The AccessPrivacy by Osler team has prepared the following document, which outlines changes Bill C-36 (*An Act to enact the Protecting Privacy and Consumer Data Act, to amend the Personal Information Protection and Electronic Documents Act and to make amendments to other Acts*) made to the private sector privacy law framework proposed by the former Bill C-27 (*The Digital Charter Implementation Act, 2022*, as at first reading). Changes in the 2026 proposal are set out in red, below.

Please note: this PDF is for informational purposes only and is not an official government document.

Protecting Privacy and Consumer ~~Privacy Protection~~Data Act

~~2~~1 Enactment of Act
An Act to support and promote ~~electronic~~digital commerce by protecting personal information that is collected, used or disclosed in the course of commercial activities

Short Title
1 *Protecting Privacy and Consumer ~~Privacy Protection~~Data Act*

Interpretation
2 Definitions
3 Order designating Minister
4 Authorized representatives

Purpose and Application
5 Purpose
6 Application

PART 1
Obligations of Organizations

Accountability of Organizations
7 Accountability — personal information under organization's control
8 Designated individual
9 Privacy management program
10 Access — privacy management program
11 Same protection

Appropriate Purposes
12 Appropriate purposes

Limiting Collection, Use and Disclosure
13 Limiting collection
14 New purpose

Consent
15 Consent required
16 Consent obtained by deception

17 Withdrawal of consent

Exceptions to Requirement for Consent

Business ~~Operations~~Activities
18 Business activities
19 Transfer to service provider
20 De-identification ~~of personal information~~or anonymization
21 Research, analysis and development
22 Prospective business transaction
23 Information produced in employment, business or profession
24 Employment relationship — federal work, undertaking or business
25 Disclosure to lawyer or notary
26 Witness statement
27 Prevention, detection or suppression of fraud
28 Debt collection

Public Interest
29 Individual's interest
30 Emergency — use
31 Emergency — disclosure
32 Identification of individual
33 Communication with next of kin or authorized representative
34 Financial abuse
35 ~~Statistics, study or research~~
~~36~~Records of ~~historic~~historical or archival importance
~~37~~36 Disclosure after period of time
~~38~~37 Journalistic, artistic or literary purposes
~~39Socially beneficial purposes~~

Investigations
~~40~~38 Breach of agreement or contravention
~~41~~39 Use for investigations
~~42~~40 Breach of security safeguards
41 *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*

Disclosures to Government Institutions
~~43~~42 Administering law — request of government institution
~~44~~43 Law enforcement — request of government institution
~~45~~44 Contravention of law — initiative of organization
~~46~~45 *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*
46 National security, defence or international affairs — request by government institution
47 National security, defence or international affairs — ~~request by government institution~~
~~48National security, defence or international affairs —~~initiative of organization

Required by Law
~~49~~48 Required by law — collection
~~50~~49 Subpoena, warrant or order

Publicly Available Information
~~51~~50 Information specified by regulations

Non-application of Certain Exceptions — Electronic Addresses and Computer Systems
~~52~~51 Definitions

Retention and Disposal of Personal Information
~~53~~52 Period for retention and disposal
~~54~~53 Personal information used for decision-making
~~55~~54 Disposal at individual's request

Accuracy of Personal Information
~~56~~55 Accuracy of information

Security Safeguards
~~57~~56 Security safeguards
57 Disclosure or transfer outside of Canada
58 Report to ~~Commissioner~~Commission
59 Notification to organizations
60 Records
61 Service providers

Openness and Transparency
62 Policies and practices

Access to and Amendment of Personal Information
63 Information and access
64 Request in writing
65 Information to be provided
66 Plain language
67 Time limit
68 Costs for responding
69 Retention of information
70 When access prohibited
71 Amendment of personal information

Mobility of Personal Information
72 ~~Disclosure under data~~Data mobility framework

Challenging Compliance
73 Complaints and requests for information

De-identification of Personal Information
74 Proportionality of technical and administrative measures
75 Prohibition

PART 2

~~Commissioner's~~ Commission, Commissioner and Division

Commission
76 Powers, ~~Duties and Functions~~duties and ~~General Provisions~~functions
77 Factors to take into account
78 Information — powers, duties or functions
79 Agreements or arrangements — Minister
80 Agreements or arrangements — CRTC, Commissioner of Competition, etc.
81 Consultations with provinces
82 Disclosure of information to foreign state
83 Annual report
84 Delegation

Commissioner
85 Designation
86 Factors to take into account
87 Prohibition — use for initiating complaint or audit
88 Delegation

Division
89 Division established
90 Factors to take into account
91 Delegation

Codes of Practice and Certification Programs
~~76~~92 Definition of *entity*
~~77~~93 Certification program
~~78~~94 Response by ~~Commissioner~~Division
~~79~~95 Approval made public
~~80~~96 For greater certainty
~~81Powers of~~
Remedies
~~Commissioner~~

~~Recourses~~

Filing of Complaints
~~82~~97 Contravention

Investigation of Complaints and Dispute Resolution
~~83~~98 Investigation of complaint by Commissioner
~~84~~99 Exception
~~85~~100 Discontinuance
~~86~~101 Dispute resolution mechanisms

Compliance Agreements
~~87~~102 Entering into compliance agreement

~~Notification~~
~~88~~103 Effect of compliance agreement

Conclusion of Investigation, Penalties and Orders
104 Notification and reasons

~~Inquiry~~
~~89Inquiry —~~105 Complaint
106 Compliance agreement
107 Notice of contravention — investigation of a complaint
~~90Inquiry~~108 Notice of contravention — compliance agreement
~~91Nature of inquiries~~
~~92Rules~~
~~93~~109 Application for review
110 Decision

~~Administrative Monetary Penalties~~
~~94Recommendation~~
~~95Imposition of~~ 111 Inconsistent interests
112 Rules
113 Penalty
114 Maximum penalty
~~96Recovery as debt~~115 Purpose of penalty
116 Debt due to ~~Her~~His Majesty
117 Certificate of default

Audits
~~97~~118 Ensure compliance
~~98~~119 Report ~~of findings~~
120 Commissioner's report and recommendations

~~Commissioner's~~ Powers of the Commission and Commissioner — Investigations, ~~Inquiries and~~ Audits and Proceedings
~~99~~121 Interim order
122 Powers of Commissioner
~~100Delegation~~
123 Representations
124 Inconsistent interests
125 Rules

Appeals
~~101~~126 Right of appeal
~~102~~127 Appeal with leave
~~103~~128 Disposition of appeals

Enforcement of Orders
~~104~~129 Compliance orders — notice of contravention
~~105Tribunal orders~~

~~106~~130 Filing with Court
131 Costs

Private Right of Action
~~107~~132 Damages — contravention of Act

Certificate Under Canada Evidence Act
~~108~~133 Certificate under *Canada Evidence Act*

~~Powers, Duties and Functions of Commissioner~~
~~109Factors to consider~~
~~110Promoting purposes of Act~~
~~111Prohibition — use for initiating complaint or audit~~
~~112Information — powers, duties or functions~~
~~113~~134 Security requirements
135 Confidentiality
~~114~~136 Not competent witness
~~115~~137 Protection of Commission, Commissioner and Division
~~116~~138 De-identified personal information
~~117Agreements or arrangements — Minister~~
~~118Agreements or arrangements — CRTC and Commissioner of Competition~~
~~119Consultations with provinces~~
~~120Disclosure of information to foreign state~~
~~121Annual report~~

General
~~122~~139 Regulations
~~123~~140 Data mobility frameworks
~~124~~141 Distinguishing — classes
~~125~~142 Regulations — codes of conduct and certification programs
~~126~~143 Whistleblowing
~~127~~144 Prohibition
~~128~~145 Offence and punishment
~~129~~146 Review by parliamentary committee

PART 3
Coming into Force
~~130~~147 Order in council

PART 1

Protecting Privacy and Consumer ~~**Privacy Protection**~~Data Act

Enactment of Act

~~**Enactment**~~

~~2~~1 **The *Protecting Privacy and Consumer ~~Privacy Protection~~Data Act*, whose text is as follows and whose schedule is set out in the schedule to this Act, is enacted:**

An Act to support and promote ~~electronic~~digital commerce by protecting personal information that is collected, used or disclosed in the course of commercial activities

Short Title

Short title

1 This Act may be cited as the *Protecting Privacy and Consumer ~~Privacy Protection~~Data Act*.

Interpretation

Definitions

2 (1) The following definitions apply in this Act.

alternative format, with respect to personal information, means a format that allows an individual with a sensory disability to read or listen to the personal information.~~(~~ (*support de substitution*)

anonymize means to irreversibly and permanently modify personal information~~, in accordance with generally accepted best practices,~~ to ensure that ~~no~~there is no reasonably foreseeable risk in the circumstances that an individual can be identified from the information, whether directly or indirectly, by any means.~~(~~ (*anonymiser*)

automated decision system means any technology that assists or replaces the judgment of human decision-makers through the use of a rules-based system, regression analysis, predictive analytics, machine learning, deep learning, a neural network or other technique.~~(~~ (*système décisionnel automatisé*)

breach of security safeguards means the loss of, unauthorized access to or unauthorized disclosure of personal information resulting from a breach of an organization's security safeguards that are referred to in section ~~57~~56 or from a failure to establish those safeguards.~~(~~ (*atteinte aux mesures de sécurité*)

business transaction includes

- **(a)** the purchase, sale or other acquisition or disposition of an organization or a part of an organization, or any of its assets;
- **(b)** the merger or amalgamation of two or more organizations;

- **(c)** the making of a loan or provision of other financing to an organization or a part of an organization;

- **(d)** the creating of a charge on, or the taking of a security interest in or a security on, any assets or securities of an organization;

- **(e)** the lease or licensing of any of an organization's assets; and

- **(f)** any other prescribed arrangement between two or more organizations to conduct a business activity.~~(~~ (*transaction commerciale*)

Chairperson means the Chairperson of the Commission, as designated under subsection 17(1) of the *Digital Safety and Data Protection Commission of Canada Act*. (*président*)

child means an individual who is under 18 years of age. (*enfant*)

commercial activity means any particular transaction, act or conduct or any regular course of conduct that is of a commercial character, including the selling, bartering or leasing of donor, membership or other fundraising lists.~~(~~ (*activité commerciale*)

