



PRINCE EDWARD ISLAND
ÎLE-DU-PRINCE-ÉDOUARD

**FREEDOM OF INFORMATION AND
PROTECTION OF PRIVACY ACT
GENERAL REGULATIONS**

PLEASE NOTE

This document, prepared by the *Legislative Counsel Office*, is an office consolidation of this regulation, current to August 11, 2018. It is intended for information and reference purposes only.

This document is *not* the official version of these regulations. The regulations and the amendments printed in the *Royal Gazette* should be consulted on the Prince Edward Island Government web site to determine the authoritative text of these regulations.

For more information concerning the history of these regulations, please see the *Table of Regulations* on the Prince Edward Island Government web site (www.princeedwardisland.ca).

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FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT

Chapter F-15.01

GENERAL REGULATIONS

Pursuant to section 77 of the *Freedom of Information and Protection of Privacy Act* Stats. P.E.I. 2001, c.37, Council made the following regulations:

INTERPRETATION

1. Act

- (1) In these regulations “Act” means the *Freedom of Information and Protection of Privacy Act* Stats. P.E.I. 2001, c.37.

Department, branch or office of Government

- (1.1) For greater certainty, a department, branch or office of the Government of Prince Edward Island referred to in subclause 1(k)(i) of the Act includes those listed in Part I of Schedule 1.

Public body, designation

- (2) For the purposes of subclause 1(k)(ii) of the Act, an agency, board, commission, corporation, office or other body listed in Part II of Schedule 1 is designated as a public body. (EC564/02; 786/13)

REQUESTS FOR ACCESS TO RECORDS

2. Making requests - offices, addresses and methods

- (1) Public bodies shall make public in a reasonable manner
- (a) the addresses of all offices authorized to receive requests made to the public body; and
 - (b) the various methods by which those offices can receive requests.

Delivery during normal business hours

- (2) A request may be delivered to any office of the public body during normal business hours of that office, but the time limit for responding to the request does not commence until the request is received in an office authorized to receive requests.

Transfer of request

- (3) When a request is received in an office not authorized to accept it, that office shall, as soon as possible, forward it to an authorized office. *(EC564/02)*

3. Responding to a request for examination

Where a person has asked to examine a record and is given access to the record, the head of the public body may require that the person be given a copy of the record, rather than the opportunity to examine it, if the head is of the opinion that

- (a) providing for examination of the record would unreasonably interfere with the operations of the public body; or
- (b) providing examination of the record could reasonably be expected to result in the disclosure of information that is restricted or prohibited from disclosure under section 5 of the Act or Part 1, Division 2 of the Act. *(EC564/02)*

4. Oral requests

An applicant may make an oral request for access to a record if

- (a) the applicant's ability to read or write English or French is limited; or
- (b) the applicant has a physical disability or condition that impairs the applicant's ability to make a written request. *(EC564/02)*

DISCLOSURE OF PERSONAL INFORMATION

5. Disclosure of health care information

- (1) The head of a public body may disclose information relating to the mental or physical health of an individual to a medical or other expert for an opinion on whether disclosure of this information could reasonably be expected to result in grave and immediate harm to the individual's safety or mental or physical health.

Use

- (2) A medical or other expert to whom information is disclosed under subsection (1) shall not use the information except for the purposes described in that subsection.

Confidentiality agreement

- (3) The head of the public body shall require a medical or other expert to whom information will be disclosed under this section to enter into an agreement relating to the confidentiality of the information.

Return of a copy of a record

- (4) If a copy of a record containing information relating to the mental or physical health of an individual is given to a medical or other expert for examination, the medical or other expert shall, after giving the opinion referred to in subsection (1), return the copy of the record to the head of the public body or dispose of it in accordance with an agreement under subsection (3).

