confidential basis and treated consistently as confidential information by the public body as an employer; and
- (c) disclosure could reasonably be expected to
 - (i) harm the competitive position or interfere with contractual or other negotiations of the public body as an employer,
 - (ii) result in significant financial loss or gain to the public body as an employer,
 - (iii) result in similar information no longer being supplied to the public body when it is in the public interest that similar information continue to be supplied, or
 - (iv) reveal information supplied to, or the report of, an arbitrator, mediator, labour relations officer or other person or body appointed to resolve or inquire into a labour relations dispute.

S.M. 2021, c. 43, s. 14.

WORKPLACE INVESTIGATIONS

Information relating to workplace investigations

29.2 The head of a public body may refuse to disclose information to an applicant if

- (a) the information relates to an ongoing investigation by or on behalf of the public body into the employment-related conduct of an employee; or
- (b) the information was created or collected for the purpose of such an investigation, regardless of whether the investigation took place, and disclosure of the information could reasonably be expected to cause harm to the applicant, a public body or a third party.

S.M. 2021, c. 43, s. 14.

CONFIDENTIAL EVALUATIONS

Confidential evaluations about the applicant

30(1) The head of a public body may refuse to disclose to an applicant personal information that has been provided in confidence, explicitly or implicitly, for purposes of determining the applicant's suitability, eligibility or qualifications for employment, or for the purpose of awarding a contract.

Exception

30(2) Subsection (1) does not apply to information that the public body is required to provide to the applicant under *The Personal Investigations Act*.

S.M. 2008, c. 40, s. 11.

PRESERVATION OF HERITAGE RESOURCES AND LIFE FORMS

Disclosure harmful to preservation of heritage resources and life forms

31(1) The head of a public body may refuse to disclose information to an applicant if disclosure could reasonably be expected to result in damage to or interfere with the preservation, protection or conservation of

- (a) a heritage resource as defined in *The Heritage Resources Act*; or
- (b) any rare, endangered, threatened or vulnerable life form, including plants, vertebrates and invertebrates.

Information re designation of sites

31(2) The head of a public body may refuse to disclose to an applicant information relating to a contemplated designation of a heritage site, a municipal heritage site or a heritage object under *The Heritage Resources Act*.

INFORMATION THAT WILL BE AVAILABLE TO THE PUBLIC

Information that will be available to the public

32(1) The head of a public body may refuse to disclose to an applicant information that will be made available to the public within 60 days after the applicant's request is received.

Exception

32(1.1) Despite subsection (1), the head of a public body may refuse to disclose to an applicant information that will be made available to the public under section 76.2.

Notification when information becomes available

32(2) When the head of a public body has refused to disclose information under subsection (1) or (1.1), the head shall

- (a) notify the applicant when the information becomes available; and
- (b) if the information is not available to the public within 60 days after the applicant's request is received, reconsider the request as if it were a new request received on the last day of the 60-day period and not refuse access to the information under subsection (1).

S.M. 2008, c. 40, s. 12; S.M. 2021, c. 43, s. 15.

DIVISION 5

THIRD PARTY INTERVENTION

Notice to third party

33(1) When the head of a public body is considering giving access to a record the disclosure of which might

- (a) result in an unreasonable invasion of a third party's privacy under section 17; or
- (b) affect a third party's interests described in subsection 18(1) or (2);

the head shall, where practicable and as soon as practicable, give written notice to the third party in accordance with subsection (3).

Waiver of notice requirement

33(2) A third party is deemed to have waived the requirement for notice in subsection (1) in a case where the third party has consented to or requested the disclosure.

Content of notice

33(3) A notice under subsection (1) must

- (a) state that a request has been made for access to a record that may contain information the disclosure of which might invade the privacy or affect the interests of the third party;
- (b) include a copy of the record or part of it containing the information in question or describe the contents of the record; and
- (c) state that, within 20 days after the notice is given, the third party may, in writing, consent to the disclosure or make representations to the head of the public body explaining why the information should not be disclosed.

Further details of notice

33(4) When notice is given under subsection (1), the head of the public body shall also give the applicant a notice stating that

- (a) the record requested by the applicant may contain information the disclosure of which might invade the privacy or affect the interests of a third party;
- (b) the third party is being given an opportunity to make representations concerning disclosure; and

- (c) a decision respecting disclosure will be made within 30 days after the day notice is given under subsection (1), unless the time limit for responding is extended under section 15.

Written representations

33(5) Representations by a third party under this section must be made in writing unless the head permits them to be made orally.

Decision within 30 days

34(1) Within 30 days after notice is given under subsection 33(1), the head of the public body shall decide whether or not to give access to the record or to part of the record, but no decision may be made before the earlier of

- (a) 21 days after the notice is given; and
- (b) the day a response is received from the third party.

Consideration of third party representations

34(1.1) When making a decision, the head of the public body must consider any response received from the third party, if such a response is received within 20 days after notice is given under subsection 33(1).

Notice of decision

34(2) On reaching a decision under subsection (1), the head of the public body shall give written notice of the decision, including reasons for the decision, to the applicant and the third party.

Extended time limit

34(3) Subsection 15(1) applies with necessary modifications to the period set out in subsection (1).

Access with third party's consent

34(3.1) If the head of the public body decides to give access to the record or part of the record and the third party has consented to the disclosure, the notice under subsection (2) must inform the applicant that access to the record or part of the record is granted and where, when and how access will be given.

Complaint about decision to give access

34(4) If the head of the public body decides to give access to the record or part of the record without the consent of the third party, the notice under subsection (2) must state that

- (a) the third party may make a complaint to the Ombudsman under Part 5 within 21 days after the notice is given; and
- (b) the applicant will be given access to the record upon completion of the 21-day period, unless, within that period, the third party
 - (i) makes a complaint under Part 5, and
 - (ii) gives notice of the complaint being made to the head of the public body.

Complaint about decision to refuse access

34(5) If the head of the public body decides not to give access to the record or part of the record,

the notice under subsection (2) must state that the applicant may make a complaint to the Ombudsman under Part 5 within 60 days after the notice is given.

S.M. 2021, c. 43, s. 16.

PART 3

PROTECTION OF PRIVACY

DIVISION 1

APPLICATION OF THIS PART

Part does not apply to personal health information

35 This Part does not apply to personal health information to which *The Personal Health Information Act* applies.

DIVISION 2

COLLECTION, CORRECTION AND RETENTION OF PERSONAL INFORMATION

COLLECTION OF INFORMATION

Purpose of collection of information

36(1) No personal information may be collected by or for a public body unless

- (a) collection of the information is authorized by or under an enactment of Manitoba or of Canada;
- (b) the information relates directly to and is necessary for an existing service, program or activity of the public body; or
- (c) the information is collected for law enforcement purposes or crime prevention.

Limit on amount of information collected

36(2) A public body shall collect only as much personal information about an individual as is reasonably necessary to accomplish the purpose for which it is collected.

S.M. 2008, c. 40, s. 13.

Manner of collection

37(1) Personal information must be collected by or for a public body directly from the individual the information is about unless

- (a) another method of collection is authorized by that individual, or by an enactment of Manitoba or Canada;
- (b) collection of the information directly from the individual could reasonably be expected to cause harm to the individual or to another person;
- (c) collection of the information is in the interest of the individual and time or circumstances do not permit collection directly from the individual;
- (d) collection of the information directly from the individual could reasonably be expected to result in inaccurate information being collected;

- (e) the information may be disclosed to the public body under Division 3 of this Part;
- (f) the information is collected for inclusion in a public registry;
- (g) the information is collected for law enforcement purposes or crime prevention;
- (h) the information is collected for the purpose of existing or anticipated legal proceedings to which the Government of Manitoba or the public body is a party;
- (i) the information is collected for use in providing legal advice or legal services to the Government of Manitoba or the public body;
- (j) the information concerns
 - (i) the history, release or supervision of an individual in the custody of or under the control or supervision of a correctional authority, or
 - (ii) the security of a correctional institution;
- (k) the information is collected for the purpose of enforcing a maintenance order under *The Family Maintenance Act*;
- (l) the information is collected for the purpose of informing The Public Guardian and Trustee or the Vulnerable Persons Commissioner about clients or potential clients;
- (m) the information is collected for the purpose of
 - (i) determining the eligibility of an individual to participate in a program of or receive a benefit or service from the Government of Manitoba or the public body and is collected in the course of processing an application made by or on behalf of the individual the information is about, or
 - (ii) verifying the eligibility of an individual who is participating in a program of or receiving a benefit or service from the Government of Manitoba or the public body;
- (n) the information is collected for the purpose of
 - (i) determining the amount of or collecting a fine, debt, tax or payment owing to the Government of Manitoba or the public body, or an assignee of either of them, or
 - (ii) making a payment;
- (o) the information is collected for the purpose of managing or administering personnel of the Government of Manitoba or the public body;
- (p) the information is collected for the purpose of auditing, monitoring or evaluating the activities of the Government of Manitoba or the public body; or
- (q) the information is collected for the purpose of determining suitability for an honour or award, including an honorary degree, scholarship, prize or bursary.