Commission means the Digital Safety and Data Protection Commission of Canada referred to in section 4 of the *Digital Safety and Data Protection Commission of Canada Act*. (*Commission*)

Commissioner means the Privacy and Consumer Data Commissioner ~~appointed~~, as designated under ~~section 53 of the *Privacy Act*.~~ (subsection 85(1). (*commissaire*)

de-identify means to modify personal information so that an individual cannot be directly identified from it, ~~though~~although a risk of the individual being identified remains.~~(~~ (*dépersonnaliser*)

Division means the Privacy and Consumer Data Division established under section 89. (*Section*)

dispose means to permanently and irreversibly delete personal information or to anonymize it.~~(~~ (*retrait*)

federal work, undertaking or business means any work, undertaking or business that is within the legislative authority of Parliament. It includes

- **(a)** a work, undertaking or business that is operated or carried on for or in connection with navigation and shipping, whether inland or maritime, including the operation of ships and transportation by ship anywhere in Canada;

- **(b)** a railway, canal, telegraph or other work or undertaking that connects a province with another province, or that extends beyond the limits of a province;

- **(c)** a line of ships that connects a province with another province, or that extends beyond the limits of a province;

- **(d)** a ferry between a province and another province or between a province and a country other than Canada;

- **(e)** aerodromes, aircraft or a line of air transportation;
- **(f)** a radio broadcasting station;
- **(g)** a *bank* or an *authorized foreign bank* as those terms are defined in section 2 of the *Bank Act*;
- **(h)** a work that, although wholly situated within a province, is before or after its execution declared by Parliament to be for the general advantage of Canada or for the advantage of two or more provinces;
- **(i)** a work, undertaking or business outside the exclusive legislative authority of the legislatures of the provinces; and
- **(j)** a work, undertaking or business to which *federal laws*, ~~within the meaning of~~as defined in section 2 of the *Oceans Act*, apply under section 20 of that Act and any regulations made under paragraph 26(1)(k) of that Act.~~(~~ (*entreprises fédérales*)

Minister means the member of the ~~Queen's~~King's Privy Council for Canada designated under section 3 or, if no member is designated, the Minister of Industry.~~(~~ (*ministre*)

organization includes an association, a partnership, a person or a trade union.~~(~~ (*organisation*)

personal information means information about an identifiable individual~~.~~ ~~(~~, including information that is inferred about the individual. (*renseignement personnel*)

prescribed means prescribed by regulation.~~(~~ (*Version anglaise seulement*)

record means any documentary material, regardless of medium or form.~~(~~ (*document*)

sensitive describes personal information in respect of which, taking into account the circumstances, an individual has a heightened expectation of privacy, including, as the case may be, a child's personal information, personal information revealing an individual's racial or ethnic origin, political opinions or religious or philosophical beliefs, an individual's trade union membership, genetic information or health information, biometric information that is capable of uniquely identifying the individual or information concerning an individual's sexual orientation. (*caractère sensible*)

service provider means an organization, including a parent corporation, subsidiary, affiliate, contractor or subcontractor, that provides services for or on behalf of another organization to assist the organization in fulfilling its purposes.~~(~~ (*fournisseur de services*)

~~***Tribunal***means the Personal Information and Data Protection Tribunal established under section 4 of the *Personal Information and Data Protection Tribunal Act*. (*Tribunal*)~~

~~**Interpretation — minors**~~

~~**(2)**For the purposes of this Act, the personal information of minors is considered to be sensitive information.~~

Interpretation — de-identified personal information

~~(3)For the purposes of this Act, other than sections 20 and 21, subsections 22(1) and 39(1), sections 55 and 56, subsection 63(1) and sections 71, 72, 74, 75 and 116,~~ **(2)** For greater certainty, de-identified personal information ~~that has been de-identified is considered~~does not cease to be personal information.

Order designating Minister

3 The Governor in Council may, by order, designate any member of the ~~Queen's~~King's Privy Council for Canada to be the Minister for the purposes of this Act.

Authorized representatives

4 The rights ~~and recourses~~ provided for under this Act, including any right of recourse, may be exercised

- **(a)** on behalf of a ~~minor~~child, by a parent, guardian or tutor, unless the ~~minor~~child wishes to personally exercise those rights and ~~recourses and~~ is capable of doing so;
- **(b)** on behalf of an individual, other than a ~~minor~~child, under a legal incapacity, by a person authorized by law to administer the affairs or property of that individual; ~~and~~
- **(c)** on behalf of a deceased individual, by a person authorized by law to administer the estate or succession of that individual, but only for the purpose of that administration~~.~~; and
- **(d)** on behalf of any other individual, by a person authorized in writing by that individual to do so.

Purpose and Application

Purpose

5 The purpose of this Act is to establish — in an era in which data is constantly flowing across borders and geographical boundaries and significant economic activity relies on the analysis, circulation and exchange of personal information — rules to govern the protection of personal information in a manner that recognizes the fundamental right of privacy of individuals with respect to their personal information and the need of organizations to collect, use or disclose personal information for purposes that a reasonable person would consider appropriate in the circumstances.

Application

6 (1) This Act applies to every organization in respect of personal information that

- **(a)** the organization collects, uses or discloses in the course of commercial activities; or
- **(b)** is about an employee of, or an applicant for employment with, the organization and that the organization collects, uses or discloses in connection with the operation of a federal work, undertaking or business.

For greater certainty

(2) For greater certainty, this Act applies in respect of personal information

- **(a)** that is collected, used or disclosed interprovincially or internationally by an organization; or

- **(b)** that is collected, used or disclosed by an organization within a province, to the extent that the organization is not exempt from the application of this Act under an order made under paragraph ~~122~~139(2)(b).

Application

(3) This Act also applies to an organization set out in column 1 of the schedule in respect of personal information set out in column 2.

Non-application

~~**Limit**~~

(4) This Act does not apply to

- **(a)** any government institution to which the *Privacy Act* applies;

- **(b)** any individual in respect of personal information that the individual collects, uses or discloses solely for personal or domestic purposes;

- **(c)** any organization in respect of personal information that the organization collects, uses or discloses solely for journalistic, artistic or literary purposes;

- **(d)** any organization in respect of an individual's personal information that the organization collects, uses or discloses solely for the purpose of communicating or facilitating communication with the individual in relation to their employment, business or profession; or

- **(e)** any organization that is, under an order made under paragraph ~~122~~139(2)(b), exempt from the application of this Act in respect of the collection, use or disclosure of personal information that occurs within a province in respect of which the order was made.

For greater certainty

(5) For greater certainty, this Act does not apply in respect of ~~personal~~anonymized information ~~that has been anonymized~~.

Other Acts

(6) Every provision of this Act applies despite any provision, enacted after December 31, 2000, of any other Act of Parliament, unless the other Act expressly declares that that provision operates despite the provision of this Act.

PART 1

Obligations of Organizations

Accountability of Organizations

Accountability — personal information under organization's control

7 (1) An organization is accountable for personal information that is under its control.

Personal information under organization's control ~~of organization~~

(2) Personal information is under the control of the organization that decides to collect it and that determines the purposes for its collection, use or disclosure, regardless of whether the information is collected, used or disclosed by the organization itself or by a service provider on behalf of the organization.

Designated individual

8 (1) An organization must designate one or more individuals to be responsible for matters related to its obligations under this Act. It must provide the designated individual's business contact information to any person who requests it.

Effect of designation of individual

(2) The designation of an individual under subsection (1) does not relieve the organization of its obligations under this Act.

Privacy management program

9 (1) Every organization must implement and maintain a privacy management program that includes the policies, practices and procedures the organization has put in place to fulfill its obligations under this Act, including policies, practices and procedures respecting

- **(a)** the protection of personal information;
- **(b)** how requests for information and complaints are received and dealt with;
- **(c)** the training and information provided to the organization's staff respecting its policies, practices and procedures; and
- **(d)** the development of materials to explain the organization's policies and procedures.

Volume and sensitivity

(2) In developing its privacy management program, the organization must take into account the volume ~~and sensitivity~~ of ~~the~~ personal information under its control and the sensitivity of that information.

Access — privacy management program

10 (1) An organization must, on request~~ of the Commissioner~~, provide the ~~Commissioner~~Commission with access to the policies, practices and procedures that are included in its privacy management program.

Guidance and corrective measures

(2) The ~~Commissioner~~Commission may, after reviewing the policies, practices and procedures, provide guidance on, or recommend that corrective measures be taken by the organization in relation to, its privacy management program.

Same protection

11 (1) If an organization transfers personal information to a service provider, the organization must ensure, by contract or otherwise, that the service provider provides a level of protection in respect of the personal information equivalent to that which the organization is required to provide under this Act.

Service provider obligations

(2) The obligations under this Part, other than those set out in sections ~~57~~56 and 61, do not apply to a service provider in respect of personal information that is transferred to it. However, the service provider is subject to all of the obligations under this Part if it collects, uses or discloses that information for any purpose other than the purposes for which the information was transferred to it.

Appropriate Purposes

Appropriate purposes

12 (1) An organization may collect, use or disclose personal information only in a manner and for purposes that a reasonable person would consider appropriate in the circumstances, whether or not consent is required under this Act.

Factors to ~~consider~~take into account

(2) ~~The following~~All relevant factors must be taken into account in determining whether the manner and purposes referred to in subsection (1) are appropriate~~:~~, including, if applicable

- **(a)** the sensitivity of the personal information;
- **(b)** whether the purposes represent legitimate business needs of the organization;
- **(c)** the degree of effectiveness of the collection, use or disclosure in meeting the organization's legitimate business needs;
- **(d)** whether there are less intrusive means of achieving those purposes at a comparable cost and with comparable benefits; and

- **(e)** whether the individual's loss of privacy is proportionate to the benefits in light of the measures, technical or otherwise, implemented by the organization to mitigate the impacts of the loss of privacy on the individual.

Purposes

(3) ~~An~~The organization must determine at or before the time of the collection of any personal information each of the purposes for which the information is or is to be collected, used or disclosed and record those purposes.

New purpose

(4) If the organization determines that the personal information it has collected is to be used or disclosed for a new purpose, the organization must record that new purpose before using or disclosing that information for the new purpose.

Limiting Collection, Use and Disclosure

Limiting collection

13 ~~The~~An organization may collect only the personal information that is necessary for the purposes determined and recorded under subsection 12(3).

New purpose

14 (1) An organization must not use or disclose personal information for a purpose other than a purpose determined and recorded under subsection 12(3), unless the organization obtains the individual's valid consent before any use or disclosure for that other purpose.