Examination in person and with assistance

- (5) The head of the public body that has custody or control of the record may require that an applicant who makes a request for access to a record containing information relating to the



applicant's mental or physical health must examine the information in person, and may not examine the record until a medical or other expert or a member of the applicant's family or some other person approved by the head of the public body is present to clarify the nature of the record and to assist the applicant in understanding the information in the record. (EC564/02)

6. Consent to the disclosure of personal information

The consent of an individual to a public body's using or disclosing any of the individual's personal information under clauses 36(1)(b) or 37(1)(c) of the Act shall

- (a) be in writing; and
- (b) specify to whom the personal information may be disclosed and how the personal information may be used. (EC564/02)

7. Disclosure for audit purposes

Personal information may be disclosed to persons who are employees of a public body, including a person retained under a contract to perform services for the public body, in order to carry out a financial or other formal and systematic examination or review of a program or activity or a portion of a program or activity that includes personal information about individuals, provided such examination or review is sanctioned by an enactment or public policy relating to the public body. (EC564/02)

FEES

8. Fees

Where an applicant is required to pay a fee for services, the fee is payable in accordance with sections 9, 10, 11, and 12. (EC564/02)

9. Fees for non-personal information

- (1) This section applies to a request for access to a record that is not a record of the personal information of the applicant.

Initial fee

- (2) An applicant is required to pay an initial fee of \$5.

Payment of initial fee

- (3) Processing of a request will not commence until the initial fee has been paid.

Schedule 2 fees

- (4) In addition to the initial fee, fees in accordance with Schedule 2 may be charged if the amount of time spent, as estimated by the public body to which the request has been made, exceeds three hours.

Review time

- (5) A fee may not be charged for the time spent in reviewing a record. (EC564/02; 465/18)

10. Fees for personal information

Where an applicant requests access to a record of the personal information of the applicant, only fees for copying in accordance with item 6 of Schedule 2 may be charged. (EC564/02)

11. Fee estimate

- (1) A fee estimate provided under subsection 76(3) of the Act shall be in writing and set out
- (a) the time and cost required
 - (i) to search, locate and retrieve the record,
 - (ii) to prepare the record for disclosure;
 - (b) the cost of copying the record;
 - (c) the cost of computer time involved in locating and copying a record or, if necessary, *re*-programming to create a new record;
 - (d) the cost of supervising an applicant who wishes to examine the original record, when applicable; and
 - (e) the cost of shipping the record or a copy of the record.

Proposed agreement

- (2) In addition to the information set out in subsection (1), a fee estimate shall include a proposed agreement, consistent with section 12, for the payment of the fee by the applicant.

Estimate of fee for personal information

- (3) A fee estimate for access to a record of the personal information of the applicant need only include the cost of copying the record.

Time period to accept

- (4) After being given a fee estimate, an applicant has up to 20 days to indicate if the fee estimate is accepted or to modify the request to change the amount of fees assessed. (EC564/02)

12. Payment of estimated fee

- (1) Processing of a request ceases once a fee estimate has been given to an applicant and recommences immediately on the receipt of an agreement to pay the fee, and on the receipt of at least 50% of the estimated fee.

Balance

- (2) The balance of any fee owing is payable at the time the information is delivered to the applicant.

Refund

- (3) Fees, other than an initial fee, or any part of those fees, shall be refunded if the amount paid is higher than the actual fees required to be paid. (EC564/02)

NOTICE OF DISCLOSURES

13. Notice of disclosure

For the purposes of subsection 30(4) of the Act, the notice of disclosure shall be made in the form set out in Schedule 3. (EC564/02)



PROVISIONS OF ENACTMENTS THAT PREVAIL

14. Provision of Acts

The following provisions of Acts prevail despite the *Freedom of Information and Protection of Privacy Act*:

- (a) *Oil and Natural Gas Act* R.S.P.E.I. 1988, Cap. O-5, subsection 101(2);
- (b) *Adoption Act* R.S.P.E.I. 1988, Cap. A-4.1, sections 2, 7, 21, 39 and 47 to 54;
- (c) *Adult Protection Act* R.S.P.E.I. 1988, Cap. A-5, subsection 4(3) and section 30;
- (d) *Change of Name Act* R.S.P.E.I. 1988, Cap. C-3.1, sections 10 and 12;
- (e) *Child Protection Act* R.S.P.E.I. 1988, Cap. C-5.1, sections 7, 8 and 10;
- (f) revoked by EC727/05;
- (g) *Health Services Payment Act* R.S.P.E.I. 1988, Cap. H-2, section 17;
- (h) *Hospital and Diagnostic Services Insurance Act* R.S.P.E.I. 1988, Cap. H-8, section 6;
- (i) revoked by EC465/18;
- (j) *Vital Statistics Act* R.S.P.E.I. 1988, Cap. V-4.1, all provisions;
- (k) revoked by EC465/18;
- (l) *Financial Administration Act* R.S.P.E.I. 1988, Cap. F-9, section 80. (EC598/04; 727/05; 786/13; 53/14; 465/18)