Individual must be informed

37(2) A public body that collects personal information directly from the individual the information is about shall inform the individual of

- (a) the purpose for which the information is collected;
- (b) the legal authority for the collection; and
- (c) the title and contact information of an officer or employee of the public body who can answer the individual's questions about the collection.

When notice not required

37(3) A public body need not comply with subsection (2) if it has recently provided the individual with the information referred to in that subsection about the collection of the same or similar personal information for the same or a related purpose.

S.M. 2013, c. 46, s. 46; S.M. 2021, c. 43, s. 17.

ACCURACY OF INFORMATION**Accuracy of personal information**

38 If personal information about an individual will be used by a public body to make a decision that directly affects the individual, the public body shall take reasonable steps to ensure that the information is accurate and complete.

CORRECTION OF INFORMATION**Right to request correction**

39(1) An individual who believes there is an error or omission in a record containing their own personal information may request the head of the public body that has the information in its custody or under its control to correct the record.

Written request

39(2) A request must be in writing.

Public body may disregard certain requests

39(2.1) The head of a public body may disregard a request for correction on any ground on which the head may disregard a request for access under section 13, and section 13 applies with necessary changes to the decision.

Head's response

39(3) Within 30 days after receiving a request under subsection (1), the head of the public body shall

- (a) make the requested correction and notify the individual in writing of the correction; or
- (b) notify the individual in writing of the following:
 - (i) the head's refusal to correct the record,
 - (ii) the reason for the refusal,
 - (iii) the individual's right to add a statement of disagreement to the record,
 - (iv) the individual's right to make a complaint about the refusal under Part 5.

Extended time limit

39(4) Subsection 15(1) applies with necessary modifications to the period set out in subsection (3).

Statement of disagreement

39(4.1) The head of a public body who refuses to make a correction requested under this section must

- (a) permit the individual to file a concise statement of disagreement stating the correction requested and the reason for the correction; and
- (b) add the statement of disagreement to the record in such a manner that it will be read with and form part of the record or be adequately cross-referenced to it.

No entitlement to file statement

39(4.2) Subsection (4.1) does not apply to a request that the head of a public body has disregarded under subsection (2.1).

Notice to others

39(5) On correcting a record or adding a statement of disagreement to a record under this section, the head of the public body shall, where practicable, notify any other public body or third party to whom the information has been disclosed during the year before the correction was requested that the correction has been made or a statement of disagreement has been added.

Correction required

39(6) On being notified under subsection (5) of a correction or statement of disagreement, a public body must make the correction or add the statement of disagreement to any record of that information in its custody or under its control.

S.M. 2021, c. 43, s. 18.

RETENTION AND SECURITY

OF INFORMATION

Retention of personal information

40(1) A public body that uses personal information about an individual to make a decision that directly affects the individual shall, in the absence of another legal requirement to do so, establish and comply with a written policy concerning the retention of the personal information.

Content of retention policy

40(2) A policy under subsection (1) must

- (a) require that personal information be retained for a reasonable period of time so that the individual the information is about has a reasonable opportunity to obtain access to it; and
- (b) comply with any additional requirements set out in the regulations.

Protection of personal information

41 The head of a public body shall, in accordance with any requirements set out in the regulations, protect personal information by adopting reasonable administrative, technical and physical safeguards against such risks as unauthorized access, use, disclosure or destruction.

S.M. 2021, c. 43, s. 20.

Definitions

41.1(1) The following definitions apply in this section.

"privacy breach" means, in relation to personal information,

(a) theft or loss; or

(b) access, use, disclosure, destruction or alteration in contravention of this Act. (« atteinte à la vie privée »)

"significant harm" includes, in relation to an individual, bodily harm, humiliation, damage to the individual's reputation or relationships, loss of employment, business or professional opportunities, financial loss, identity theft, negative effects on the individual's credit rating or report, and damage to or loss of the individual's property. (« préjudice grave »)

Notifying individual of privacy breach

41.1(2) The head of a public body that has custody or control of personal information about an individual must notify the individual about a privacy breach relating to the information if, after considering the relevant factors prescribed by regulation, the breach could reasonably be expected to create a real risk of significant harm to the individual.

Notice requirements

41.1(3) Notice to the individual must

(a) be given as soon as practicable after the privacy breach becomes known to the head of the public body;

(b) be given in the form and manner, and include the information, required by the regulations; and

(c) be given directly to the individual except in circumstances set out in the regulations, in which case it may be given indirectly in the form and manner required by the regulations.

Notifying Ombudsman

41.1(4) If the head of a public body is required to notify an individual about a privacy breach under subsection (2), the head must also notify the Ombudsman at the time and in the form and manner that the Ombudsman requires.

S.M. 2021, c. 43, s. 21.

Disclosure of unauthorized activity to Ombudsman

41.2(1) An employee of a public body who believes in good faith that the public body is collecting, using, disclosing, retaining, concealing, altering or destroying personal information in contravention of this Act may notify the Ombudsman.

Limitation

41.2(2) In notifying the Ombudsman, the employee must not disclose personal information unless the Ombudsman requests it.

No offence

41.2(3) An employee is not liable to prosecution for an offence under this Act for disclosing personal information requested by the Ombudsman under subsection (2).

Identity kept confidential

41.2(4) An employee who notifies the Ombudsman under subsection (1) may request that the Ombudsman keep the employee's identity confidential, in which case the Ombudsman must take reasonable steps to protect the identity of the employee.

DIVISION 3
RESTRICTIONS ON USE AND DISCLOSURE
OF PERSONAL INFORMATION

GENERAL DUTIES OF PUBLIC BODIES

General duty of public bodies

42(1) A public body shall not use or disclose personal information except as authorized under this Division.

Limit on amount of information used or disclosed

42(2) Every use and disclosure by a public body of personal information must be limited to the minimum amount of information necessary to accomplish the purpose for which it is used or disclosed.

Limit on employees

42(3) A public body shall limit the use of personal information in its custody or under its control to those of its employees who need to know the information to carry out the purpose for which the information was collected or received or to carry out a purpose authorized under section 43.

Application

42(4) Subsections (2) and (3) apply to the name of an applicant and to any other personal information concerning a request for access to a record.

S.M. 2008, c. 40, s. 14; S.M. 2021, c. 43, s. 22.

RESTRICTIONS ON USE OF INFORMATION

Use of personal information

- 43 A public body may use personal information only
- (a) for the purpose for which the information was collected or compiled under subsection 36(1) or for a use consistent with that purpose under section 45;
 - (b) if the individual the information is about has consented to the use; or
 - (c) for a purpose for which that information may be disclosed to the public body under section 44, 47 or 48.

S.M. 2008, c. 40, s. 15.