Use or disclosure — other purposes

(2) Despite subsection (1), an organization may

- **(a)** use personal information for a purpose other than a purpose determined and recorded under subsection 12(3) in any of the circumstances set out in sections 18, 20 and 21, subsections 22(1) and (3) and sections 23, 24, 26, 30, ~~41~~39 and ~~51~~50; or

- **(b)** disclose personal information for a purpose other than a purpose determined and recorded under subsection 12(3) in any of the circumstances set out in section 18, subsections 22(1) and (3), sections 23 to 28~~,~~ and 31 to ~~37 and 39~~36, subsection ~~40~~38(3) and sections ~~42 and 43~~40 to ~~51~~50.

Consent

Consent required

15 (1) Unless this Act provides otherwise, an organization must obtain an individual's valid consent for the collection, use or disclosure of the individual's personal information.

Timing of consent

(2) The individual's consent must be obtained at or before the time of the collection of the personal information or, if the information is to be used or disclosed for a purpose other than a purpose determined and recorded under subsection 12(3), before any use or disclosure of the information for that other purpose.

Information for consent to be valid

(3) The individual's consent is valid only if, at or before the time that the organization seeks the individual's consent, ~~it~~the organization provides the individual with the following information:

- **(a)** the purposes for the collection, use or disclosure of the personal information determined by the organization and recorded under subsection 12(3) or (4);
- **(b)** the manner in which the personal information is to be collected, used or disclosed;
- **(c)** any reasonably foreseeable consequences of the collection, use or disclosure of the personal information;
- **(d)** the specific type of personal information that is to be collected, used or disclosed; and
- **(e)** the names of any third parties or types of third parties to which the organization may disclose the personal information.

Plain language

(4) The organization must provide the information referred to in subsection (3) in plain language that an individual to whom the organization's activities are directed would reasonably be expected to understand.

Form of consent

(5) Consent must be expressly obtained unless, subject to subsection (6), it is appropriate to rely on an individual's implied consent, taking into account the reasonable expectations of the individual and the sensitivity of the personal information that is to be collected, used or disclosed.

Business activities

(6) It is not appropriate to rely on an individual's implied consent if their personal information is collected or used for an activity described in subsection 18(2) or if it is collected, used or disclosed for an activity described in subsection 18(3).

Consent — provision of product or service

(7) The organization must not, as a condition of the provision of a product or service, require an individual to consent to the collection, use or disclosure of their personal information beyond what is necessary to provide the product or service.

Consent obtained by deception

16 An organization must not obtain or attempt to obtain an individual's consent by providing false or misleading information or using deceptive or ~~misleadingpractices.~~misleading practices. Any consent obtained under those circumstances is invalid.

Withdrawal of consent

17 (1) On giving reasonable notice to an organization, an individual may, at any time, subject to this Act, to federal or provincial law or to the reasonable terms of a contract, withdraw their consent in whole or in part.

Collection, use or disclosure to cease

(2) On receiving the notice from the individual, the organization must inform the individual of the consequences of the withdrawal of their consent and, as soon as feasible after that, cease the collection, use or disclosure of the individual's personal information in respect of which the consent was withdrawn.

Exceptions to Requirement for Consent

Business ~~Operations~~Activities

Business activities

18 (1) An organization may collect or use an individual's personal information without their knowledge or consent if the collection or use is made for the purpose of a business activity described in subsection (2) and

- **(a)** a reasonable person would expect the collection or use for such an activity; and
- **(b)** the personal information is not collected or used for the purpose of influencing the individual's behaviour or decisions.

List of activities

(2) Subject to the regulations, the following activities are business activities for the ~~purpose~~purposes of subsection (1):

- **(a)** an activity that is necessary to provide a product or service that the individual has requested from the organization;
- **(b)** an activity that is necessary for the security of the organization's information, ~~systems~~systems or ~~network security~~networks;
- **(c)** an activity that is necessary for the safety of a product or service that the organization provides; and
- **(d)** any other prescribed activity.

Legitimate interest

(3) An organization may collect, use or ~~use~~disclose an individual's personal information without their knowledge or consent if the collection, use or ~~use~~disclosure is made for the purpose of an activity in which the organization has a legitimate interest that outweighs any ~~potential~~reasonably foreseeable adverse effect on the individual ~~resulting~~that could result from that collection, use or ~~use~~disclosure and

- **(a)** a reasonable person would expect the collection ~~or~~, use or disclosure for such an activity; and

- **(b)** the personal information is not collected, used or ~~used~~disclosed for the purpose of influencing the individual's behaviour or decisions.

Conditions precedent

(4) ~~Prior to~~Before collecting, using or ~~using~~disclosing personal information under subsection (3), the organization must

- **(a)** identify and describe its legitimate interest in the proposed activity;

- **(b)** carry out, in accordance with the prescribed requirements, a privacy impact assessment in which the organization must identify any ~~potential~~reasonably foreseeable adverse effect on the individual that is likely to result from the collection, use or ~~use~~disclosure;

- **(~~b~~c)** identify and take reasonable measures to reduce the likelihood that the effects will occur or to mitigate or eliminate them; and

- **(~~c~~d)** comply with any prescribed requirements.

Record ~~of assessment~~

(5) The organization must record the description of its ~~assessment of how it meets the conditions set out in subsection (4)~~legitimate interest and must, on request, provide the Commission with access to, or a copy of ~~the assessment to~~, the ~~Commissioner~~description and assessment.

Transfer to service provider

19 An organization may transfer an individual's personal information to a service provider without their knowledge or consent.

De-identification ~~of personal information~~or anonymization

20 An organization may use an individual's personal information without their knowledge or consent to de-identify or anonymize the information.

Research, analysis and development

21 An organization may use an individual's personal information without their knowledge or consent for the organization's internal research, analysis and development purposes~~,~~ if the information is de-identified before it is used.

Prospective business transaction

22 (1) Organizations that are parties to a prospective business transaction may use and disclose an individual's personal information without their knowledge or consent if

- **(a)** the information is de-identified before it is used or disclosed and remains so until the transaction is completed;
- **(b)** the organizations have entered into an agreement that requires the organization that receives the information
    - **(i)** to use and disclose that information solely for purposes related to the transaction,
    - **(ii)** to protect the information by security safeguards proportionate to the sensitivity of the information, and
    - **(iii)** if the transaction does not proceed, to return the information to the organization that disclosed it, or dispose of it, within a reasonable time;
- **(c)** the organizations comply with the terms of that agreement; and
- **(d)** the information is necessary
    - **(i)** to determine whether to proceed with the transaction, and
    - **(ii)** if the determination is made to proceed with the transaction, to complete it.

Exception — paragraph (1)(a)

(2) The requirement referred to in paragraph (1)(a) does not apply if it would undermine the objectives for carrying out the transaction and the organization has taken into account the risk of harm to the individual that could result from using or disclosing the information.

Completed business transaction

(3) If the business transaction is completed, the organizations that are parties to the transaction may use and disclose the personal information referred to in subsection (1) without the individual's knowledge or consent if

- **(a)** the organizations have entered into an agreement that requires each of them
    - **(i)** to use and disclose the information under its control solely for the purposes for which the information was collected or permitted to be used or disclosed before the transaction was completed,
    - **(ii)** to protect that information by security safeguards proportionate to the sensitivity of the information, and
    - **(iii)** to give effect to any withdrawal of consent made under subsection 17(1);

- **(b)** the organizations comply with the terms of that agreement;

- **(c)** the information is necessary for carrying on the business or activity that was the object of the transaction; and

- **(d)** one of the parties notifies the individual, within a reasonable time after the transaction is completed, that the transaction has been completed and that their information has been disclosed under subsection (1).

Exception

(4) Subsections (1) and (3) do not apply to a business transaction of which the primary purpose or result is the purchase, sale or other acquisition or disposition, or lease, of personal information.

Information produced in employment, business or profession

23 An organization may collect, use or disclose an individual's personal information without their knowledge or consent if it was produced by the individual in the course of their employment, business or profession and the collection, use or disclosure is consistent with the purposes for which the information was produced.

Employment relationship — federal work, undertaking or business

24 An organization that operates a federal work, undertaking or business may collect, use or disclose an individual's personal information without their consent if

- **(a)** the collection, use or disclosure is necessary to establish, manage or terminate an employment relationship between the organization and the individual in connection with the operation of a federal work, undertaking or business; and

- **(b)** the organization has informed the individual that the personal information will be or may be collected, used or disclosed for those purposes.

Disclosure to lawyer or notary

25 An organization may disclose an individual's personal information without their knowledge or consent to a lawyer or, in Quebec, a lawyer or notary, who is representing the organization.

Witness statement

26 An organization may collect, use or disclose an individual's personal information without their knowledge or consent if the information is contained in a witness statement and the collection, use or disclosure is necessary to assess, process or settle an insurance claim.

Prevention, detection or suppression of fraud

27 (1) An organization may disclose an individual's personal information to another organization without the individual's knowledge or consent if the disclosure is reasonable for the ~~purposes~~purpose of detecting or suppressing fraud or of preventing fraud that is likely to be

committed and it is reasonable to expect that the disclosure with the individual's knowledge or consent would compromise the ability to prevent, detect or suppress the fraud.

Collection or use

(2) An organization may collect or use an individual's personal information without their knowledge or consent if the information was disclosed to it under subsection (1).

Debt collection

28 An organization may disclose an individual's personal information without their knowledge or consent for the purpose of collecting a debt owed by the individual to the organization.

Public Interest

Individual's interest

29 (1) An organization may collect an individual's personal information without their knowledge or consent if the collection is clearly in the interests of the individual and consent cannot be obtained in a timely way.

Use

(2) An organization may use an individual's personal information without their knowledge or consent if the information was collected under subsection (1).

Emergency — use

30 An organization may use an individual's personal information without their knowledge or consent for the purpose of acting in respect of an emergency that threatens the life, health or security of any individual.

Emergency — disclosure

31 An organization may disclose an individual's personal information without their knowledge or consent to a person who needs the information because of an emergency that threatens the life, health or security of any individual. If the individual whom the information is about is alive, the organization must ~~inform that individual,~~ in writing and without delay, inform that individual of the disclosure.

