

ACCESS TO INFORMATION AND PROTECTION OF PRIVACY ACT

**ACCESS TO INFORMATION AND
PROTECTION OF PRIVACY REGULATIONS**

R-206-96

In force December 31, 1996

(Current to: May 13, 2016)

AS AMENDED BY NORTHWEST TERRITORIES REGULATIONS:

R-131-98

AS AMENDED BY NUNAVUT REGULATIONS AND STATUTES:

R-007-2004

In force June 1, 2004

R-019-2007

In force September 4, 2007

R-004-2009

In force February 25, 2009

S.Nu. 2011,c.27,s.15

s.15 in force October 31, 2011

R-007-2015

In force April 16, 2015

This consolidation is not an official statement of the law. It is an office consolidation prepared for convenience only. The authoritative text of regulations can be ascertained from the *Revised Regulations of the Northwest Territories, 1990* and the monthly publication of Part II of the *Northwest Territories Gazette* (for regulations made before April 1, 1999) and Part II of the *Nunavut Gazette* (for regulations made on or after April 1, 1999).

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GLOSSARY OF TERMS USED IN CONSOLIDATIONS

Miscellaneous

c.	means "chapter".
CIF	means "comes into force".
NIF	means "not in force".
s.	means "section" or "sections", "subsection" or "subsections", "paragraph" or "paragraphs".
Sch.	means "schedule".

Citation of Acts

R.S.N.W.T. 1988,c.D-22	means Chapter D-22 of the <i>Revised Statutes of the Northwest Territories, 1988</i> .
R.S.N.W.T. 1988,c.10(Supp.)	means Chapter 10 of the Supplement to the <i>Revised Statutes of the Northwest Territories, 1988</i> . (<i>Note: The Supplement is in three volumes.</i>)
S.N.W.T. 1996,c.26	means Chapter 26 of the 1996 Annual Volume of the Statutes of the Northwest Territories.
S.Nu. 2002,c.14	means Chapter 14 of the 2002 Annual Volume of the Statutes of Nunavut.

Citation of Regulations and other Statutory Instruments

R.R.N.W.T. 1990,c.A-1	means Chapter A-1 of the <i>Revised Regulations of the Northwest Territories, 1990</i> .
R-005-98	means the regulation registered as R-005-98 in 1998. (<i>Note: This is a Northwest Territories regulation if it is made before April 1, 1999, and a Nunavut regulation if it is made on or after April 1, 1999 and before January 1, 2000.</i>)
R-012-2003	means the regulation registered as R-012-2003 in 2003. (<i>Note: This is a Nunavut regulation made on or after January 1, 2000.</i>)
SI-005-98	means the instrument registered as SI-005-98 in 1998. (<i>Note: This is a Northwest Territories statutory instrument if it is made before April 1, 1999, and a Nunavut statutory instrument if it is made on or after April 1, 1999 and before January 1, 2000.</i>)
SI-012-2003	means the instrument registered as SI-012-2003 in 2003. (<i>Note: This is a Nunavut statutory instrument made on or after January 1, 2000.</i>)

ACCESS TO INFORMATION AND PROTECTION OF PRIVACY REGULATIONS

Interpretation

1. (1) In these regulations, "Act" means the *Access to Information and Protection of Privacy Act*. (Loi)

(2) For the purposes of paragraph (b) of the definition "public body" in section 2 of the Act, the following are designated as public bodies:

- (a) each agency, board, commission, corporation, office or other body listed in column I of Schedule A;
- (b) housing authorities incorporated under the *Nunavut Housing Corporation Act*;
- (c) housing associations vested with powers, functions or duties under section 46 of the *Nunavut Housing Corporation Act*.

(3) For the purposes of paragraph (b) of the definition "head" in section 2 of the Act,

- (a) the person listed in column II of Schedule A is designated as the head of the public body listed in column I of that schedule; and
 - (b) the Minister Responsible for the Nunavut Housing Corporation is designated as the head of each housing authority and housing association referred to in paragraphs (2)(b) and (c).
- R-131-98,s.2; R-007-2015,s.2.