RESTRICTIONS ON DISCLOSURE OF
INFORMATION

Disclosure of personal information

- 44(1) A public body may disclose personal information only
- (a) for the purpose for which the information was collected or compiled under subsection 36(1) or for a use consistent with that purpose under section 45;

- (b) if the individual the information is about has consented to its disclosure;
- (c) in accordance with Part 2;
- (d) for the purpose of complying with an enactment of Manitoba or Canada, or with a treaty, arrangement or agreement entered into under an enactment of Manitoba or Canada;
- (e) in accordance with an enactment of Manitoba or Canada that authorizes or requires the disclosure;
- (f) to a minister or an elected official of the public body, if the information is necessary to carry out his or her responsibilities;
- (f.1) to an officer or employee of a public body, for the purpose of delivering a common or integrated service, program or activity, if the information is necessary to deliver the service, program or activity and the officer or employee to whom the information is disclosed needs the information to carry out his or her responsibilities;
- (g) for the purpose of managing or administering personnel of the Government of Manitoba or the public body;
- (h) to the Auditor General or any other person or body for audit purposes;
- (i) to the Government of Canada in order to facilitate the monitoring, evaluation or auditing of shared cost programs or services;
- (j) for the purpose of determining or verifying an individual's suitability or eligibility for a program, service or benefit;
- (j.1) for the purpose of
 - (i) evaluating or monitoring a service, program or activity of the Government of Manitoba or the public body, or
 - (ii) research and planning that relates to a service, program or activity of the Government of Manitoba or the public body;
- (k) for the purpose of enforcing a maintenance order under *The Family Maintenance Act*;
- (l) where necessary to protect the mental or physical health or the safety of any individual or group of individuals;
- (m) for the purpose of complying with a subpoena, warrant or order issued or made by a court, person or body with jurisdiction to compel the production of information or with a rule of court that relates to the production of information;
- (n) for use in providing legal advice or legal services to the Government of Manitoba or the public body;
- (o) for the purpose of enforcing a legal right that the Government of Manitoba or the public body has against any person;
- (p) for the purpose of
 - (i) determining the amount of or collecting a fine, debt, tax or payment owing by an individual to the Government of Manitoba or to the public body, or to an assignee of either of them, or
 - (ii) making a payment;
- (q) for use in existing or anticipated legal proceedings to which the Government of Manitoba or the public body is a party;

- (r) for law enforcement purposes or crime prevention;
- (s) if the public body is a law enforcement agency and the information is disclosed to
 - (i) another law enforcement agency in Canada, or
 - (ii) a law enforcement agency in a foreign country under an arrangement, written agreement, treaty or legislative authority;
- (t) for the purpose of supervising an individual in the custody of or under the control or supervision of a correctional authority;
- (u) where disclosure is necessary for the security of a correctional institution;
- (v) by transfer to the Archives of Manitoba or to the archives of the public body for records management or archival purposes;
- (w) to an officer of the Legislative Assembly, if the information is necessary for the performance of the duties of that officer;
- (x) to an expert for the purposes of clause 24(b);
- (x.1) if the personal information is information of a type routinely disclosed in a business or professional context, and the disclosure
 - (i) is limited to the individual's name, position name or title, business address, telephone number, facsimile number and e-mail address, and
 - (ii) does not reveal other personal information about the individual or personal information about another individual;
- (y) for the purpose of
 - (i) contacting a relative or friend of an individual who is injured, incapacitated or ill,
 - (ii) assisting in identifying a deceased individual, or
 - (iii) informing the representative or a relative of a deceased individual, or any other person it is reasonable to inform in the circumstances, of the individual's death;
- (z) to a relative of a deceased individual or to an individual with whom the deceased shared a close personal relationship, if the head of the public body reasonably believes that disclosure is not an unreasonable invasion of the deceased's privacy;
- (aa) to an information manager in accordance with section 44.1;
- (bb) when the information is available to the public;
- (cc) in accordance with section 47 or 48; or
- (dd) if the public body is an educational institution and the disclosure is for the purpose of fundraising activities of the educational institution, but only if
 - (i) the disclosure is of information in the alumni records of the educational institution and is reasonably necessary for the fundraising activities, and
 - (ii) the educational institution and the persons to whom the information is disclosed have entered into a written agreement that complies with subsection (1.1).

Fundraising agreement

44(1.1) An agreement between an educational institution and another person to permit disclosure

of personal information under this section must

- (a) require that when individuals are first contacted for the purpose of soliciting funds and periodically afterwards, they are informed of their right to request that their personal information cease to be disclosed;
- (b) allow individuals, on request, a right of access to personal information that is disclosed about them under clause (1)(dd); and
- (c) require that the person to whom the information is disclosed cease to use the personal information of any individual who so requests.

44(2) [Repealed]

S.M. 2001, c. 35, s. 38; S.M. 2001, c. 39, s. 31; S.M. 2008, c. 40, s. 16 and 17; S.M. 2021, c. 43, s. 23.

Public body may provide information to an information manager

44.1(1) A public body may provide personal information to an information manager for the purpose of processing, storing or destroying it or providing the public body with information management or information technology services.

Restrictions on use

44.1(2) An information manager may use personal information provided to it under this section only for the purposes and activities mentioned in subsection (1), which must be purposes and activities that the public body itself may undertake.

Agreement required

44.1(3) A public body that wishes to provide personal information to an information manager under this section must enter into a written agreement with the information manager that provides for the protection of the personal information against such risks as unauthorized access, use, disclosure, destruction or alteration, in accordance with the regulations.

Information manager shall comply with Act

44.1(4) An information manager shall comply with

- (a) the same requirements concerning the protection of personal information that the public body is required to comply with under this Act; and
- (b) the duties imposed on the information manager under the agreement entered into under subsection (3).

Information deemed to be maintained by the public body

44.1(5) Personal information that has been provided to an information manager under an agreement described in subsection (3) is deemed to be in the custody and control of the public body for the purposes of this Act.

S.M. 2008, c. 40, s. 17.

Consistent purposes

45 For the purpose of clauses 43(a) and 44(1)(a), a use or disclosure of personal information is consistent with the purpose for which the information was collected or compiled if the use or

disclosure

- (a) has a reasonable and direct connection to that purpose; and
- (b) is necessary for performing the statutory duties of, or for delivering an authorized service or program or carrying out an activity of, the public body that uses or discloses the information.

S.M. 2008, c. 40, s. 18.

46 [Repealed]

S.M. 2008, c. 40, s. 19.

Disclosure for research purposes

47(1) A public body may disclose personal information for a research purpose only in accordance with this section.

47(2) and (3) [Repealed] S.M. 2008, c. 40, s. 20.

Conditions of disclosure

47(4) The head of the public body may disclose personal information for a research purpose only if

- (a) [repealed] S.M. 2008, c. 40, s. 20;
- (b) the head is satisfied that
 - (i) the personal information is requested for a bona fide research purpose,
 - (ii) the research purpose cannot reasonably be accomplished unless the personal information is provided in a form that identifies individuals,
 - (iii) it is unreasonable or impractical for the person proposing the research to obtain consent from the individuals the personal information is about, and
 - (iv) disclosure of the personal information, and any information linkage, is not likely to harm the individuals the information is about and the benefits to be derived from the research and any information linkage are clearly in the public interest;
- (c) the head of the public body has approved conditions relating to
 - (i) the protection of the personal information, including use, security and confidentiality,
 - (ii) the removal or destruction of individual identifiers at the earliest reasonable time, and
 - (iii) the prohibition of any subsequent use or disclosure of the personal information in a form that identifies individuals without the express written authorization of the public body; and
- (d) the person to whom the personal information is disclosed has entered into a written agreement to comply with the approved conditions.

S.M. 2008, c. 40, s. 20.

Disclosure of records more than 100 years old

48 The head of a public body or the archives of a public body may disclose personal information in a record that is more than 100 years old.

POWERS AND DUTIES OF THE OMBUDSMAN

General powers and duties

49 In addition to the Ombudsman's powers and duties under Part 5 respecting complaints, the Ombudsman may

- (a) conduct investigations and audits and make recommendations to monitor and ensure compliance
 - (i) with this Act and the regulations, and
 - (ii) with requirements respecting the security and destruction of records set out in any other enactment or in a by-law or other legal instrument by which a local public body acts;
- (b) inform the public about this Act;
- (c) receive comments from the public about the administration of this Act;
- (d) comment on the implications for access to information or for protection of privacy of proposed legislative schemes or programs of public bodies;
- (e) comment on the implications for protection of privacy of
 - (i) using or disclosing personal information for record linkage, or
 - (ii) using information technology in the collection, storage, use or transfer of personal information;
- (f) bring to the attention of the head of a public body any failure to fulfil the duty to assist applicants;
- (g) recommend to a public body, after giving the head an opportunity to make representations, that the public body
 - (i) cease or modify a specified practice of collecting, using or disclosing information that contravenes this Act, or
 - (ii) destroy a collection of personal information that was not collected in accordance with this Act;
- (h) make recommendations to the head of a public body or the responsible minister about the administration of this Act;
- (i) consult with any person with experience or expertise in any matter related to the purposes of this Act;
- (j) engage in or commission research into anything affecting the achievement of the purposes of this Act; and
- (k) exchange information with a person who, in respect of Canada or another province or territory, has duties and powers similar to those of the Ombudsman under this Act or under *The Personal Health Information Act*, and enter into information sharing and other agreements with such a person for the purpose of co-ordinating activities and handling complaints involving the jurisdictions.