Identification of individual

32 An organization may disclose an individual's personal information without their knowledge or consent if the disclosure is necessary to identify the individual who is injured, ill or deceased and is made to a government institution, a part of a government institution or the individual's next of kin or authorized representative. If the individual is alive, the organization must ~~inform them,~~ in writing and without delay, inform them of the disclosure.

Communication with next of kin or authorized representative

33 An organization may disclose an individual's personal information without their knowledge or consent to a government institution or part of a government institution that has made a request for the information, identified its lawful authority to obtain the information and indicated that the disclosure is requested for the purpose of communicating with the next of kin or authorized representative of an injured, ill or deceased individual.

Financial abuse

34 An organization may on its own initiative disclose an individual's personal information without their knowledge or consent to a government institution, a part of a government institution or the individual's next of kin or authorized representative if

- **(a)** the organization has reasonable grounds to believe that the individual has been, is or may be the victim of financial abuse;
- **(b)** the disclosure is made solely for purposes related to preventing or investigating the abuse; and
- **(c)** it is reasonable to expect that disclosure with the knowledge or consent of the individual would compromise the ability to prevent or investigate the abuse.

~~**Statistics, study or research**~~

Records of historical or archival importance

35 An organization may disclose an individual's personal information without their knowledge or consent ~~if~~to an institution whose functions include the conservation of records of historical or archival importance, if the disclosure is made for the purpose of such conservation.

Disclosure after period of time

- ~~**(a)**the disclosure is made for statistical purposes or for study or research purposes and those purposes cannot be achieved without disclosing the information;~~
- ~~**(b)**it is impracticable to obtain consent; and~~
- ~~**(c)**the organization informs the Commissioner of the disclosure before the information is disclosed.~~

~~**Records of historic or archival importance**~~

36 An organization may disclose an individual's personal information without their knowledge or consent ~~to an institution whose functions include the conservation of records of historic or archival importance, if the disclosure is made for the purpose of such conservation.~~

~~**Disclosure after period of time**~~

~~**37**An organization may disclose an individual's personal information without their knowledge or consent~~ after the earlier of

- **(a)** 100 years after the record containing the information was created, and
- **(b)** 20 years after the death of the individual.

Journalistic, artistic or literary purposes

~~38~~37 An organization may collect an individual's personal information without their knowledge or consent if the collection is solely for journalistic, artistic or literary purposes.

~~**Socially beneficial purposes**~~

~~**39(1)**An organization may disclose an individual's personal information without their knowledge or consent if~~

- ~~**(a)**the personal information is de-identified before the disclosure is made;~~
- ~~**(b)**the disclosure is made to~~
  - ~~**(i)**a government institution or part of a government institution in Canada,~~
  - ~~**(ii)**a health care institution, post-secondary educational institution or public library in Canada,~~
  - ~~**(iii)**any organization that is mandated, under a federal or provincial law or by contract with a government institution or part of a government institution in Canada, to carry out a socially beneficial purpose, or~~
  - ~~**(iv)**any other prescribed entity; and~~
- ~~**(c)**the disclosure is made for a socially beneficial purpose.~~

~~**Definition of *socially beneficial purpose***~~

~~**(2)**For the purpose of this section, ***socially beneficial purpose*** means a purpose related to health, the provision or improvement of public amenities or infrastructure, the protection of the environment or any other prescribed purpose.~~

Investigations

Breach of agreement or contravention

~~40~~38 **(1)** An organization may collect an individual's personal information without their knowledge or consent if it is reasonable to expect that the collection with their knowledge or consent would compromise the availability or the accuracy of the information and the collection is ~~reasonable~~reasonably made for ~~purposes~~a purpose related to investigating a breach of an agreement or a contravention of federal or provincial law.

Use

(2) An organization may use an individual's personal information without their knowledge or consent if the information was collected under subsection (1).

Disclosure

(3) An organization may disclose an individual's personal information without their knowledge or consent if the disclosure is reasonably made to another organization ~~and is reasonable~~ for ~~the purposes of~~a purpose related to investigating a breach of an agreement or a contravention of federal or provincial law that has been, is being or is about to be committed and it is reasonable to expect that disclosure with the individual's knowledge or consent ~~of the individual~~ would compromise the investigation.

Use for investigations

~~41~~**39** An organization may use an individual's personal information without their knowledge or consent if, in the course of its activities, the organization becomes aware of information that it has reasonable grounds to believe could be useful in the investigation of a contravention of federal or provincial law or a law of a foreign jurisdiction that has been, is being or is about to be committed and the information is used for the purpose of investigating that contravention.

Breach of security safeguards

~~42~~**40** An organization may disclose an individual's personal information without their knowledge or consent if

- **(a)** the disclosure is made to the other organization, government institution or part of a government institution that was notified of a breach under subsection 59(1); and
- **(b)** the disclosure is made solely for the ~~purposes~~purpose of reducing the risk of harm to the individual that could result from the breach or mitigating that harm.

Proceeds of Crime (Money Laundering) and Terrorist Financing Act

41 (1) An organization may disclose an individual's personal information without their knowledge or consent to another organization under subsection 11.01(1) of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*.

Collection

(2) An organization may collect an individual's personal information without their knowledge or consent if the personal information is disclosed to it under subsection (1).

Use

(3) An organization may use an individual's personal information without their knowledge or consent if it was collected under subsection (2).

Disclosures to Government Institutions

Administering law — request of government institution

42 An organization may disclose an individual's personal information without their knowledge or consent to a government institution or part of a government institution that has made a request for

the information, identified its lawful authority to obtain the information and indicated that the disclosure is requested for the purpose of administering federal or provincial law.

Law enforcement — request of government institution

43 An organization may disclose an individual's personal information without their knowledge or consent to a government institution or part of a government institution that has made a request for the information, identified its lawful authority to obtain the information and indicated that the disclosure is requested for the purpose of ~~administering federal or provincial law.~~

~~**Law enforcement — request of government institution**~~

~~**44**An organization may disclose an individual's personal information without their knowledge or consent to a government institution or part of a government institution that has made a request for the information, identified its lawful authority to obtain the information and indicated that the disclosure is requested for the purpose of~~ enforcing federal or provincial law or the law of a foreign jurisdiction, carrying out an investigation relating to the enforcement of any such law or gathering intelligence for the purpose of enforcing any such law.

Contravention of law — initiative of organization

~~**45**~~**44** An organization may on its own initiative disclose an individual's personal information without their knowledge or consent to a government institution or a part of a government institution if the organization has reasonable grounds to believe that the information relates to a contravention of federal or provincial law or the law of a foreign jurisdiction that has been, is being or is about to be committed.

Proceeds of Crime (Money Laundering) and Terrorist Financing Act

~~**45*Proceeds of Crime (Money Laundering) and Terrorist Financing Act***~~

~~**46**~~ An organization may disclose an individual's personal information without their knowledge or consent to the government institution referred to in section 7 of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* as required by that section.

National security, defence or international affairs — request by government institution

~~**47**~~**46** **(1)** An organization may disclose an individual's personal information without their knowledge or consent to a government institution or part of a government institution that has made a request for the information, identified its lawful authority to obtain the information and indicated that it suspects that the information relates to national security, the defence of Canada or the conduct of international affairs.

Collection

(2) An organization may collect an individual's personal information without their knowledge or consent for the purpose of making a disclosure under subsection (1).

Use

(3) An organization may use an individual's personal information without their knowledge or consent if it was collected under subsection (2).

National security, defence or international affairs — initiative of organization

~~48~~47 **(1)** An organization may on its own initiative disclose an individual's personal information without their knowledge or consent to a government institution or a part of a government institution if the organization suspects that the information relates to national security, the defence of Canada or the conduct of international affairs.

Collection

(2) An organization may collect an individual's personal information without their knowledge or consent for the purpose of making a disclosure under subsection (1).

Use

(3) An organization may use an individual's personal information without their knowledge or consent if it was collected under subsection (2).

Required by Law

Required by law — collection

~~49~~48 **(1)** An organization may collect an individual's personal information without their knowledge or consent for the purpose of making a disclosure that is required by law.

Use

(2) An organization may use an individual's personal information without their knowledge or consent if it was collected under subsection (1).

Disclosure

(3) An organization may disclose an individual's personal information without their knowledge or consent if the disclosure is required by law.

Subpoena, warrant or order

~~50~~49 An organization may disclose an individual's personal information without their knowledge or consent if the disclosure is required to comply with a subpoena or warrant issued or an order made by a court, person or body with jurisdiction to compel the production of information, or to comply with rules of procedure relating to the production of records.

Publicly Available Information

Information specified by regulations

~~51~~50 An organization may collect, use or disclose an individual's personal information without their knowledge or consent if the personal information is publicly available and is specified by the regulations.

Non-application of Certain Exceptions — Electronic Addresses and Computer Systems

Definitions

~~52~~51 **(1)** The following definitions apply in this section.

access means to program, execute programs on, communicate with, store data in, retrieve data from or otherwise make use of any resources, including data or programs of a computer system or a computer network.~~(~~ (*utiliser*)

computer program has the same meaning as in subsection 342.1(2) of the *Criminal Code*.~~(~~ (*programme d'ordinateur*)

computer system has the same meaning as in subsection 342.1(2) of the *Criminal Code*.~~(~~ (*ordinateur*)

electronic address means an address used in connection with

- **(a)** an electronic mail account;
- **(b)** an instant messaging account; or
- **(c)** any similar account.~~(~~ (*adresse électronique*)

Collection and use of electronic addresses

(2) An organization is not authorized under ~~any of sections~~section 18, 23 ~~and~~or 26, subsection 29(1) ~~and sections~~or section 30, ~~38, 41 and 51~~37, 39 or 50 to

- **(a)** collect an individual's electronic address without their knowledge or consent, if the address is collected by the use of a computer program that is designed or marketed primarily for use in generating or searching for, and collecting, electronic addresses; or
- **(b)** use an individual's electronic address without their knowledge or consent, if the address is collected by the use of a computer program described in paragraph (a).

~~**Accessing computer system to collect** **Collection and use of** **personal information~~~~, etc.~~**

(3) An organization is not authorized under ~~any of sections~~section 18, 23 ~~and~~or 26, subsection 29(1), ~~sections~~section 30 ~~and 38~~or 37, subsection ~~40~~38(1) ~~and sections 41 and 51~~or section 39 or 50 to

- **(a)** collect an individual's personal information without their knowledge or consent, through any means of telecommunication, if the information is collected by accessing a computer system or causing a computer system to be accessed in contravention of an Act of Parliament; or

- **(b)** use an individual's personal information without their knowledge or consent, if the information is collected in a manner described in paragraph (a).