15. Provisions of regulations

The following provisions of regulations made under other Acts prevail despite the *Freedom of Information and Protection of Privacy Act*:

- (a) *Oil and Natural Gas Act* Oil and Gas Conservation Regulations (EC170/74), subsection 58(1);
- (b) *Adoption Act* Regulations (EC526/93), sections 44, 47 and 68;
- (c) *Change of Name Act* Regulations (EC247/02), section 8;
- (d) *Child Protection Act* Regulations (EC215/03), sections 8 to 12. (EC598/04)

SCHEDULE 1

PUBLIC BODIES

PART I — DEPARTMENTS, BRANCHES AND OFFICES OF THE GOVERNMENT

1. Department of Agriculture and Fisheries
2. Department of Communities, Land and Environment
3. Department of Economic Development and Tourism
4. Department of Education, Early Learning and Culture
5. Department of Family and Human Services
6. Department of Finance
7. Department of Health and Wellness
8. Department of Justice and Public Safety
9. Department of Transportation, Infrastructure and Energy
10. Department of Workplace and Advanced Learning
11. Intergovernmental and Public Affairs
12. Office of the Premier

PART II — DESIGNATED PUBLIC BODIES

13. Acadian and Francophone Community Advisory Committee
14. Acadian Purchase Trust
15. Advisory Council on the Status of Women
16. Agricultural Insurance Appeal Board
17. Alberton Housing Authority
18. Charlottetown Area Development Corporation
19. Charlottetown Area Housing Authority
20. Child Protection Act Advisory Committee
21. Child Care Facilities Appeal Panel
22. Child Care Facilities Board
23. Civil Service Superannuation Administrative Advisory Committee
24. Classification Appeal Committee
25. Community Care Facilities and Nursing Homes Board
26. Companion Animal Protection Act Appeals Officer
27. Court Transcribers Examining Board
28. Disability Action Council
29. Education Negotiating Agency
30. Electoral Boundaries Commission
31. F.T.C. Enterprises Limited/BioFoodTech
32. Employment Standards Board
33. English Language School Board
34. Environmental Advisory Council
35. Environmental Industrial Services Inc.

36. Farm Practices Review Board
37. Fathers of Confederation Buildings Trust
38. Finance PEI
39. Financial Assistance Appeal Panel
40. Fisheries Act Advisory Committees established under the Act
41. Forest Improvement Advisory Council
42. French Language School Board (La Commission scolaire de langue française)
43. FTC Enterprises Limited/ P.E.I. Food Technology Centre
44. Georgetown Housing Authority
45. Health PEI
46. Health Services Payment Advisory Committee
47. Health and Community Services Negotiating Committee
48. Heritage Places Advisory Board
49. Industrial Relations Council
50. Innovation PEI
51. Innovation Solutions Agency (PEI) Inc.
52. Interchangeable Drug List Committee
53. Island Investment Development Inc.
54. Island Regulatory and Appeals Commission
55. Island Waste Management Corporation
56. Judicature Act Finance Committee
57. Judicial Remuneration Review Commission
58. Labour Act conciliation boards
59. Labour Relations Board
60. Lobster Industry Roundtable
61. Lucy Maud Montgomery Foundation
62. Mental Health Act Review Board
63. Ministerial Advisory Committee on Energy Efficiency
64. Ministerial Advisory Committee on Multiculturalism
65. Montague Area Housing Authority
66. Mount Stewart Housing Authority
67. Natural Areas Protection Act Advisory Committee
68. Natural Products Appeals Tribunal
69. O'Leary Housing Authority
70. Office of the Police Commissioner
71. Order of Prince Edward Island Advisory Council
72. PEI BioCommons Inc.
73. PEI Century Fund 2000 Inc.
74. PEI Sports Hall of Fame and Museum Inc.
75. Pharmaceutical Information Program Advisory Committee
76. Physician Resource Planning Committee
77. Plant Health Advisory Committee