S.M. 2021, c. 43, s. 24.

Evidence Act powers

50(1) The Ombudsman has all the powers and protections of a commissioner under Part V of *The Manitoba Evidence Act* when conducting an investigation or audit under this Act.

Production of records

50(2) The Ombudsman may require any record in the custody or under the control of a public body that the Ombudsman considers relevant to an investigation or audit to be produced to the Ombudsman and may examine any information in a record, including personal information.

Records to be produced within 14 days

50(3) A public body shall produce to the Ombudsman within 14 days any record or a copy of a record required under this section, despite any other enactment or any privilege of the law of evidence.

Examination of record on site

50(4) If a public body is required to produce a record under this section and it is not practicable to make a copy of it, the head of the public body may require the Ombudsman to examine the original at its site.

S.M. 2021, c. 43, s. 25.

Right of entry

51 Despite any other enactment or any privilege of the law of evidence, in exercising powers or performing duties under this Act, the Ombudsman has the right

- (a) to enter any office of a public body and examine and make copies of any record in the custody of the public body; and
- (b) to converse in private with any officer or employee of a public body.

Investigation or audit in private

52 The Ombudsman shall conduct every investigation or audit in private.

S.M. 2021, c. 43, s. 26.

Statements and reports not admissible in evidence

53(1) A statement made or an answer given by a person during an investigation or audit by the Ombudsman, and a report or recommendation of the Ombudsman, is inadmissible in evidence in a court or in any other proceeding, except

- (a) in a prosecution for perjury in respect of sworn testimony;
- (b) in a prosecution for an offence under this Act;
- (c) in a review conducted by the adjudicator under this Act when the Ombudsman is a party; or
- (d) in an application for judicial review of an adjudicator's order under this Act.

Not compellable as witness

53(2) The Ombudsman, and anyone acting for or under the direction of the Ombudsman, shall not be required to give evidence in a court or in any other proceeding about information that comes to the knowledge of the Ombudsman in performing duties or exercising powers under this Act.

S.M. 2008, c. 40, s. 21; S.M. 2021, c. 43, s. 27.

Privilege

54 Anything said, any information supplied, and any record produced by a person during an investigation or audit by the Ombudsman under this Act is privileged in the same manner as if it were

said, supplied or produced in a proceeding in a court.

S.M. 2011, c. 35, s. 16; S.M. 2021, c. 43, s. 28.

Ombudsman restricted as to disclosure of information

55(1) The Ombudsman, and anyone acting for or under the direction of the Ombudsman, shall not disclose information obtained in performing duties or exercising powers under this Act, except as provided in subsections (2) to (5).

When disclosure permitted

55(2) The Ombudsman may disclose, or may authorize anyone acting for or under the direction of the Ombudsman to disclose, information that is necessary to

- (a) perform a duty or exercise a power of the Ombudsman under this Act; or
- (b) establish the grounds for findings and recommendations contained in a report under this Act.

Reasonable precautions to avoid disclosure

55(3) In conducting an investigation and in performing any other duty or exercising any power under this Act, the Ombudsman, and anyone acting for or under the direction of the Ombudsman, shall take every reasonable precaution to avoid disclosing and shall not disclose

- (a) any information the head of a public body is authorized or required to refuse to disclose under Part 2; or
- (b) whether information exists, if the head of a public body is authorized to refuse to confirm or deny that the information exists under subsection 12(2).

Disclosure to prevent risk of harm

55(3.1) The Ombudsman may disclose information to any person if the Ombudsman reasonably believes that the disclosure is necessary to prevent or lessen a risk of serious harm to the health or safety of the individual the information is about or to another individual.

Information about offences

55(4) The Ombudsman may disclose to the Minister of Justice and Attorney General information relating to the commission of an offence under this or any other enactment of Manitoba or Canada if the Ombudsman considers there is reason to believe an offence has been committed.

Information relating to a prosecution or appeal

55(5) The Ombudsman may disclose, or may authorize anyone acting for or under the direction of the Ombudsman to disclose, information for a purpose mentioned in clauses 53(1)(a) to (d).

S.M. 2008, c. 40, s. 22; S.M. 2021, c. 43, s. 29.

Delegation

56 The Ombudsman may delegate to any person on his or her staff any duty or power under this Act.

Protection from liability

57 No proceedings lie against the Ombudsman, or against any person acting for or under the direction of the Ombudsman, for anything done, reported or said in good faith in the exercise or

performance or the intended exercise or performance of a duty or power under this Act.

Annual report

58(1) The Ombudsman shall make an annual report to the Legislative Assembly on

- (a) the work of the Ombudsman's office in relation to this Act;
- (b) the Ombudsman's recommendations and whether public bodies have complied with the recommendations;
- (c) any complaints or investigations resulting from a decision, act or failure to act; and
- (d) any other matters about access to information and protection of privacy that the Ombudsman considers appropriate.

Report to be laid before Legislative Assembly

58(2) The report shall be given to the Speaker who shall lay it before the Legislative Assembly if it is in session and if it is not in session, then within 15 days after the beginning of the next session.

Special report

58(3) In the public interest, the Ombudsman may publish a special report relating to any matter within the scope of the powers and duties of the Ombudsman under this Act, including a report referring to and commenting on any particular matter investigated by the Ombudsman.

PART 4.1

INFORMATION AND PRIVACY ADJUDICATOR

Appointing adjudicator

58.1(1) On the recommendation of the Standing Committee of the Assembly on Legislative Affairs, the Lieutenant Governor in Council must appoint an Information and Privacy Adjudicator as an officer of the Assembly.

Appointment process

58.1(1.1) If at any time the position of adjudicator

- (a) will become vacant within six months because the term of office is scheduled to expire or the adjudicator has resigned; or
- (b) has become vacant for any other reason;

the President of the Executive Council must, within one month after that time, convene a meeting of the Standing Committee on Legislative Affairs and the Standing Committee must, within six months after that time, consider candidates for the position and make recommendations to the President of the Executive Council.

Role of adjudicator

58.1(2) The adjudicator's role is to review — at the request of the Ombudsman under section 66.1 — a decision, act or failure to act of the head of a public body.

Removal or suspension

58.2(1) The Lieutenant Governor in Council may suspend or remove the adjudicator from office on a resolution of the Assembly carried by a vote of 2/3 of the members voting.

Suspension if Assembly not sitting

58.2(2) When the Assembly is not sitting, the Lieutenant Governor in Council may suspend the adjudicator for cause or incapacity, but the suspension ends no later than 30 sitting days after the suspension came into effect.

Acting adjudicator

58.2(3) When the office of the adjudicator is vacant or the adjudicator has been suspended or is otherwise unable to act, the Lieutenant Governor in Council may appoint an acting adjudicator to hold office until another adjudicator is appointed.

S.M. 2008, c. 40, s. 23.

Deputy adjudicator

58.3(1) On the adjudicator's recommendation, the Lieutenant Governor in Council may also appoint a deputy adjudicator.

Staff

58.3(2) Any employees necessary to enable the adjudicator to perform the duties of the office may be appointed under section 58 of *The Public Service Act*.

S.M. 2008, c. 40, s. 23; S.M. 2021, c. 11, s. 89.

Adjudicator to take precautions against disclosing

58.4 The adjudicator shall take every reasonable precaution, including receiving representations ex parte, conducting hearings in private and examining records in private, to avoid disclosure

- (a) of any information the head of a public body is authorized or required to refuse to disclose under Part 2; or
- (b) as to whether information exists, if the head of a public body is authorized to refuse to confirm or deny that the information exists under subsection 12(2).

S.M. 2008, c. 40, s. 23.

Statements made to adjudicator not admissible in evidence

58.5(1) A statement made or an answer given by a person during a review by the adjudicator is inadmissible in evidence in court or in any other proceeding, except

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

Evidence of proceeding before adjudicator

58.5(2) Subsection (1) applies also in respect of evidence of the existence of proceedings conducted before the adjudicator.

S.M. 2008, c. 40, s. 23.

Information provided under qualified privilege

58.6 Anything said, any information supplied, and any record produced by a person during a review by the adjudicator under this Act is privileged in the same manner as if it were said, supplied or produced in a proceeding in a court.