Express consent

(4) Despite subsection 15(5), an organization is not to rely on an individual's implied consent in respect of any collection of personal information described in paragraph (2)(a) or (3)(a) or any use of personal information described in paragraph (2)(b) or (3)(b).

Retention and Disposal of Personal Information

Period for retention and disposal

~~53~~52 **(1)** An organization must not retain personal information for a period longer than necessary to

- **(a)** fulfill the purposes for which the information was collected, used or disclosed; or
- **(b)** comply with the requirements of this Act, of federal or provincial law or of the reasonable terms of a contract.

The organization must dispose of the information as soon as feasible after that period.

Sensitivity of personal information

(2) For the purposes of paragraph (1)(a), when determining the retention period, the organization must take into account the sensitivity of the information.

Personal information used for decision-making

~~54~~53 An organization that uses personal information to make a decision about an individual must retain the information for a sufficient period of time to permit the individual to make a request for access under section 63.

Disposal at individual's request

~~55~~54 **(1)** If an organization receives a written request from an individual to dispose of their personal information that is under the organization's control, the organization must, as soon as feasible, dispose of the information, if

- **(a)** the information was collected, used or disclosed in contravention of this Act;
- **(b)** the individual has withdrawn their consent, in whole or in part, to the collection, use or disclosure of the information; or
- **(c)** the information is no longer necessary for the continued provision of a product or service requested by the individual.

Exception

(2) An organization may refuse a request to dispose of personal information in the circumstances described in paragraph (1)(b) or (c) if

- **(a)** ~~disposing~~the disposal of the information would result in the disposal of personal information about another individual and the information ~~is not severable~~cannot be severed without imposing an undue burden on the organization;

- **(b)** there are other requirements of this Act, of federal or provincial law or of the reasonable terms of a contract that prevent it from disposing of the information;

- **(c)** the information is necessary for the establishment of a legal defence or in the exercise of other legal remedies by the organization;

- **(d)** the information is not in relation to a ~~minor~~child and the disposal of the information would have an undue adverse ~~impact~~effect on the accuracy or integrity of information that is necessary to the ongoing provision of a product or service to the individual in question;

- **(e)** the request is vexatious or made in bad faith; or

- **(f)** the disposal of the information ~~is not in relation to a minor and it is scheduled to be disposed of in accordance with the organization's information retention policy, and~~would have an undue adverse effect on the organization ~~informs~~that outweighs any potential adverse effect on the individual resulting from the retention of the information.

Exception

~~remaining period~~**(3)** An organization is not required to dispose of ~~time for which the~~de-identified personal information ~~will be retained~~.

Reasons for refusal

(~~3~~4) An organization that refuses to dispose of an individual's personal information must

- **(a)** inform them in writing of the refusal, setting out the reasons and any recourse that they may have under section 73 or subsection ~~82~~97(1~~).~~); and

- **(b)** in the case of a request that is refused under paragraph (2)(f), inform the Commission in writing of the refusal, setting out the reasons.

Disposal of transferred personal information

(~~4~~5) If an organization disposes of personal information at an individual's request, it must, as soon as feasible, inform any service provider to which it has transferred the information of the request and ensure that the service provider ~~has disposed~~disposes of the information.

Accuracy of Personal Information

Accuracy of information

~~56~~55 **(1)** An organization must take reasonable steps to ensure that personal information under its control is as accurate, up-to-date and complete as is necessary to fulfill the purposes for which the information is collected, used or disclosed.

Exception

(2) An organization is not required to take the steps referred to in subsection (1) in respect of de-identified personal information.

Extent of accuracy

(~~2~~3) In determining the extent to which personal information must be accurate, complete and up-to-date, the organization must take into account the individual's interests, including

- **(a)** whether the information may be used to make a decision about the individual;
- **(b)** whether the information is used on an ongoing basis; and
- **(c)** whether the information is disclosed to third parties.

Routine updating

(~~3~~4) An organization is not to routinely update personal information unless it is necessary to fulfill the purposes for which the information is collected, used or disclosed.

Security Safeguards

Security safeguards

~~57~~56 **(1)** An organization must protect personal information through physical, organizational and technological security safeguards. The level of protection provided by those safeguards must be proportionate to the sensitivity of the information.

Factors to ~~consider~~take into account

(2) In addition to the sensitivity of the information, the organization must, in establishing its security safeguards, take into account the quantity, distribution, format and method of storage of the information, as well as any reasonably foreseeable privacy implications that may arise in relation to the transfer of personal information to a service provider.

Scope of security safeguards

(3) The security safeguards must protect personal information against, among other things, loss, theft ~~and~~or unauthorized access, disclosure, copying, use ~~and~~or modification and must include reasonable measures to authenticate the identity of the individual to whom the personal information relates.

Disclosure or transfer outside of Canada

57 (1) Before disclosing or transferring personal information outside of Canada, an organization must

- **(a)** carry out, in accordance with the prescribed requirements, a privacy impact assessment; and

- **(b)** implement measures to mitigate the risks identified in the privacy impact assessment, such as contractual privacy protection measures, adherence to a code of practice or certification process approved by the Division or any other prescribed measures.

Provision to Commission

(2) An organization must, on request, provide the Commission with access to, or a copy of, the assessment.

Report to ~~Commissioner~~Commission

58 (1) An organization must report to the ~~Commissioner~~Commission any breach of security safeguards involving personal information under ~~its~~the organization's control if it is reasonable in the circumstances to believe that the breach creates a real risk of significant harm to an individual.

Report requirements

(2) The report must contain the prescribed information and must be made in the prescribed form and manner as soon as feasible after the organization determines that the breach has occurred.

Notification to individual

(3) Unless otherwise prohibited by law, an organization must notify an individual of any breach of security safeguards involving the individual's personal information under the organization's control if it is reasonable in the circumstances to believe that the breach creates a real risk of significant harm to the individual.

Contents of notification

(4) The notification must contain sufficient information to allow the individual to understand the significance to them of the breach and to take steps, if any are possible, to reduce the risk of harm that could result from it or to mitigate that harm. It must also contain any other prescribed information.

Form and manner

(5) The notification must be conspicuous and must be given directly to the individual in the prescribed form and manner, except in prescribed circumstances, in which case it must be given indirectly in the prescribed form and manner.

Time to give notification

(6) The notification must be given as soon as feasible after the organization determines that the breach has occurred.

Definition of *significant harm*

(7) For the ~~purpose~~purposes of this section, ***significant harm*** includes bodily harm, humiliation, damage to reputation ~~orrelationships~~or relationships, loss of employment, business or professional opportunities, financial loss, identity theft, negative effects on the credit record and damage to or loss of property.

Real risk of significant harm — factors

(8) The factors that are relevant to determining whether a breach of security safeguards creates a real risk of significant harm to the individual include

- **(a)** the sensitivity of the personal information involved in the breach;
- **(b)** the probability that the personal information has been, is being or will be misused; and
- **(c)** any other prescribed factor.

Notification to organizations

59 (1) An organization that notifies an individual of a breach of security safeguards under subsection 58(3) must notify any other organization, a government institution or a part of a government institution of the breach if the notifying organization believes that the other organization or the government institution or part concerned may be able to reduce the risk of harm that could result from it or mitigate that harm, or if any of the prescribed conditions are satisfied.

Time to give notification

(2) The notification must be given as soon as feasible after the organization determines that the breach has occurred.

Records

60 (1) An organization must, in accordance with any prescribed requirements, keep and maintain a record of every breach of security safeguards involving personal information under its control.

Provision to ~~Commissioner~~Commission

(2) An organization must, on request, provide the ~~Commissioner~~Commission with access to, or a copy of, the record.

Service providers

61 If a service provider determines that any breach of security safeguards has occurred that involves personal information, it must as soon as feasible notify the organization that controls the personal information.

Openness and Transparency

Policies and practices

62 (1) An organization must make readily available, in plain language, information that explains the organization's policies and practices put in place to fulfill its obligations under this Act.

~~Additional~~Required information

(2) In fulfilling its obligation under subsection (1), an organization must make the following information available:

- **(a)** a description of the type of personal information under the organization's control;
- **(b)** a general account of how the organization uses the personal information and of how it applies the exceptions to the requirement to obtain an individual's consent under this Act, including a description of any activities referred to in subsection 18(3) in which it has a legitimate interest;
- **(c)** a general account of the organization's use of any automated decision system to make predictions, recommendations or decisions about individuals that could have a legal or similarly significant ~~impact~~effect on them;
- **(d)** whether or not the organization ~~carries out any international~~transfers or ~~interprovincial transfer or disclosure of~~ discloses personal information interprovincially or outside of Canada that may have reasonably foreseeable privacy implications;
- **(e)** the retention periods applicable to sensitive personal information;
- **(f)** how an individual may make a request for disposal under section ~~55~~54 or access under section 63; and
- **(g)** the business contact information of the individual to whom complaints or requests for information may be made.

Access to and Amendment of Personal Information

Information and access

63 (1) On request by an individual, an organization must inform them of whether it has any personal information about them, how it uses the information and whether it has disclosed the information. It must also give the individual access to the information.

Exception

(2) An organization is not required to act on a request in respect of de-identified personal information.

Names or types of third parties

(~~2~~3) If the organization has disclosed the information, the organization must also provide to the individual the names of the third parties or types of third parties to which the disclosure was made, including in cases where the disclosure was made without the consent of the individual.

Automated decision system

(~~3~~4) If the organization has used an automated decision system to make a prediction, recommendation or decision about the individual that could have a legal or similarly significant ~~impact~~effect on them, the organization must, on request by the individual, provide them with an explanation of the prediction, recommendation or decision.

Explanation

(~~4~~5) The explanation must indicate the type of personal information that was used to make the prediction, recommendation or decision, the source of the information and the reasons or principal factors that led to the prediction, recommendation or decision.

Representations

(6) The organization must provide an individual with an opportunity to make written representations to an employee of the organization who is able to review the prediction, recommendation or decision that was made about them.

Request in writing

64 (1) A request made under section 63 must be made in writing.

Assistance

(2) An organization must assist any individual who informs the organization that they need assistance in preparing a request to the organization.

Information to be provided

65 An organization may require the individual to provide it with sufficient information to allow the organization to fulfill its obligations under section 63.