Requests

2. (1) A request for access to a record may be delivered to any office of a public body during normal business hours of that office, but the time limit for responding to the request does not commence until

- (a) the request is received in the office of the appropriate person to receive requests, as indicated in the directory produced under subsection 70(1) of the Act; and
- (b) the initial fee required by these regulations, if any, has been paid.

(2) Where a request is received at an office not authorized to accept requests, that office must forward the request to the office of the appropriate person without delay.

(3) Where a person is given access to a 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 providing for examination of the record

- (a) would unreasonably interfere with the operations of the public body; or

- (b) may result in the disclosure of information that is restricted or prohibited from disclosure under section 4 of the Act or under Division B of Part 1 of the Act.

(4) Where an Act authorizes a public body or a committee of a public body to hold a meeting that is closed to the public, the head of the public body may refuse to disclose information to an applicant if such disclosure could reasonably be expected to reveal the substance of the deliberations of a meeting that was not held in public by the public body or a committee of the public body. R-131-98,s.3.

- 3.** An applicant may make an oral request for access to a record if
- (a) the applicant's ability to read or write in an Official Language is limited; or
 - (b) the applicant has a physical disability or condition that impairs the applicant's ability to make a written request.

Disclosure of Health Care Information

4. (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 as to whether disclosure of this information could reasonably be expected to result in immediate and grave danger to the individual's mental or physical health or safety.

(2) A medical or other expert to whom information is disclosed under subsection (1) shall only use the information for the purposes described in that subsection.

(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.

(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 the agreement made under subsection (3).

(5) The head of the public body 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 record in the presence of a medical or other expert, a member of the applicant's family or some other person approved by the head who can clarify the nature of the record and assist the applicant to understand the information in the record.

Disclosure of Personal Information

5. (1) The consent of an individual to a public body's use or disclosure of his or her personal information under paragraphs 43(b) and 48(b) of the Act

- (a) must be in writing or given orally; and
- (b) must specify to whom the personal information may be disclosed or how the personal information may be used.

(2) If the consent referred to in subsection (1) is given orally, the public body shall make and maintain a written record of the consent.

(3) The written consent of an individual to a public body's disclosure of his or her personal information under paragraph 23(4)(a) of the Act must specify to whom the personal information may be disclosed.

(4) Where the identity of the person requesting or consenting to the disclosure of his or her personal information cannot be otherwise ascertained, he or she must provide one of the following proofs of identity:

- (a) passport;
- (b) driver's license issued by a province or territory;
- (c) health insurance card issued by a province or territory;
- (d) general identification card issued by a province or territory;
- (e) photo identification card issued to employees of the Government of Canada or the government of a province or territory;
- (f) beneficiary card issued by Nunavut Tunngavik Incorporated;
- (g) licence issued under the *Wildlife Act*;
- (h) permanent resident card issued by the Government of Canada;
- (i) Certificate of Indian Status issued by the Government of Canada;
- (j) any proof of identity that the head of the public body considers reliable.

R-007-2015,s.3.

6. Personal information may be disclosed to employees of a public body and persons retained under a contract to perform services for the public body, in order to carry out a formal examination of a government program, portion of a program or activity that includes personal information about individuals, provided such examination is sanctioned by statute, regulation or public policy relating to the public body.

7. For purposes of paragraph 48(j) of the Act, a public body may disclose personal information for audit purposes to a person employed in the division of the Department of Finance that provides internal audit services. R-007-2015,s.4.