S.M. 2008, c. 40, s. 23.

Protection from liability

58.7 No proceedings lie against the adjudicator or deputy adjudicator, or against any person acting for or under the direction of either of them, for anything done, reported or said in good faith in the exercise or performance or the intended exercise or performance of a duty or power under this Act.

S.M. 2008, c. 40, s. 23.

Annual report

58.8(1) The adjudicator must make an annual report to the Speaker of the Assembly about the exercise of the adjudicator's responsibilities under this Act.

Tabling report in Assembly

58.8(2) The Speaker must table a copy of the report in the Assembly within 15 days after receiving it if the Assembly is sitting or, if it is not, within 15 days after the next sitting begins.

S.M. 2008, c. 40, s. 23.

PART 5

COMPLAINTS

MAKING A COMPLAINT

Right to make a complaint about access

59(1) A person who has requested access to a record under Part 2 of this Act may make a complaint to the Ombudsman about any decision, act or failure to act of the head that relates to the request.

Complaint by a third party about access

59(2) A third party notified under section 33 of a decision by the head of a public body to give access may make a complaint to the Ombudsman about the decision.

Complaint about privacy

59(3) An individual may make a complaint to the Ombudsman if the individual believes that their own personal information

(a) has been collected, used or disclosed in violation of Part 3; or

(b) has not been protected in a secure manner as required by Part 3.

Complaint about correction

59(3.1) An individual who has requested a correction under section 39 may make a complaint to the Ombudsman about any decision, act or failure to act of the head of the public body that relates to the request, including a refusal to make the correction.

Complaint by relative of deceased

59(4) An individual may make a complaint to the Ombudsman about a decision of a head of a public body not to disclose personal information under clause 44(1)(z).

Ombudsman may initiate a complaint

59(5) The Ombudsman may initiate a complaint respecting any matter about which the Ombudsman is satisfied there are reasonable grounds to investigate under this Act.

S.M. 2021, c. 43, s. 30.

How to make a complaint

60(1) A complaint to the Ombudsman must be made in writing and must be in a form acceptable to the Ombudsman.

60-day time limit

60(2) A complaint under subsection 59(1), (3.1) or (4) must be delivered to the Ombudsman within 60 days after the person complaining is notified of the decision.

21-day limit for complaint by third party

60(2.1) A complaint under subsection 59(2) must be delivered to the Ombudsman within 21 days after notice of the decision is given to the third party.

120-day time limit for failure to respond

60(3) If the head of a public body fails to respond in time to a request for access to a record, the failure is to be treated as a decision to refuse access, in which case the complaint must be delivered to the Ombudsman within 120 days after the request for access was made.

S.M. 2021, c. 43, s. 31.

Notifying others of a complaint

61 As soon as practicable after receiving a complaint, the Ombudsman shall notify the head of the public body concerned and any other person who, in the Ombudsman's opinion, is affected by it.

INVESTIGATION

Investigation

62(1) Subject to section 63, on receiving a complaint the Ombudsman shall investigate it.

Informal resolution

62(2) The Ombudsman may take any steps the Ombudsman considers appropriate to resolve a complaint informally to the satisfaction of the parties and in a manner consistent with the purposes of this Act.

Decision to not deal with a complaint

63(1) The Ombudsman may decide not to investigate a complaint if the Ombudsman is of the opinion that,

- (a) in the case of a complaint about privacy referred to in subsection 59(3), the length of time that has elapsed since the date the subject matter of the complaint arose makes an investigation no

longer practicable or desirable;

- (b) the subject matter of the complaint is trivial or the complaint is not made in good faith or is frivolous, vexatious or an abuse of process; or
- (c) the circumstances of the complaint do not require investigation.

Notifying the complainant

63(2) The Ombudsman shall inform the complainant and the head of the public body in writing if he or she decides not to investigate a complaint, and give reasons for the decision.

S.M. 2008, c. 40, s. 24.

Representations to the Ombudsman

64(1) During an investigation, the Ombudsman shall give the complainant and the head of the public body concerned an opportunity to make representations to the Ombudsman. The Ombudsman may also give any other person who has been notified of the complaint under section 61 an opportunity to make representations. However, no one is entitled to be present during an investigation or to have access to or to comment on representations made to the Ombudsman by another person.

Written or oral representations

64(2) The Ombudsman may decide whether representations are to be made orally or in writing.

Representations by counsel

64(3) Representations may be made to the Ombudsman through counsel or an agent.

90-day time limit for investigation

65 An investigation must be completed and a report made under section 66 within 90 days after a complaint is made, unless the Ombudsman

- (a) notifies the complainant, the head of the public body and any other person who has made representations to the Ombudsman that the Ombudsman is extending that period; and
- (b) gives an anticipated date for providing the report.

OMBUDSMAN'S REPORT ABOUT A COMPLAINT

Report

66(1) On completing an investigation of a complaint, the Ombudsman shall prepare a report containing the Ombudsman's findings about the complaint and any recommendations the Ombudsman considers appropriate respecting the complaint.

Report sent to complainant and others

66(2) The Ombudsman

- (a) shall give a copy of the report to the complainant and the head of the public body concerned; and
- (b) may give a copy of the report to any other person who has made representations to the Ombudsman.

Notice of right to appeal

66(3) If the Ombudsman finds that a complaint

- (a) relating to the refusal of access to a record or part of a record; or
- (b) by a third party notified under section 33 of a decision by the head of a public body to give access;

is unjustified, the report must include a notice to the complainant of the right to appeal the decision to the court under section 67, and of the time limit for an appeal.

Head's response to the report

66(4) If the report contains recommendations, the head of the public body shall, within 15 days after receiving the report, send the Ombudsman a written response indicating

- (a) that the head accepts the recommendations and describing any action the head has taken or proposes to take to implement them; or
- (b) the reasons why the head refuses to take action to implement the recommendations.

Notice to the complainant

66(5) The Ombudsman shall notify the complainant about the head's response without delay. In the case of a response that indicates a refusal to take action on any of the Ombudsman's recommendations, the Ombudsman shall also, if the complainant has been refused access to a record or part of a record or is a third party notified under section 33 of a decision by the head of a public body to give access, inform the complainant

- (a) as to whether the Ombudsman intends to ask the adjudicator to review the head's decision under section 66.1; and
- (b) that, if the Ombudsman does not ask for a review, the complainant may appeal the head's decision to the court under section 67 and of the time limit for an appeal.

Compliance with recommendations

66(6) When the head of a public body accepts the recommendations in a report, the head shall comply with the recommendations

- (a) within 15 days of acceptance, if the complaint is about access under subsection 59(1), (2), (3.1) or (4); and
- (b) within 45 days in any other case;

or within such additional period as the Ombudsman considers reasonable.

Recommendations published

66(7) The Ombudsman must make recommendations made under this section available to the public, and may do so by publishing them on a website on the Internet.

S.M. 2008, c. 40, s. 25; S.M. 2021, c. 43, s. 32.

REQUEST FOR ADJUDICATOR'S REVIEW

Request for review

66.1(1) The Ombudsman may ask the adjudicator to review a matter described in subsection (2)

or (3) if he or she has given a report to the head of a public body under section 66 and

- (a) the head's response indicates that the public body refuses to take action to implement any of the Ombudsman's recommendations;
- (b) the head's response indicates an acceptance of the Ombudsman's recommendations, but action is not taken to implement them within the required time; or
- (c) the head fails to respond as required by subsection 66(4).

Request re access

66.1(2) The Ombudsman may ask the adjudicator to review

- (a) any decision, act or failure to act by the head of a public body relating to a request for access to a record or for correction of personal information;
- (b) any decision by the head of a public body to give access to a record in circumstances where a third party is notified of the decision under section 33.

Request re privacy

66.1(3) If the Ombudsman considers that an individual's personal information has been collected, used or disclosed in contravention of Part 3 (Protection of Privacy), the Ombudsman may ask the adjudicator to review the matter.

Deadline

66.1(4) The Ombudsman's request for review must be made

- (a) within 15 days after the Ombudsman receives the head's response to the Ombudsman's report under subsection 66(4); or
- (b) if the head does not respond, within 15 days after the deadline for a response has expired.

S.M. 2008, c. 40, s. 26.

Notifying others of a request

66.2 As soon as practicable after receiving a request from the Ombudsman, the adjudicator must notify the complainant, the head of the public body concerned and any other person who, in the adjudicator's opinion, is affected by it.