Plain language

66 (1) The information referred to in section 63 must be provided to the individual in plain language.

Sensory disability

(2) For the ~~purpose~~purposes of section 63, an organization must give access to personal information in an alternative format to an individual with a sensory disability who requests that it be transmitted in that format if

- **(a)** a version of the information already exists in that format; or
- **(b)** its conversion into that format is reasonable and necessary in order for the individual to be able to exercise their rights under this Act.

Sensitive medical information

(3) An organization may choose to give an individual access to sensitive medical information through a medical practitioner.

Time limit

67 (1) An organization must respond to a request made under section 63 with due diligence and ~~in any case~~ no later than 30 days after the day on which the request ~~was~~is received.

Extension of time limit

(2) An organization may extend the time limit referred to in subsection (1)

- **(a)** for a maximum of 30 days if
    - **(i)** meeting the time limit would unreasonably interfere with the activities of the organization, or
    - **(ii)** the time required to undertake any consultations necessary to respond to the request would make the time limit impracticable to meet; or
- **(b)** for the period that is necessary in order to be able to convert the personal information into an alternative format.

In either case, the organization must, no later than 30 days after the day on which the request was received, send a notice of extension to the individual, advising them of the new time limit, the reasons for extending the time limit and their right to make a complaint to the Commissioner in respect of the extension.

Reasons

(3) An organization that responds within the time limit and refuses a request must inform the individual in writing of the refusal, setting out the reasons and any recourse that they may have under section 73 or subsection ~~82~~97(1).

Deemed refusal

(4) If the organization fails to respond within the time limit, the organization is deemed to have refused the request.

Costs for responding

68 An organization must not respond to ~~the~~an individual's request made under section 63 at a cost unless

- **(a)** the organization has informed the individual of the approximate cost;
- **(b)** the cost to the individual is minimal; and
- **(c)** the individual has advised the organization that the request is not being withdrawn.

Retention of information

69 An organization that has personal information that is the subject of a request made under section 63 must retain the information for as long as is necessary to allow the individual to exhaust any recourse that they may have under this Act.

When access prohibited

70 (1) Despite section 63, an organization must not give an individual access to personal information under that section if doing so would likely reveal personal information about another individual. However, if the information about the other individual is severable from the information about the requester without imposing an undue burden on the organization, the organization must sever the information about the other individual before giving the requester access.

~~**Limit**~~

Limit

(2) Subsection (1) does not apply if the other individual consents to the access or the requester needs the information because an individual's life, health or security is threatened.

Information related to certain exceptions to consent

(3) An organization must comply with subsection (4) if an individual requests that the organization

- **(a)** inform the individual about
    - **(i)** any disclosure to a government institution or a part of a government institution under section 43, 44~~, 45~~ or ~~46~~45, subsection 46(1) or 47(1) or ~~48(1) or~~ section ~~50~~49, or
    - **(ii)** the existence of any information that the organization has relating to a disclosure referred to in subparagraph (i), to a subpoena, warrant or order referred to in section ~~50~~49 or to a request made by a government institution or a part of a government institution under section ~~44~~43 or subsection ~~47~~46(1); or
- **(b)** give the individual access to the information referred to in subparagraph (a)(ii).

Notification and response

(4) An organization to which subsection (3) applies

- **(a)** must, in writing and without delay, notify the government institution or the part of a government institution concerned of the request made by the individual; and
- **(b)** must not respond to the request before the earlier of
    - **(i)** the day on which it is notified under subsection (5), and

- **(ii)** 30 days after the day on which the government institution or the part of a government institution is notified.

Objection

(5) Within 30 days after the day on which it is notified under subsection (4), the government institution or part of a government institution must notify the organization ~~of~~as to whether the institution or part objects to the organization complying with the request. The institution or part of an institution may object only if the institution or part is of the opinion that compliance with the request could reasonably be expected to be injurious to

- **(a)** national security, the defence of Canada or the conduct of international affairs;
- **(b)** the detection, prevention or deterrence of money laundering or the financing of terrorist activities; or
- **(c)** the enforcement of federal or provincial law or law of a foreign jurisdiction, an investigation relating to the enforcement of any such law or the gathering of intelligence for the purpose of enforcing any such law.

Prohibition

(6) Despite section 63, if an organization is notified under subsection (5) that the government institution or part of a government institution objects to the organization complying with the request, the organization

- **(a)** must refuse the request to the extent that it relates to paragraph (3)(a) or to information referred to in subparagraph (3)(a)(ii);
- **(b)** must notify the ~~Commissioner~~Commission, in writing and without delay, of the refusal;
- **(c)** must not give the individual access to any information that the organization has relating to a disclosure to a government institution or a part of a government institution under section 43, 44~~, 45~~ or ~~46~~45, subsection 46(1) or 47(1) or ~~48(1) or~~ section ~~50~~49 or to a request made by a government institution or part of a government institution under section ~~44~~43 or subsection ~~47~~46(1);
- **(d)** must not provide to the individual the name of the government institution or part of a government institution to which the disclosure was made or its type; and
- **(e)** must not disclose to the individual the fact that the organization notified an institution or part of an institution under paragraph (4)(a), that the institution or part of an institution objects or that the ~~Commissioner~~Commission was notified under paragraph (b).

When access may be refused

(7) Despite section 63, an organization is not required to give access to personal information if

- **(a)** the information is protected by solicitor-client privilege or the professional secrecy of advocates and notaries or by litigation privilege;
- **(b)** to do so would reveal confidential commercial information;
- **(c)** to do so could reasonably be expected to threaten the life or security of another individual;
- **(d)** the information was collected under subsection ~~40~~38(1);
- **(e)** the information was generated in the course of a formal dispute resolution process; or
- **(f)** the information was created for the purpose of making a disclosure under the *Public Servants Disclosure Protection Act* or in the course of an investigation into a disclosure under that Act.

However, in the circumstances described in paragraph (b) or (c), if giving access to the information would reveal confidential commercial information or could reasonably be expected to threaten the life or security of another individual, as the case may be, and that information is severable from any other information for which access is requested without imposing an undue burden on the organization, the organization must give the individual access after severing.

Limit

(8) Subsection (7) does not apply if the individual needs the information because an individual's life, health or security is threatened.

Notice

(9) If an organization decides not to give access to personal information in the circumstances set out in paragraph (7)(d), the organization must, in writing, notify the ~~Commissioner~~Commission, and must provide any information that the ~~Commissioner~~Commission may specify.

Amendment of personal information

71 (1) If an individual has been given access to their personal information and demonstrates that the information is not accurate, up-to-date or complete, the organization must amend the information as required.

Exception

(2) An organization is not required to amend de-identified personal information.

Third party

(~~2~~3) The organization must, if it is appropriate to do so, transmit the amended information to any third party that has access to the information.

Record of determination

(~~3~~4) If the organization and the individual do not agree on the amendments that are to be made to the information, the organization must record the disagreement and, if it is appropriate to do so, inform third parties that have access to the information of the fact that there is a disagreement.

Mobility of Personal Information

~~Disclosure under data~~Data mobility framework

72 (1) Subject to the regulations, on the request of an individual, an organization must as soon as feasible disclose the personal information that it has collected from the individual to an organization designated by the individual, if both organizations are subject to a data mobility framework.

Exception

(2) An organization is not required to disclose de-identified personal information.

Challenging Compliance

Complaints and requests for information

73 (1) An individual may make a complaint, or a request for information, to an organization with respect to its compliance with this Part. The organization must respond to any complaint or request that it receives.

Process for making complaint or request

(2) An organization must make readily available information about the process for making a complaint or request.

Investigation of complaints

(3) An organization must investigate any complaint that it receives and make any necessary changes to its policies, practices and procedures as a result of the investigation.

De-identification of Personal Information

Proportionality of technical and administrative measures

74 An organization that de-identifies personal information must ~~ensure that any~~

- **(a)** consider, when applying technical and administrative measures ~~applied~~ to the information, the risk of an individual being identified; and
- **(b)** ensure that those measures are proportionate to the purpose for which the information is de-identified and the sensitivity of the personal information.

Prohibition

75 An organization must not use ~~information that has been~~ de-identified personal information, alone or in combination with other information, to identify an individual except

- **(a)** to conduct testing of the effectiveness of security safeguards that it has put in place;

- **(b)** in circumstances where the personal information was de-identified solely for the purpose of protecting the information;

- **(c)** in circumstances where the organization obtains the individual's valid consent;

- **(d)** in circumstances where an exception in respect of the use of an individual's personal information set out in section 18, 23, 24 or 26, subsection 27(2) or 29(2), section 30, subsection 38(2) or section 50 applies;

- **(e)** in circumstances where the personal information is used solely for the purpose of anonymizing it under section 20;

- **(f)** to comply with any requirements under this Act or under federal or provincial law;

- **(g)** to conduct testing of the fairness and accuracy of models, processes and systems that were developed using information that has been de-identified personal information;

- **(h)** to conduct testing of the effectiveness of its de-identification processes;

- **(i)** for a purpose or situation authorized by the Division Commissioner under section 116138; and

- **(j)** in any other prescribed circumstancecircumstances.

PART 2

Commissioner's Commission, Commissioner and Division

Commission

Powers, Duties and Functionsduties and General Provisionsfunctions

76 For the purposes of this Act, the Commission may

- **(a)** disclose to the Commissioner of Competition, under an agreement or arrangement entered into under section 80, information that relates to an entity that operates an approved certification program or an organization that is certified under an approved certification program;

- **(b)** consult with federal government institutions respecting codes of practice or certification programs; and

- **(c)** in the form and manner that the Commission considers appropriate,

    - **(i)** develop and conduct information programs to foster public understanding of this Act and its purposes,

    - **(ii)** develop guidance materials and tools for organizations in relation to their compliance with this Act — including any guidance materials and tools that are

requested by the Minister — in consultation with stakeholders, including any relevant federal government institutions,

- **(iii)** undertake and publish research in relation to the protection of personal information, including any research that is requested by the Minister,
- **(iv)** undertake and publish any research in relation to the operation or implementation of this Act that is requested by the Minister,
- **(v)** on request by an organization, provide guidance on — and, if the Commission considers it appropriate, recommend corrective measures in relation to — its privacy management program, and
- **(vi)** promote, by any other means that the Commission considers appropriate, the purpose of this Act.

