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## Freedom of Information and Protection of Privacy

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**109** Customer Service Guide

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### What is the Freedom of Information and Protection of Privacy Act?

The *Freedom of Information and Protection of Privacy Act* came into force on January 1, 1988. The *Act* has two main parts. The first states that all Government information should be available to the public with the exception of a few specific types of information. The second part of the *Act* states that the privacy of individuals should be maintained.

What this basically means is that most government information at the Archives is available to you. Examples of the main types of information that can be withheld are personal information relating to other individuals, information about companies that has been supplied in confidence to the Government, and confidential cabinet information.

Personal information can include, but is not limited to, a person's medical information, information about his/her criminal history, financial information, information on a person's race, religion or political beliefs or an individual's employment or educational history.

Personal information about an individual is considered sensitive until the individual to whom it pertains has been dead for a period of thirty years or more. If you are doing research on an individual who has been dead for a period greater than 30 years, the information pertaining to them can be disclosed. However, if the records also contain information about other individuals whose dates of death are unknown, it may be necessary to remove this information prior to disclosure to you.

### What records are covered by the Freedom of Information and Protection of Privacy Act?

The *Act* applies to most records created and/or used by the Government of Ontario. This means that the *Act* applies to not only records created by the

Government and its agencies, but also any records that they receive. So, if you write a letter to the Government, it becomes subject to the *Freedom of Information and Protection of Privacy Act* when it is received by the Government.

The *Act* does not apply to all records at the Archives of Ontario. Records donated to the Archives by private citizens and companies are not subject to the *Act*. Some government records may be subject to restrictions other than the *Freedom of Information and Protection of Privacy Act*. For example, records of patients of psychiatric facilities may be covered by the *Mental Health Act*. Records about adoptions are subject to the *Child and Family Services Act*. In order to determine whether the series you are interested in is subject to the *Freedom of Information and Protection of Privacy Act*, consult the access statement at the bottom of the series description.

This handout deals only with those records subject to restrictions under the *Freedom of Information and Protection of Privacy Act*.

## **How does the *Act* affect my research?**

When a series of records is cited as being either “restricted” or “subject to review” under the *Act*, it must be reviewed before the records can be released to you. This is done to identify and, if necessary, remove any information subject to exemption under the *Act*.

When planning to undertake any research project at the Archives of Ontario, you should check the access status of the records that you intend to work with and build additional time into your timelines to allow for the review of records.

## **How will I know if the records I want to look at are subject to the *Act*?**

Each description of a government records series provides information about access restrictions. Most series descriptions are available on-line in the Archives Descriptive Database, accessible using the Accessing Our Collection tab from the homepage of our website, [click here to access the Archives of Ontario's website](#). Consult a Reference Archivist for any inquiries involving descriptions that are not available in the ADD.

For some series, there are no access restrictions at all, while others may be subject to review or restricted within a specified time period depending on the kinds of information contained in them. For example, records containing information which would reveal the deliberations of Cabinet are restricted for 20 years.

## **If records are restricted, can I still see them?**

When a series of records is identified as being restricted, it will be necessary for staff to review them with careful considerations to the requirements of the *Act*. In

most cases, a review will result in the requester being granted full or partial access to the records in question. However, in some cases, a request for access may be denied in total.

## **How do I make a request to see records that are identified as “Restricted” or “Subject to Review”?**

The first thing to do is to locate as closely as possible the information that you would like to see. Generally, this means determining the Record Group number, Series number and, if possible, the file number of the records you would like to look at. If you are having trouble doing this, you can ask for assistance from a Reference Archivist.

Once you have identified the information you are interested in, there are two ways of making a Freedom of Information request. The first way is to send a letter in writing to the Information and Privacy Unit stating that you are making a request for information under the *Freedom of Information and Protection of Privacy Act*. Clearly state the information that you would like to see. Be as specific as possible as this will make it easier for staff to locate the records. Send your letter to:

Coordinator, Information and Privacy Unit  
Archives of Ontario  
134 Ian Macdonald Blvd.  
Toronto, Ontario M7A 2C5

Your request must be accompanied by a \$5.00 application fee made payable to the Minister of Finance. If you are submitting your application by mail, send either a cheque or a money order. Do not send cash through the mail.

The second way to make a Freedom of Information request is to complete your request while visiting the Archives of Ontario. A Reference Archivist can contact a member of the Information and Privacy Unit who will come down and take your request in person, process the fee and provide you with a reference number.

## **What happens once I’ve made a request?**

Once a request has been made, the Information and Privacy Analyst who is assigned your request will locate the records you have requested. The analyst will then review them to see if they contain any information which is exempt under the *Act* and must be severed from the record before it can be released to you. It may be necessary to contact you at some point during the processing of your request, so make sure you include your phone number on your request.

## **How long does it take to process a request?**

Once your request has been received, you should receive a response within thirty days. However, while the Archives responds to each request as quickly as possible it is not always possible to respond to a request within the thirty day time period. The *Act* provides that the timeframe for responses can be extended. Some factors that can affect processing time include the amount of material you are requesting access to and the number of other requests already in the unit when you make your request. Please feel free to discuss the estimated response time with an Information and Privacy Analyst at the time you make your request. If you are making your request by mail, you can contact a member in the Information and Privacy Unit by telephoning either (416) 327-1600 or 1-800-668-9933 (toll-free in Ontario).

You will be notified if there will be delays in processing your request beyond the time initially discussed.

## **How will I be notified of a decision?**

You will be notified of the decision on your request in writing by mail. The Freedom of Information and Privacy Coordinator's letter will inform you of the Archivist of Ontario's access decision, any fees involved and information on filing an appeal should you not agree with the decision. If you have any questions or concerns about the access decision, please contact the Information and Privacy Analyst assigned to your request at the number provided on the letter.

## **You mention other fees. What are these for?**

There are several types of fees involved when making a request under the *Freedom of Information and Protection of Privacy Act*. The *Act* states that fees must be charged for various services. The basic fee schedule is:

*Search time cost \$7.50/15 minutes*

This is a charge for time that staff spend looking for records responsive to your request. Search costs can be kept to a minimum when you identify the records you want as specifically as possible. Search fees do not apply to requests for access to your own personal information.

*Preparation time costs \$7.50/15 minutes*

If a record is found to contain information that is exempt under the *Act*, this information must be removed before you can look at the records. In order to do this, a process called severing is done. This process involves photocopying the original record and removing the information in question with a permanent marker on the photocopy and recopying the altered copy.

*Photocopying costs \$0.20/page*

This is the charge to provide you with photocopies of the responsive records. If you choose to examine the original records in the Reading Room and upon

examination decide to have copies made, you will be charged the regular archives fee for reproduction.

## **I really need this information but I can't afford to pay the fee. What can I do?**

There is a provision in the *Act* which permits the Archivist of Ontario to grant a fee waiver in certain specific cases such as financial hardship. If you think it will be necessary to request a fee waiver, please consult with the Information and Privacy Analyst assigned to your request.

## **Where can I get more information about the Freedom of Information and Protection of Privacy Act?**

A copy of the *Freedom of Information and Protection of Privacy Act* is available through the Archives of Ontario Library. For more information, [click here to access the Office of the Chief Information and Privacy Officer, Ministry of Government and Consumer Services website. Consumer Services web site.](#)

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