S.M. 2008, c. 40, s. 26.

CONDUCT OF REVIEW BY ADJUDICATOR

Review by adjudicator

66.3 On receiving a request from the Ombudsman, the adjudicator must conduct a review of the matter and decide all questions of fact and law arising in the course of the review.

S.M. 2008, c. 40, s. 26.

Procedures for a review

66.4(1) The adjudicator may make rules of procedure for conducting a review under section 66.3.

Evidence

66.4(2) The adjudicator may receive and accept any evidence and other information that he or she

considers appropriate, whether on oath or by affidavit or otherwise, and whether or not it is admissible in a court of law.

Review in private

66.4(3) A review may be conducted in private.

Powers and protections of adjudicator

66.4(4) For the purpose of conducting a review, the adjudicator has the same powers and protections as the Ombudsman has under section 50 (Evidence Act powers and production of records).

S.M. 2008, c. 40, s. 26.

Right to make representations

66.5(1) The complainant, the head of the public body concerned, and any person given notice under section 66.2

(a) must be given an opportunity to make representations to the adjudicator during a review under section 66.3; and

(b) is entitled to be represented by counsel or an agent.

Procedure

66.5(2) The adjudicator may decide

(a) whether representations are to be made orally or in writing; and

(b) whether a person is entitled to be present during representations made to the adjudicator by another person, or is entitled to have access to those representations or to comment on them.

Ombudsman as party

66.5(3) The Ombudsman has a right to be a party in any review conducted by the adjudicator under this Act.

S.M. 2008, c. 40, s. 26; S.M. 2021, c. 43, s. 33.

Review to be completed within 90 days

66.6(1) A review under section 66.3 must be completed within 90 days after the adjudicator receives the request from the Ombudsman, unless the adjudicator extends the period.

Extension

66.6(2) If the 90-day period is extended, the adjudicator must notify the complainant, the head of the public body concerned, the Ombudsman and any other person given notice under section 66.2, and he or she must also inform them of the date by which the review is expected to be completed.

S.M. 2008, c. 40, s. 26.

BURDEN OF PROOF

Burden of proof if access denied

66.7(1) In a review of a decision to refuse an applicant access to all or part of a record, it is up to the head of the public body to prove that the applicant has no right of access to the record or part.

Exception: if third party's information is withheld

66.7(2) As an exception to subsection (1), if the record or part of a record that the applicant is refused access to contains personal information about a third party, it is up to the applicant to prove that disclosure of the information would not be an unreasonable invasion of the third party's personal privacy.

If information about third party to be released

66.7(3) In a review of a decision to give an applicant access to all or part of a record that contains information about a third party,

- (a) in the case of personal information, it is up to the applicant to prove that disclosure of the information would not be an unreasonable invasion of the third party's personal privacy; and
- (b) in any other case, it is up to the third party to prove that the applicant has no right of access to the record or part.

S.M. 2008, c. 40, s. 26; S.M. 2011, c. 35, s. 16.

ADJUDICATOR'S ORDER**Adjudicator's order**

66.8(1) Upon completing a review under section 66.3, the adjudicator must dispose of the issues by making an order under this section.

Order re giving or refusing access

66.8(2) If the review concerns a decision of the head of a public body to give access or refuse access to all or part of a record, the adjudicator may, by order,

- (a) require the head to give the applicant access to all or part of the record, if the adjudicator determines that the head is not authorized or required to refuse access;
- (b) confirm the decision of the head or require the head to reconsider it, if the adjudicator determines that the head is authorized to refuse access;
- (c) confirm the decision of the head or require the head to refuse access to all or part of the record, if the adjudicator determines that the head is required to refuse access.

Other orders

66.8(3) If the review concerns any other matter, the adjudicator may, by order,

- (a) require that a duty imposed by this Act be performed;
- (b) confirm or reduce the extension of a time limit under subsection 15(1);
- (c) confirm or reduce a fee, or order a refund of a fee, in the appropriate circumstances;
- (d) confirm a decision not to correct personal information, or specify how personal information is to be corrected;
- (e) require a public body to cease or modify a specified practice of collecting, using or disclosing personal information in contravention of Part 3;
- (f) require the head of a public body to destroy personal information collected in contravention of this Act.

Limit

66.8(4) If the adjudicator determines that the head is authorized or required to refuse access to a record or part of a record, the adjudicator must not order the head to disclose the record or part of it.

Order may contain terms or conditions

66.8(5) The adjudicator may specify terms or conditions in an order made under this section.

Order given to parties

66.8(6) The adjudicator must give a copy of an order made under this section to each of the following:

- (a) the complainant;
- (b) the head of the public body concerned;
- (c) the Ombudsman;
- (d) any other person given notice under section 66.2;
- (e) the responsible minister.

Orders published

66.8(7) The adjudicator must make orders made under this section available to the public, and may do so by publishing them on a website on the Internet.

S.M. 2008, c. 40, s. 26.

Duty to comply with orders

66.9(1) Subject to subsection (2), the head of the public body concerned must comply with an adjudicator's order

- (a) within 30 days after being given a copy of the order; or
- (b) within any longer period specified in the order;

unless an application for judicial review of the order is brought before that period ends.

Protection of third party interests

66.9(2) If an adjudicator's order requires the head to give access to a record about which notice has been given to a third party under section 33, the head of the public body must not take steps to comply with the order until the period for bringing an application for judicial review under subsection (3) ends.

S.M. 2008, c. 40, s. 26.

Judicial review

66.10(1) An application for judicial review of an adjudicator's order must be made within 25 days after the person making the application is given a copy of the order, unless the court extends the period.

Order stayed if application made for judicial review

66.10(2) If an application for judicial review is made under subsection (1), the adjudicator's order is stayed until the court deals with the application.

APPEAL TO COURT

Appeal to court

67(1) Subject to subsection (2), a person who

- (a) has been refused access to a record or part of a record requested under subsection 8(1); or
- (b) is a third party notified under section 33 of a decision by the head of a public body to give access;

may appeal the decision to the court.

Limit on appeal right

67(2) An appeal may be made under subsection (1) only if

- (a) the person has made a complaint to the Ombudsman about the decision and the Ombudsman has provided a report under section 66; and
- (b) in the case where the Ombudsman's report contains recommendations respecting the complaint, the deadline set out in subsection 66.1(4) for the Ombudsman to request the adjudicator to review the matter has expired, and the Ombudsman did not request a review.

Appeal within 30 days

67(3) An appeal is to be made by filing an application with the court

- (a) within 30 days after the deadline set out in subsection 66.1(4) expires, if the Ombudsman's report under section 66 contains recommendations respecting the complaint; or
- (b) within 30 days after receiving the Ombudsman's report, if the report does not contain recommendations.

Head to be named as respondent

67(4) The application must name the head of the public body involved in the complaint as the respondent.

Appeal served on head and others

67(5) The person appealing shall, within 15 days of filing the application, serve a copy of it on

- (a) the head of the public body;
- (b) the Ombudsman; and
- (c) in the case of an appeal by a third party notified under section 33 of a decision to give access to a record, on the person requesting access.

S.M. 2008, c. 40, s. 27; S.M. 2013, c. 54, s. 37; S.M. 2021, c. 43, s. 34.

68 [Repealed]

S.M. 2008, c. 40, s. 28.

Appeal as a new matter

69 The court shall consider an appeal under section 67 as a new matter and may hear

evidence by affidavit.

S.M. 2008, c. 40, s. 29.

Burden of proof

70(1) If an appeal under section 67 relates to a decision to refuse an applicant access to all or part of a record, it is up to the head of the public body to prove that the applicant has no right of access to the record or part of the record.

Burden of proof: personal information

70(2) Despite subsection (1), if the appeal relates to a decision to give or refuse to give access to a record or part of a record containing personal information about a third party, it is up to the applicant to prove that disclosure of the information would not be an unreasonable invasion of the third party's privacy.

Burden of proof: non-personal information

70(3) If the appeal relates to a decision to give access to all or part of a record containing information that is not personal information about a third party, it is up to the third party to prove that the applicant has no right of access to the record or part of the record.

S.M. 2008, c. 40, s. 29.

Court may order production of records

71 Despite any other enactment or any privilege of the law of evidence, for the purpose of an appeal under section 67 the court may order production of any record in the custody or under the control of a public body for examination by the court.