Factors to take into account

77 In exercising any powers or performing any duties or functions under this Act, the Commission must take into account all relevant factors, including, if applicable,

- **(a)** the purpose of this Act;
- **(b)** the size and revenue of organizations;
- **(c)** the volume of the personal information under the control of organizations and the sensitivity of that information;
- **(d)** the best interests of children;
- **(e)** the importance of respecting Canada's international trade obligations;
- **(f)** the importance of supporting economic growth, competition and innovation in the Canadian marketplace; and
- **(g)** any other matter of general public interest.

Information — powers, duties or functions

78 (1) The Commission must make readily available information on the manner in which it, the Commissioner and the Division exercise their powers and perform their duties and functions under this Act.

Guidance material

(2) The Commission must develop, in consultation with the Minister and stakeholders, guidance material respecting the exercise or performance of the powers, duties and functions of the Commission, the Commissioner and the Division in relation to enforcement and dispute resolution under this Act, including in respect of

- **(a)** the decision to initiate a complaint under subsection 97(2);
- **(b)** the handling of complaints, including the decision as to whether to initiate or discontinue an investigation and the conduct of proceedings in respect of an application referred to in section 109 or an interim order referred to in subsection 123(4);
- **(c)** the dispute resolution mechanisms referred to in section 101;
- **(d)** the compliance agreements referred to in section 102 and 103;
- **(e)** the proposed orders referred to in subsections 107(3) and 108(3) and compliance orders referred to in subsection 110(1);
- **(f)** the administrative monetary penalty scheme; and
- **(g)** the audits referred to in section 118.

Availability of material

(3) The Commission must make the guidance material available in a form and manner that it considers appropriate.

Agreements or arrangements — Minister

79 The Commission may enter into an agreement or arrangement with the Minister that relates to the administration of this Act.

Agreements or arrangements — CRTC, Commissioner of Competition, etc.

80 (1) The Commission may enter into agreements or arrangements with the Canadian Radio-television and Telecommunications Commission, the Commissioner of Competition or any other prescribed entity in order to

- **(a)** coordinate the activities of their respective offices, including providing for mechanisms for handling complaints of mutual interest;
- **(b)** undertake and publish research on issues of mutual interest; and
- **(c)** develop procedures for disclosing information referred to in subsection (2).

The Commission must, if the Commission considers it appropriate to do so, carry out those objectives in a manner that promotes regulatory consistency.

Disclosure of information

(2) The Commission may, in accordance with any procedure developed under paragraph (1)(c), disclose information, other than information that it has received under subsection 10(1) or subparagraph 76(c)(v), to the Canadian Radio-television and Telecommunications Commission, the Commissioner of Competition or a prescribed entity referred to in subsection (1) if the information is relevant to their powers, duties or functions.

Purpose and confidentiality

(3) The procedures referred to in paragraph (1)(c) must

- **(a)** restrict the use of the information to the purpose for which it was originally disclosed; and

- **(b)** stipulate that the information be treated in a confidential manner and that it not be further disclosed without the express consent of the Commission.

Consultations with provinces

81 (1) If the Commission considers it appropriate to do so, or on request by an interested person, the Commission may, in order to ensure that personal information is protected in as consistent a manner as possible, consult with any person who, under provincial legislation, has powers, duties and functions similar to its own, to those of the Commissioner or to those of the Division with respect to the protection of personal information.

Agreements or arrangements with provinces

(2) The Commission may enter into agreements or arrangements with any person referred to in subsection (1) in order to

- **(a)** coordinate the activities of their respective offices, including providing for mechanisms for handling complaints in which they are mutually interested;

- **(b)** undertake and publish research, or develop and publish guidelines or other documents, related to the protection of personal information;

- **(c)** develop model contracts or other documents related to the protection of personal information that is collected, used or disclosed interprovincially or internationally; and

- **(d)** develop procedures for disclosing information referred to in subsection (3).

Disclosure of information to provinces

(3) The Commission may, in accordance with any procedure developed under paragraph (2)(d), disclose information, other than information that it has received under subsection 10(1) or subparagraph 76(c)(v), to any person referred to in subsection (1) if the information

- **(a)** could be relevant to the — ongoing or potential — investigation of a complaint, proceeding in respect of an application referred to in section 109, proceeding in respect of an interim order referred to in subsection 123(4) or audit carried out under this Act or provincial legislation that has objectives that are similar to this Act; or

- **(b)** could assist that person, the Commission, the Commissioner or the Division in the exercise of their powers or the performance of their duties or functions with respect to the protection of personal information.

Purpose and confidentiality

(4) The procedures referred to in paragraph (2)(d) must

- **(a)** restrict the use of the information to the purpose for which it was originally disclosed; and

- **(b)** stipulate that the information be treated in a confidential manner and that it not be further disclosed without the express consent of the Commission.

Disclosure of information to foreign state

82 (1) Subject to subsection (3), the Commission may, in accordance with any procedure developed under paragraph (4)(b), disclose information referred to in subsection (2), other than information that it has received under subsection 10(1) or subparagraph 76(c)(v), to any person or body that, under the legislation of a foreign state, has

- **(a)** powers, duties and functions similar to those of the Commission, Commissioner or Division with respect to the protection of personal information; or

- **(b)** responsibilities that relate to conduct that is substantially similar to conduct that would be in contravention of this Act.

Information that can be disclosed

(2) The Commission is authorized to disclose information that it believes

- **(a)** could be relevant to an — ongoing or potential — investigation or proceeding in respect of a contravention of the laws of a foreign state that address conduct that is substantially similar to conduct that would be in contravention of this Act; or

- **(b)** is necessary to disclose in order to obtain from the person or body information that could be relevant to an — ongoing or potential — investigation, proceeding in respect of an application referred to in section 109, proceeding in respect of an interim order referred to in subsection 123(4) or audit carried out under this Act.

Written arrangements

(3) The Commission may only disclose information to the person or body if the Commission has entered into a written arrangement with the person or body that

- **(a)** limits the disclosure of information to what is necessary for the purpose set out in paragraph (2)(a) or (b);

- **(b)** restricts the use of the information to the purpose for which it was originally disclosed; and

- **(c)** stipulates that the information be treated in a confidential manner and that it not be further disclosed without the express consent of the Commission.

Arrangements

(4) The Commission may enter into arrangements with one or more persons or bodies referred to in subsection (1) in order to

- **(a)** provide for cooperation with respect to the enforcement of laws protecting personal information, including the disclosure of information referred to in subsection (2) and the provision of mechanisms for handling complaints of mutual interest;
- **(b)** develop procedures for disclosing information referred to in subsection (2);
- **(c)** develop recommendations, resolutions, rules, standards or other documents with respect to the protection of personal information;
- **(d)** undertake and publish research related to the protection of personal information;
- **(e)** share knowledge and expertise by different means, including through staff exchanges; and
- **(f)** identify issues of mutual interest and determine priorities pertaining to the protection of personal information.

Annual report

83 (1) The Commission must include in the report referred to in subsection 21(1) of the *Digital Safety and Data Protection Commission of Canada Act* information in respect of:

- **(a)** the exercise of the powers, and the performance of the duties and functions, of the Commission, the Commissioner and the Division under this Act, including in relation to paragraph 76(c), section 77, subsections 78(2) and 80(1) and sections 86 and 90;
- **(b)** the application of this Act; and
- **(c)** the extent to which the provinces have enacted legislation that is substantially similar to this Act and the application of any such legislation.

Consultation

(2) The Commission must consult with persons in the provinces who it believes are in a position to assist it in making a report on personal information that is collected, used or disclosed interprovincially or internationally.

Delegation

84 (1) The Commission may delegate, subject to any terms and conditions that it may specify, to any of its members, the Division or a division of the Commission established under section 8 of the *Digital Safety and Data Protection Commission of Canada Act* any of the powers, duties and functions conferred on it under this Act or the *Digital Safety and Data Protection Commission of Canada Act*, to the extent that those powers are exercised and those duties and functions are performed in connection with powers, duties and functions under this Act.

Limitation — procedures and practices

(2) The Commission must not delegate its power referred to in section 9 of the *Digital Safety and Data Protection Commission of Canada Act* to establish rules respecting its procedures and practices in connection with matters to which this Act applies, except to the Commissioner or to the Division.

Limitation — decision

(3) The Commission must not delegate the powers, duties and functions referred to in subsection 110(1), 121(1) or 123(4), except to a division of the Commission established under section 8 of the *Digital Safety and Data Protection Commission of Canada Act* or one or more members of the Commission other than the Commissioner.

Certificate of delegation

(4) Any person to whom powers, duties or functions are delegated must be given a certificate of the delegation and the delegate must produce the certificate, on request, to the person in charge of any premises to be entered under paragraph 121(2)(e).

Commissioner

Designation

85 (1) The Governor in Council must designate one of the members of the Commission, other than the Chairperson, to be the Privacy and Consumer Data Commissioner.

Powers, duties and functions

(2) The Commissioner may

- **(a)** request that an entity that operates an approved certification program provide the Commissioner with information that relates to the program;
- **(b)** cooperate with an entity that operates an approved certification program for the purpose of the exercise of the Commissioner's powers, and the performance of their duties and functions, under this Act;
- **(c)** in the circumstances and according to the criteria set out in the regulations, recommend, in accordance with the regulations, to an entity that operates an approved certification program that an organization's certification be withdrawn if the Commissioner is of the opinion that the organization is not in compliance with the requirements of the program; and
- **(d)** in accordance with the regulations, revoke an approval of a certification program in the circumstances and according to the criteria set out in the regulations.

Acting Commissioner

(3) If the Commissioner is absent or incapacitated or if their office is vacant, the Chairperson may authorize another member of the Commission to act as Commissioner. The member is not,

however, authorized to act as Commissioner for a period of more than 90 days without the approval of the Governor in Council.

Factors to take into account

86 In exercising any powers or performing any duties or functions under this Act, the Commissioner must take into account all relevant factors, including, if applicable,

- **(a)** the purpose of this Act;
- **(b)** the size and revenue of organizations;
- **(c)** the volume of the personal information under the control of organizations and the sensitivity of that information;
- **(d)** the best interests of children;
- **(e)** the importance of respecting Canada's international trade obligations;
- **(f)** the importance of supporting economic growth, competition and innovation in the Canadian marketplace; and
- **(g)** any other matter of general public interest.