Research Agreements

8. An agreement made between a public body and a person under paragraph 49(d) of the Act must include the following:

- (a) a condition that the person may use the personal information only for the research purpose set out in the agreement or for which the person has written authorization from the public body;
- (b) an identification of any other persons who will be given access to the personal information by the person;
- (c) a condition that the person must, before disclosing personal information to persons referred to in paragraph (b), enter into an agreement with those persons to ensure that they will adhere to the same policies and procedures of confidentiality as are applicable to the person who entered into the agreement under paragraph 49(d) of the Act;
- (d) a condition that the person must keep the personal information in a secure location to which access is given only to the persons referred to in paragraph (b);
- (e) a condition that the person must remove or destroy all individual identifiers in the personal information by the date and in the manner specified in the agreement;
- (f) a condition that the person must not contact any individual to whom the personal information relates, directly or indirectly, without the prior written authority of the public body;
- (g) a condition that the person must ensure that no personal information will be used or disclosed in a form in which the individual to whom it relates can be identified without the written authority of the public body;
- (h) a condition that the person must ensure that identifiable personal information about an individual is not used for an administrative purpose directly affecting the individual;
- (i) a condition that the person must notify the public body in writing immediately if the person becomes aware that any of the conditions set out in the agreement have been breached;
- (j) a condition that, if a person fails to meet the conditions of the agreement, the agreement may be immediately terminated by the public body.

Fees

9. (1) Where an applicant is required to pay a fee for services, the fee is payable in accordance with sections 10 to 14.

(2) Fees assessed under sections 11 and 12 must not exceed the actual costs of the services provided.

Estimate of Fees

10. (1) An estimate of fees provided under subsection 50(2) of the Act must set out

- (a) the time and cost required to

- (i) search for and retrieve the record,
- (i.1) review the record in order to identify information that the public body is required to refuse to disclose in accordance with the Act,
- (ii) prepare and physically sever the record for disclosure, and
- (iii) copy the record;
- (b) the cost of computer time involved in locating and copying a record, or, if necessary, programming to create a new record;
- (c) the cost of supervising an applicant who wishes to examine the original record, where applicable; and
- (d) the cost of shipping the record or a copy of the record.

(2) An estimate of fees for access to a record of the personal information of the applicant need only set out the time and cost of copying the record.

(3) An applicant has up to 20 days to indicate if the estimate of fees is accepted or to modify the request so as to reduce the amount of fees likely to be assessed.

R-007-2015,s.5.

Fees for Non-personal Information

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

(2) An applicant shall pay an initial fee of \$25.00 when a request is made.

(3) A public body shall not process a request until the initial fee has been paid.

(4) Other than the initial fee, fees may not be charged unless the total amount of the fees calculated in accordance with Schedule B, excluding the initial fee, exceeds \$150.00.

(5) Where the amount of the fees calculated in accordance with Schedule B, excluding the initial fee, exceeds \$150.00, the total amount of the fees is to be charged.

(6) A fee may not be charged for the time spent in reviewing a record, except for the time spent in reviewing the record in order to identify information that the public body is required to refuse to disclose in accordance with the Act. R-007-2015,s.6.

Fees for Personal Information

12. (1) This section applies to a request for access to a record that is a record of the personal information of the applicant.

(2) The only fees that may be charged for the processing of a request for personal information relating to the applicant are fees for copying a record as set out in item 6 of Schedule B.

(3) Where the amount of the fees does not exceed \$25.00, no fee is to be charged.

(4) Where the amount of the fees exceeds \$25.00, the total amount is to be charged.

Payment of Fees

13. (1) The public body shall cease processing a request once a notice of the estimate of fees has been forwarded to an applicant and shall recommence the processing of the request without delay on

- (a) the receipt of an agreement to pay the fees; and
- (b) the receipt of at least 50% of any estimated fee that exceeds \$150.00.

(2) The balance of any fees owing must be paid before the information is delivered to the applicant.

(3) An applicant shall be charged the lesser of

- (a) the amount of the estimate of fees provided under subsection 50(2) of the Act; and
- (b) the actual fees calculated in accordance with Schedule B.

(4) Where an applicant has paid an amount exceeding the actual fees required to be paid, the excess amount will be refunded if it exceeds \$10.00. R-007-2015,s.7.

Waiver of Fees

14. The head of a public body may excuse the applicant from paying all or part of a fee if, in the opinion of the head, the applicant cannot afford the payment or, for any other reason, it is fair to excuse payment.