S.M. 2008, c. 40, s. 29.

Court to take precautions against disclosing

72 On an appeal under section 67, the court shall take every reasonable precaution, including receiving representations ex parte, conducting hearings in private and examining records in private, to avoid disclosure

- (a) of any information the head of a public body is authorized or required to refuse to disclose under Part 2; or
- (b) as to whether information exists, if the head of a public body is authorized to refuse to confirm or deny that the information exists under subsection 12(2).

S.M. 2008, c. 40, s. 29.

Powers of court on appeal

73(1) On hearing an appeal under section 67, the court may,

- (a) if it determines that the head of the public body is authorized or required to refuse access to a record under Part 2, dismiss the appeal; or
- (b) if it determines that the head is not authorized or required to refuse access to all or part of a record under Part 2,
 - (i) order the head of the public body to give the applicant access to all or part of the record, and
 - (ii) make any other order that the court considers appropriate.

Order of court where record contains excepted information

73(2) If the court finds that a record or part of a record falls within an exception to disclosure under Part 2, the court shall not order the head to give the applicant access to that record or part of it, regardless of whether the exception requires or merely authorizes the head to refuse access.

S.M. 2008, c. 40, s. 29.

No further appeal

74 A decision of the court under section 73 is final and binding and there is no appeal from it.

PART 6

GENERAL PROVISIONS

75 [Repealed]

S.M. 2008, c. 40, s. 30.

Notice of access requests

75.1(1) Notice of the receipt of a request made under section 8 being received must be made publicly available on a website by the head of the following public bodies, within 14 days of the request being received:

- (a) a department;
- (b) a government agency that is subject to *The Crown Corporations Governance and Accountability Act*;
- (c) the Executive Council Office;
- (d) the office of a minister;
- (e) an educational body, a government agency or a health care body that is designated in the regulations.

Content of notice

75.1(2) A notice must provide a summary of the request received, but the notice must not include the name of an applicant or information that is subject to an exception to disclosure under Part 2.

Exception

75.1(3) This section does not apply to a request made by an individual seeking access to a record containing the individual's own personal information.

S.M. 2021, c. 43, s. 35.

Records available without an application

76(1) The head of a public body may specify records or categories of records that are in the custody or under the control of the public body and that are available to the public without an application for access under this Act.

Records more than 100 years old

76(1.1) If reasonably practicable, records that are more than 100 years old are to be specified under this section.

Fee

76(2) The head of a public body may require a person who asks for a copy of a record available under subsection (1) to pay a fee to the public body, unless such a record can otherwise be accessed without a fee.

S.M. 2021, c. 43, s. 36.

Ministerial expenses available to public

76.1(1) The government shall make available to the public a summary of the total annual expenses incurred by each member of Executive Council for the following:

- (a) transportation and travel;
- (b) accommodation and meals;
- (c) promotion and hospitality;
- (d) cell phone and personal electronic communication devices.

Summary to cover fiscal year

76.1(2) The summary is to cover the period beginning on April 1 of one year and ending on March 31 of the following year, and must be made available within four months after the end of each fiscal year.

Definition of "expenses"

76.1(3) In this section, "**expenses**" means costs

- (a) that the member incurs personally while performing the responsibilities of his or her office; and
- (b) that are paid for through the department over which the member presides.

S.M. 2008, c. 40, s. 31.

Executive Council records

76.2(1) The Executive Council must make the following available to the public within the time specified:

- (a) as soon as reasonably practicable, an order in council;
- (b) within 30 days, any letter or revised letter in which the President of the Executive Council establishes the mandate of a minister.

Ministerial records

76.2(2) The government must make the following available to the public within the time specified:

- (a) within 60 days after a minister assumes office, the table of contents and index for the package of briefing materials that is prepared for a minister for the purpose of enabling the minister to assume the powers, duties and functions of their office;
- (b) within 60 days after the estimates of a department are concurred with by the Assembly,
 - (i) the table of contents and index for the package of briefing materials that the department prepared for the minister concerning the department's estimates, and
 - (ii) the content of the package of briefing materials that is not otherwise subject to an exception to disclosure under Part 2.

Records to be disclosed

76.3(1) A government agency that is subject to *The Crown Corporations Governance and Accountability Act* and an educational body, government agency or health care body that is designated in the regulations must make the following records available to the public without an application for access under this Act:

- (a) employee codes of conduct;
- (b) employee engagement surveys and a summary of the survey results;
- (c) summaries of the total annual amount of out-of-province transportation and travel expenses incurred by
 - (i) each member of the board of management, board of directors or governing board, and
 - (ii) the chief executive officer or equivalent;
- (d) a summary of respectful workplace reports and statistics for each year, including the number of respectful workplace complaints received, the number of investigations conducted and, unless otherwise subject to an exception to disclosure under Part 2, the outcomes of the investigations and related disciplinary actions taken;
- (e) records or a category of records as directed by the responsible minister.

Departmental records

76.3(2) The government must make the following records available to the public without an application for access under this Act:

- (a) employee codes of conduct;
- (b) employee engagement surveys and a summary of the survey results;
- (c) a summary of respectful workplace reports and statistics for each year, including the number of respectful workplace complaints received, the number of investigations conducted and, unless otherwise subject to an exception to disclosure under Part 2, the outcomes of the investigations and related disciplinary actions taken;
- (d) records or a category of records as directed by the responsible minister.

Compliance with directive

76.3(3) A directive issued under clause (1)(e) or (2)(d) must be in writing, and a public body that receives a directive must comply with it.

Limitation

76.3(4) A directive must not be made in respect of a record or a category of records that contain personal information, unless the information, if disclosed, would not constitute an unreasonable invasion of an individual's personal privacy under Part 2.

Minister may obtain information for publication

76.4(1) The responsible minister may direct a public body to provide the minister with a copy of any record that the public body is required to publish or otherwise disclose under an enactment.

Compliance with directive

76.4(2) A directive issued under subsection (1) must be in writing, and a public body that receives a directive must comply with it.

Publication

76.4(3) The minister must make the information provided under subsection (1) publicly available on a website.

S.M. 2021, c. 43, s. 37.

77 [Repealed]

S.M. 2008, c. 40, s. 32.

Giving notice under this Act

78 When this Act requires a notice or document to be given to a person, it is to be given

- (a) by sending it to that person by prepaid mail to the person's last known address;
- (b) by personal service;
- (c) by substitutional service if so authorized by the Ombudsman or the adjudicator; or
- (d) by electronic transmission or telephone transmission of a facsimile of a copy of the notice or document.

S.M. 2008, c. 40, s. 33.

Exercising rights of another person

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

- (a) by any person with written authorization from the individual to act on the individual's behalf;
- (b) by a committee appointed for the individual under *The Mental Health Act* or a substitute decision maker appointed for the individual under *The Vulnerable Persons Living with a Mental Disability Act*, if the exercise of the right or power relates to the powers and duties of the committee or substitute decision maker;
- (c) by an attorney acting under a power of attorney granted by the individual, if the exercise of the right or power relates to the powers and duties conferred by the power of attorney;
- (d) by the parent or guardian of a minor when, in the opinion of the head of the public body concerned, the exercise of the right or power by the parent or guardian would not constitute an unreasonable invasion of the minor's privacy; or
- (e) if the individual is deceased, by the individual's personal representative if the exercise of the right or power relates to the administration of the individual's estate.

Designation of head by local public body

80 A local public body shall, by by-law or resolution, designate a person or group of persons as the head of the local public body for the purposes of this Act.

Delegation by the head of a public body

81 The head of a public body may delegate to any person any duty or power of the head under this Act.

Fees

82(1) The head of a public body may require an applicant to pay to the public body the fees provided for in the regulations.

Estimate of fees

82(2) If an applicant is required to pay fees under subsection (1) other than an application fee, the head of a public body shall give the applicant an estimate of the total fee before providing the services.

Acceptance of estimate within 30 days

82(3) The applicant has up to 30 days from the day the estimate is given to indicate if it is accepted or to modify the request in order to change the amount of the fees, after which the application is considered abandoned.

Effect of estimate on time limits

82(4) When an estimate is given to an applicant under this section, the time within which the head is required to respond under subsection 11(1) is suspended until the applicant notifies the head that the applicant wishes to proceed with the application.

Waiver of fees

82(5) The head of a public body may waive the payment of all or part of a fee in accordance with the regulations.

