

# NEWSLETTER

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## FOCUS ON PRIVACY PROTECTION

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### RIGHT TO PRIVACY

Private citizens have an inherent right to privacy; government does not. It is a fundamental difference between people and the institutions that rule them. If a government wants to know something about an individual, it must justify it by explaining why it wants that information, how it will use it, and why the public interest outweighs (as it sometimes does) the individual's right to privacy. But, if the situation is reverse, the onus remains on the government to demonstrate a need to know.

Canadians are protected by two federal privacy laws:

- The *Privacy Act* took effect on July 1, 1983.
- The *Personal Information Protection and Electronic Documents Act* took effect on of January 1, 2001.

### GOVERNMENT INSTITUTIONS

The *Privacy Act* imposes obligations on some 150 federal government departments and agencies to respect the privacy rights of Canadians by placing limits on the collection, use and disclosure of personal information. The *Privacy Act* gives Canadians the right to access and to correct personal information about them held by these federal government organizations. Most provinces have privacy legislation governing the collection, use and disclosure

of personal information held by government agencies providing Canadians with a general right to access and correct their personal information held by provincial government institutions..

At the federal level, private individuals may wish to have access to their personal information held in government records:

#### Examples

FEDERAL INSTITUTIONS	Information which could be requested
<i>Human Resources Development Canada</i>	Unemployment insurance benefits
<i>Canadian Customs and Revenue Agency</i>	Income taxes or customs investigations
<i>Department of Citizenship and Immigration</i>	Complaint filed against a landed immigrant
<i>Department of Veterans Affairs</i>	Veteran benefits

Additionally, a public servant or a member of the Canadian Forces can obtain a plethora of records which are under the control of their employer, each containing personal information about them. The right of access to these records could, for example, target personal information on the following subject matters:

<i>employment, leave,</i>	<i>pay and benefits, annuities,</i>
<i>medical</i>	<i>discipline</i>
<i>investigations, grievances</i>	<i>performance evaluation</i>
<i>competitions</i>	<i>archives</i>

Additionally, in both instances, individuals have a 'right of notation' by which they can ensure that any errors or inaccuracies concerning their own personal information maintained in government records be corrected or, that a notation be brought on file to present the individual's own interpretation of any disputed information.

***PERSONAL INFORMATION  
PROTECTION AND ELECTRONIC  
DOCUMENTS ACT***

This Act sets out ground rules for how private sector organizations may collect, use or disclose personal information in the course of commercial activities. This Act gives individuals the right to see and ask for corrections to information an organization may have collected about them. The Act also applies to personal information about customers or employees that is collected, used or disclosed by the federally regulated sector in the course of commercial activities. It also applies to information sold across provincial and territorial boundaries. Finally, as of January 1, 2002, the personal health information collected, used or disclosed by these organizations is also covered.

At present, Quebec, Alberta and British Columbia are the only provinces with a personal data protection law in effect that applies to the provincially regulated private sector. This law, in addition to regulating the collection, use and disclosure of personal information held by commercial enterprises, also provides Quebec residents with a general right of access to and correction of personal information.

Other provincial jurisdictions have enacted or intend to enact legislation to deal specifically with the collection, use and disclosure of personal health information by provincial health care organizations and other approved individuals and agencies.

They include Alberta, (*Health Information Act*, R.S.A. 2000, c.H-5), Saskatchewan (*Health Information Protection Act*, S.S. 1999, c. H.-021) Manitoba (*Personal Health Information Act*, C.C.S.M. c. P.33-5), Ontario (*Personal Health Information Act*, S.O. 2004, c. 3), and Quebec (*An Act Respecting health services and social services*).