15. These regulations come into force on December 31, 1996.

SCHEDULE A

*(Subsections 1(2) and (3))***COLUMN I****COLUMN II****PUBLIC BODY****HEAD**

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|---|--|
| 1. Apprenticeship, Trade and Occupations Certification Board established under the <i>Apprenticeship, Trade and Occupations Certification Act</i> | Minister of Family Services |
| 2. Labour Standards Board established under the <i>Labour Standards Act</i> | Minister Responsible for Labour |
| 3. Legal Services Board of Nunavut established under the <i>Legal Services Act</i> | Minister of Justice |
| 4. Liquor Commission established under the <i>Liquor Act</i> | Minister Responsible for the Liquor Commission |
| 5. Liquor Licensing Board established under the <i>Liquor Act</i> | Minister Responsible for the Liquor Licencing Board |
| 6. Nunavut Arctic College as continued by the <i>Nunavut Arctic College Act</i> | Minister Responsible for Nunavut Arctic College |
| 7. Nunavut Business Credit Corporation established under the <i>Nunavut Business Credit Corporation Act</i> | Minister of Economic Development and Transportation |
| 8. Nunavut Development Corporation established under the <i>Nunavut Development Corporation Act</i> | Minister of Economic Development and Transportation |
| 9. Nunavut Housing Corporation continued by the <i>Nunavut Housing Corporation Act</i> | Minister Responsible for the Nunavut Housing Corporation |
| 10. Nunavut Power Corporation established under the <i>Qulliq Energy Corporation Act</i> | Minister Responsible for Qulliq Energy Corporation |
| 11. Qulliq Energy Corporation established under the <i>Qulliq Energy Corporation Act</i> | Minister Responsible for Qulliq Energy Corporation |
| 12. Public Records Committee, established under the <i>Archives Act</i> | Minister of Culture and Heritage |

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| 13. Qullit Nunavut Status of Women Council continued by the <i>Qullit Nunavut Status of Women Council Act</i> | Minister Responsible for the Status of Women |
| 14. Victims Assistance Committee established under the <i>Victims of Crime Act</i> | Minister of Justice |
| 15. Workers' Safety and Compensation Commission, continued by the <i>Workers' Compensation Act</i> | Minister responsible for the Workers' Safety and Compensation Commission |

R-131-98,s.4; R-007-2004,s.2; R-019-2007,s.2,3,4; R-004-2009,s.1;
S.Nu. 2011,c.27,s.15; R-007-2015,s.8.

SCHEDULE B *(Subsections 11(4), (5),
12(2), 13(3))*

MAXIMUM FEES

The amount of the fees set out in this Schedule are the maximum amounts that can be charged to applicants.

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| 1. For searching for and retrieving a record | \$6.75 per 1/4 hour |
| 2. For producing a record from an electronic record: | |
| (a) computer processing and related charges | actual amount charged to public body |
| (b) computer programming | \$10.00 per 1/4 hour |
| 3. For reviewing, preparing and handling a record for disclosure | \$6.75 per 1/4 hour |
| 4. For supervising the examination of a record | \$6.75 per 1/4 hour |
| 5. For shipping a record or a copy of a record | actual amount charged to public body |
| 6. For copying a record: | |
| (a) photocopies, hard copy laser print and computer printouts | \$0.25 per page |
| (b) repealed, R-007-2015,s.9(b) | |
| (c) repealed, R-007-2015,s.9(b) | |
| (d) repealed, R-007-2015,s.9(b) | |
| (e) repealed, R-007-2015,s.9(b) | |
| (f) repealed, R-007-2015,s.9(b) | |
| (g) repealed, R-007-2015,s.9(b) | |
| (h) repealed, R-007-2015,s.9(b) | |
| (i) plans and blueprints | \$5.00 per sq. m |
| (j) duplication of slide | \$2.00 per slide |
| (k) duplication of audio cassette | \$5.00 per tape |
| (l) duplication of video cassette (1/4", 1/2" or 8mm - 1 hour) | \$20.00 per tape |
| (m) duplication of video cassette (1/4", 1/2" or 8mm - 2 hours) | \$25.00 per tape |
| (n) duplication of video cassette (3/4" - 30 minutes) | \$18.00 per tape |
| (o) duplication of video cassette (3/4" - 1 hour) | \$23.00 per tape |

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| (p) | any other media not listed above, including copying any type of record to such other media | actual amount charged to public body, including cost of media |
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R-007-2015,s.9.