Fee not to exceed actual cost

82(6) The fees referred to in subsection (1) must not exceed the actual costs of the services.

Notice

82(7) The head of a public body must give the applicant written notice if their application is considered abandoned under subsection (3).

Annual report of responsible minister

83(1) The responsible minister shall prepare an annual report and lay a copy of it before the Legislative Assembly if it is in session and, if it is not, within 15 days after the beginning of the next session.

Contents of report

83(2) The report under subsection (1) shall include information as to

- (a) the number of requests for access that have been made, granted or denied;
- (b) the specific provisions of this Act upon which refusals of access have been based;
- (c) the number of applications to correct personal information that have been made; and
- (d) [repealed] S.M. 2008, c. 40, s. 35;
- (e) the fees charged for access to records.

Protection from liability

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

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

Offences

85(1) Any person who wilfully

- (a) collects, uses or discloses personal information in contravention of Part 3 of this Act;
- (a.1) gains access, or attempts to gain access, to personal information in contravention of this Act;
- (a.2) fails to comply with section 41.1 (notification of privacy breach);
- (b) makes a false statement to, or misleads or attempts to mislead, the Ombudsman or another person in performing duties or exercising powers under this Act;
- (c) obstructs the Ombudsman or another person in performing duties or exercising powers under this Act;
- (d) destroys, erases, conceals, alters or falsifies a record that is subject to this Act with the intent to evade a request for access to records;
- (e) fails to comply with subsection 44.1(4) (obligations of an information manager); or
- (f) helps another person, or counsels another person, to do anything mentioned in clauses (a) to (e);

is guilty of an offence and liable on summary conviction to a fine of not more than \$50,000.

Time limit for prosecution

85(2) A prosecution for an offence under this Act may not be commenced later than two years after the day on which evidence sufficient to justify a prosecution for the offence came to the knowledge of the Ombudsman. The certificate of the Ombudsman as to the day on which the evidence came to their knowledge is evidence of that date.

Application

85(3) Subsection (2) applies to an offence committed before or after the coming into force of this subsection.

Defence under other enactments

86(1) A person is not guilty of an offence or subject to disciplinary action of any kind under any other enactment by reason of

- (a) complying with a request or requirement to produce a record or provide information or evidence to the Ombudsman or the adjudicator, or a person acting for or under the direction of the Ombudsman or the adjudicator, under this Act; or

- (b) in good faith, giving a notification or disclosing information to the Ombudsman under section 41.2.

No adverse employment action

86(2) A public body or a person acting on behalf of a public body must not take any adverse employment action against an employee as a result of the employee doing any of the things described in clause (1)(a) or (b).

S.M. 2008, c. 40, s. 37; S.M. 2021, c. 43, s. 41.

Regulations

87 The Lieutenant Governor in Council may make regulations

- (a) designating a person or group of persons as the head of a public body for the purpose of clause (d) of the definition "head" in section 1;
- (b) designating agencies, boards, commissions, corporations, offices, associations or other bodies as educational bodies, government agencies, health care bodies or local government bodies;
- (b.1) prescribing circumstances in which two or more people are considered to be associated for the purpose of clause 13(1.1)(b) and subclause 15(1)(b)(ii);
- (c) [repealed] S.M. 2008, c. 40, s. 38;
- (d) respecting fees to be paid under this Act and providing for circumstances in which fees may be waived in whole or in part;
- (e) respecting forms for the purposes of this Act;
- (f) respecting procedures to be followed in making, transferring, and responding to requests under Part 2 of this Act;
- (g) for the purpose of clause 40(2)(b), governing policies of public bodies concerning retention periods for personal information and respecting the destruction of personal information;
- (g.1) for the purpose of subsection 41.1(2), prescribing relevant factors to be considered in determining if a privacy breach can reasonably be expected to create a real risk of significant harm;
- (g.2) for the purpose of subsection 41.1(3), specifying the form and manner of, and the information to be included in, a notice to an individual, whether given directly or indirectly, and prescribing the circumstances in which a notice may be given indirectly;
- (h) respecting the giving of consents by individuals under this Act;
- (i) respecting written agreements for the purposes of subsections 44(1.2), 44.1(3) and 47(4);
- (j) respecting standards for and requiring administrative, technical and physical safeguards to ensure the security and confidentiality of records and personal information in the custody or under the control of public bodies;
- (k) [repealed] S.M. 2008, c. 40, s. 38;
- (k.1) designating educational bodies, government agencies and health care bodies for the purpose of clause 75.1(1)(e) or subsection 76.3(1);
- (l) respecting the kind of information that public bodies must provide to the responsible minister, including information the minister requires for preparing the annual report under section 83;

- (m) providing that other enactments of Manitoba, or any provisions of them, prevail despite this Act;
- (n) defining any word or expression used in this Act but not defined in this Act;
- (o) respecting any other matter the Lieutenant Governor in Council considers necessary or advisable to carry out the intent of this Act.

S.M. 2008, c. 40, s. 38; S.M. 2021, c. 43, s. 42.

PART 7

CONSEQUENTIAL, REVIEW, REPEAL AND COMING INTO FORCE

CONSEQUENTIAL AMENDMENTS

88 to 97 **NOTE: These sections contained consequential amendments to other Acts, which amendments are now included in those Acts.**

SAVING PROVISIONS

Right to disclose to War Amps preserved

97.1(1) If a public body, pursuant to an agreement entered into under section 46 before the coming into force of this section, disclosed names, addresses and drivers' licence numbers to the War Amputations of Canada, the public body may continue to disclose that information despite subsection 44(1) (restrictions on disclosure), if War Amputations of Canada uses the information only in accordance with the terms of the agreement.

Local public bodies

97.1(2) If a local public body disclosed information pursuant to an agreement entered into under section 46 before the coming into force of this section, it may continue to do so despite subsection 44(1) (restrictions on disclosure), if the body to whom the information is disclosed uses it only in accordance with the terms of the agreement.

S.M. 2008, c. 40, s. 39.

REVIEW

Review of Act within five years

98(1) The responsible minister must undertake a comprehensive review of the operation of this Act, which involves public representations, within five years after the day on which this section comes into force.

Tabling of report

98(2) The responsible minister must submit a report on the review to the Legislative Assembly within one year after the review is undertaken, or within such further time as the Assembly may allow.

S.M. 2008, c. 40, s. 40; S.M. 2012, c. 40, s. 22; S.M. 2021, c. 43, s. 43.

REPEAL AND C.C.S.M. REFERENCE

Repeal

C.C.S.M. reference

100 This Act may be cited as *The Freedom of Information and Protection of Privacy Act* and referred to as chapter F175 of the *Continuing Consolidation of the Statutes of Manitoba*.

COMING INTO FORCE**Coming into force of Act**

101(1) Except as provided in subsection (3), this Act comes into force on a day fixed by proclamation.

Coming into force for local public bodies

101(2) The proclamation of clause (d) of the definition "head" in section 1, clause (e) of the definition "public body" in section 1, and sections 4(f), 20(2), 21(2), 22, 46(4), 49(a)(ii), 75(5) and 80, or any portion of them, may relate to all or any of the following categories of local public bodies:

- (a) educational bodies;
- (b) health care bodies;
- (c) local government bodies.

Coming into force for The City of Winnipeg

101(2.1) If a proclamation under subsection (2) relates to local government bodies, the proclamation may be made applicable to The City of Winnipeg at an earlier date than to other local government bodies.

Coming into force of Division 1 of Parts 2 and 3

101(3) If *The Personal Health Information Act* is not in force on the day this Act is proclaimed, Division 1 of Part 2 and Division 1 of Part 3 do not come into force on the proclamation of this Act but instead come into force on the day *The Personal Health Information Act* comes into force.

S.M. 1998, c. 45, s. 10.

NOTE: S.M. 1997, c. 50, except clause (d) of the definition "head" in section 1, clause (e) of the definition "public body" in section 1, and sections 4(f), 20(2), 21(2), 22, 46(4), 49(a)(ii), 75(5) and 80, came into force by proclamation on May 4, 1998.

The provisions listed above came into force by proclamation in relation to The City of Winnipeg on August 31, 1998, and in relation to educational bodies, to health care bodies, and to local government bodies except The City of Winnipeg on April 3, 2000.

The Personal Health Information Act, S.M. 1997, c. 51, came into force by proclamation on December 11, 1997.

Bilingual (PDF)