78. Power Engineers Board of Examiners
79. Premier's Action Committee on Family Violence Prevention
80. Prince Edward Island 2014 Inc.
81. Prince Edward Island Agricultural Insurance Corporation
82. Prince Edward Island Aquaculture and Fisheries Research Initiative Inc.
83. Prince Edward Island Building Standards Council
84. Prince Edward Island Crown Building Corporation
85. Prince Edward Island Employment Development Agency
86. Prince Edward Island Energy Corporation
87. Prince Edward Island Grain Elevators Corporation
88. Prince Edward Island Human Rights Commission
89. Prince Edward Island Liquor Control Commission
90. Prince Edward Island Lotteries Commission
91. Prince Edward Island Marketing Council
92. Prince Edward Island Master Trust Advisory Board
93. Prince Edward Island Museum and Heritage Foundation
94. Prince Edward Island Pharmacy Board
95. Prince Edward Island Public Service Commission Board
96. revoked by EC356/16
97. Prince Edward Island Self Insurance and Risk Management Fund Advisory Committee
98. Prince Edward Island Seniors Secretariat
99. Prince Edward Island Special Projects Fund
100. Private Training Schools Act Appeals Board
101. Private Training Schools Advisory Board
102. Provincial Apprenticeship Board
103. Public Forest Council
104. Public Records Committee
105. Public Trustee Act Advisory Committee
106. Real Estate Trading Act advisory boards
107. Review Board of Prince Edward Island (Criminal Code)
108. Rural Development Advisory Committee
109. School Act Certification and Standards Board
110. Social Assistance Appeals Board
111. Souris Food Park Development Corporation
112. Souris Family Housing Authority
113. Student Aid Appeal Board
114. Summerside Regional Development Corporation Ltd.
115. Summerside Housing Authority
116. Teachers' Superannuation Commission
117. Therapeutic Drug Prescription Committee
118. Tignish Housing Authority
119. Tourism P.E.I.

- 120. Tourism Advisory Council
- 121. Tourism Industry Act Arbitration Board
- 122. Victim Services Advisory Committee
- 123. Weed Control Advisory Committee
- 124. Wildlife Conservation Act Committee
- 125. Workers Compensation Appeal Tribunal
- 126. Workers Compensation Board

(EC564/02; 581/03; 610/05; 734/08; 171/10; 786/13;)



SCHEDULE 2

FEES

The amounts of the fees set out in this Schedule are the maximum amounts that can be charged to applicants. All applicable taxes are payable in addition to the listed fees.

1. Locating and retrieving a record..... \$15.00 per half hour
2. Producing a record from an electronic record
 - (a) Computer processing and related charges..... Actual cost to public body
 - (b) Computer programming..... Actual cost to public body
3. Preparing and handling a record for disclosure..... \$15.00 per half hour
4. Supervising the examination of a record \$15.00 per half hour
5. Shipping a record or a copy..... Actual cost to public body
6. Copying a record:
 - (a) paper copy (photocopy or computer printout)..... 8 cents per page
 - (b) revoked by EC 465/18
 - (c) revoked by EC 465/18
 - (d) duplication of 16mm microfilm..... \$29.95 per roll
 - (e) duplication of 35mm microfilm..... \$32.95 per roll
 - (f) duplication microfilm to paper..... 50 cents per exposure
 - (g) photographs (color or black and white from negative)
 - (i) 5" X 7"..... \$9.00 per photograph
 - (ii) 8" X 10"..... \$11.00 per photograph
 - (iii) 11" X 14"..... \$25.00 per photograph
 - (iv) 16" X 20"..... \$40.00 per photograph
 - (v) 20" X 24"..... \$100.00 per photograph
 - (h) duplication of 35mm color slide..... \$8.50 per slide
 - (i) revoked by EC 465/18
 - (j) revoked by EC 465/18
 - (k) any other media not listed above..... Actual cost to public body

(EC564/02; 465/18)



SCHEDULE 3

Notice of Disclosure of Information

[Freedom of Information and Protection of Privacy Act, ss.30(4)]

_____ [name of public body]

has disclosed information that relates to you in compliance with the requirements of section 30 of the *Freedom of Information and Protection of Privacy Act*. This Act requires a public body to disclose to the public, to an affected group of people, to any person or to an applicant

- (a) information about a risk of significant harm to the environment or to the health or safety of the public, of the affected group of people, of the person or of the applicant; or
- (b) information the disclosure of which is, for any other reason, clearly in the public interest.

The information disclosed is:

[Explain the information and provide a copy of the record, if the record exists; explain why section 30 of the Act applies.]

This decision was made by: _____ [name, job title]

Signed: _____

[date]

(EC564/02)