Prohibition — use for initiating complaint or audit

87 The Commissioner must not use the information that the Commission receives under subsection 10(1) or subparagraph 76(c)(v) as grounds to initiate a complaint under subsection 97(2) or to carry out an audit under section 118, unless the Commissioner considers that the organization has wilfully disregarded the corrective measures that were recommended in relation to its privacy management program.

Delegation

88 (1) The Commissioner may delegate, subject to any terms and conditions that they may specify, any of the powers, duties and functions conferred on them, other than those referred to in subsection 105(1), section 106 and paragraph 122(1)(d),

- **(a)** to any employee of the Commission; and
- **(b)** with the consent of the Chairperson, to the Division, a division of the Commission established under section 8 of the *Digital Safety and Data Protection Commission of Canada Act* or one or more other members of the Commission.

Certificate of delegation

(2) Any person to whom powers, duties or functions set out in paragraphs 122(1)(a) to (c) and (e) to (h) are delegated must be given a certificate of the delegation and the delegate must produce the certificate, on request, to the person in charge of any premises to be entered under paragraph (f) of that subsection.

Division

Division established

89 (1) The Privacy and Consumer Data Division is established and composed of the Commissioner and at least one other member of the Commission assigned by the Commission.

Other powers, duties and functions

(2) The members who compose the Division, other than the Commissioner, may continue to exercise any power and perform any duty or function that they are authorized to exercise or perform under any other Act of Parliament.

Factors to take into account

90 In exercising any powers or performing any duties or functions under this Act, the Division must take into account all relevant factors, including, if applicable,

- **(a)** the purpose of this Act;
- **(b)** the size and revenue of organizations;
- **(c)** the volume and sensitivity of the personal information under the control of organizations;
- **(d)** the best interests of children;
- **(e)** the importance of respecting Canada's international trade obligations;
- **(f)** the importance of supporting economic growth, competition and innovation in the Canadian marketplace; and
- **(g)** any other matter of general public interest.

Delegation

91 (1) The Division may delegate to one or more members of the Commission, or to any of its employees, any of the powers, duties and functions conferred on the Division, subject to any terms and conditions that it may specify.

Limitation

(2) The Division must not delegate, without the consent of the Chairperson, any of its powers, duties or functions to a member of the Commission who has not been assigned to the Division.

Codes of Practice and Certification Programs

Definition of *entity*

~~76~~92 **(1)** ~~For the purpose of~~In this section and sections ~~77~~93 to ~~81~~96, ***entity*** includes any organization, regardless of whether it is an organization to which this Act applies, or a government institution.

Code of practice

(2) An entity may, in accordance with the regulations, apply to the ~~Commissioner~~Division for approval of a code of practice that provides for substantially the same or greater protection of personal information as some or all of the protection provided under this Act.

Approval by ~~Commissioner~~Division

(3) The ~~Commissioner~~Division may approve the code of practice if the ~~Commissioner~~Division determines that the code meets the criteria set out in the regulations.

Certification program

~~77~~93 **(1)** An entity may, in accordance with the regulations, apply to the ~~Commissioner~~Division for approval of a certification program that includes

- **(a)** a code of practice that provides for substantially the same or greater protection of personal information as some or all of the protection provided under this Act;
- **(b)** guidelines for interpreting and implementing the code of practice;
- **(c)** a mechanism by which an entity that operates the program may certify that an organization is in compliance with the code of practice;
- **(d)** a mechanism for the independent verification of an organization's compliance with the code of practice;
- **(e)** disciplinary measures for non-compliance with the code of practice by an organization, including the revocation of an organization's certification; and
- **(f)** anything else that is provided in the regulations.

Approval by ~~Commissioner~~Division

(2) The ~~Commissioner~~Division may approve the certification program if the ~~Commissioner~~Division determines that the program meets the criteria set out in the regulations.

Response by ~~Commissioner~~Division

~~78~~94 The ~~Commissioner~~Division must respond in writing to an application under subsection ~~76~~92(2) or ~~77~~93(1) in the time specified in the regulations.

Approval made public

~~79~~95 The ~~Commissioner~~Division must make public a decision to approve a code of practice or certification program.

For greater certainty

96~~For greater certainty~~

~~80~~ For greater certainty, compliance with the requirements of a code of practice or a certification program does not relieve an organization of its obligations under this Act.

~~Powers of Commissioner~~

~~81~~Remedies

~~The Commissioner may~~

- ~~**(a)** request that an entity that operates an approved certification program provide the Commissioner with information that relates to the program;~~
- ~~**(b)** cooperate with an entity that operates an approved certification program for the purpose of the exercise of the Commissioner's powers and the performance of the Commissioner's duties and functions under this Act;~~
- ~~**(c)**in accordance with the regulations, recommend to an entity that operates an approved certification program that an organization's certification be withdrawn, in the circumstances and according to the criteria set out in the regulations, if the Commissioner is of the opinion that the organization is not in compliance with the requirements of the program;~~
- ~~**(d)**disclose information to the Commissioner of Competition, under an agreement or arrangement entered into under section 118, that relates to an entity that operates an approved certification program or an organization that is certified under an approved certification program;~~
- ~~**(e)**in accordance with the regulations, revoke an approval of a certification program in the circumstances and according to the criteria set out in the regulations; or~~
- ~~**(f)**consult with federal government institutions respecting codes of practice or certification programs.~~

~~Recourses~~

Filing of Complaints

Contravention

~~82~~97 (1) An individual may file with the Commissioner a written complaint against an organization for contravening Part 1.

Commissioner may initiate complaint

(2) If the Commissioner is satisfied that there are reasonable grounds to investigate a matter under this Act, the Commissioner may initiate a complaint in respect of the matter.

Time limit

(3) A complaint that results from the refusal to grant a request made under section 63 must be filed within six months, or any longer period that the Commissioner allows, after the refusal or after the expiry of the time limit for responding to the request, as the case may be.

Notice

(4) The Commissioner must give notice of a complaint to the organization against which the complaint was made, unless the Commissioner decides under section ~~84~~99 not to carry out an investigation.

Investigation of Complaints and Dispute Resolution

Investigation of complaint by Commissioner

~~83~~98 **(1)** The Commissioner must carry out an investigation in respect of a complaint, unless the Commissioner is of the opinion that

- **(a)** the complainant should first exhaust grievance or review procedures otherwise reasonably available;
- **(b)** the complaint could more appropriately be dealt with, initially or completely, by means of a procedure provided for under any federal law, other than this Act, or provincial law;
- **(c)** the complaint was not filed within a reasonable period after the day on which the subject matter of the complaint arose;
- **(d)** the complaint raises an issue in respect of which a certification program that was approved by the ~~Commissioner~~Division under subsection ~~77~~93(2) applies and the organization is certified under that program;
- **(e)** there is insufficient evidence to pursue the investigation;
- **(f)** the complaint is trivial, frivolous or vexatious or is made in bad faith;
- **(g)** the organization has provided a fair and reasonable response to the complaint;
- **(h)** the matter is already the ~~object~~subject of an ongoing investigation ~~or inquiry~~ under this Act~~;~~ or proceeding in respect of an application referred to in section 109 or interim order referred to in subsection 123(4);
- **(i)** the matter has already been the subject of a report or decision by the Commission or Commissioner, as the case may be;
- **(j)** the matter is being or has already been addressed under a procedure referred to in paragraph (a) or (b);
- **(k)** the matter is the ~~object~~subject of a compliance agreement ~~entered into under~~referred to in subsection ~~87~~102(1~~);~~) or 103(2);

- **(l)** an investigation or any further investigation is unnecessary having regard to all the circumstances of the complaint~~.~~; or

- **(m)** a notice of contravention was served on the organization in relation to the matter or to any act referred to in the complaint.

Notification

(2) The Commissioner must notify the complainant and the organization of the Commissioner's decision not to investigate the complaint or any act referred to in the complaint and give reasons for the decision. However, if the decision is made for any of the reasons set out in section ~~84~~99, the Commissioner must not notify the organization.

Compelling reasons

(3) The Commissioner may reconsider a decision not to investigate under subsection (1) if the Commissioner is satisfied that the complainant has established that there are compelling reasons to investigate.

~~**Exception**~~

~~84~~Exception

99 Despite subsection ~~83~~98(1), the Commissioner is not required to carry out an investigation in respect of an act referred to in a complaint if the Commissioner is of the opinion that the act, if proved, would constitute a contravention of any of sections 6 to 9 of *An Act to promote the efficiency and adaptability of the Canadian economy by regulating certain activities that discourage reliance on electronic means of carrying out commercial activities, and to amend the Canadian Radio-television and Telecommunications Commission Act, the Competition Act, the Personal Information Protection and Electronic Documents Act and the Telecommunications Act* or section 52.01 of the *Competition Act* or would constitute conduct that is reviewable under section 74.011 of that Act.

Discontinuance

~~85~~100 (1) The Commissioner may discontinue the investigation of a complaint if the Commissioner has formed an opinion referred to in subsection ~~83~~98(1) or section ~~84~~99. The Commissioner must notify the complainant and the organization of the discontinuance and give reasons for the decision.

Exception

(2) If the decision is made for any of the reasons set out in section 99, the Commissioner must not notify the organization.

Dispute resolution mechanisms

~~86~~101 The ~~Commissioner~~Division may attempt to resolve a complaint by means of a dispute resolution mechanism such as mediation and conciliation, unless ~~an inquiry~~the complaint is ~~being~~

~~conducted~~the subject of proceedings in respect of ~~the complaint~~an application referred to in section 109.

Compliance Agreements

Entering into compliance agreement

~~87~~**102** **(1)** If, ~~in the course of~~at any time after an investigation has been commenced, the Commissioner believes on reasonable grounds that an organization has committed, is about to commit or is likely to commit an act or omission that could constitute a contravention of Part 1, the Commissioner may enter into ~~a compliance agreement,~~ with that organization, a compliance agreement aimed at ensuring compliance with this Act.

Terms

(2) A compliance agreement may contain any terms that the Commissioner considers necessary to ensure compliance with this Act.

Effect of compliance agreement

(3) The Commissioner must not ~~commence an inquiry under section 89~~ issue a notice of contravention in respect of any matter covered under the agreement.

For greater certainty

~~**For greater certainty**~~

(4) For greater certainty, entering into a compliance agreement does not preclude the prosecution of an offence under this Act.

~~Notification~~

Effect of compliance agreement

103 (1) If, after a notice of contravention has been served under subsection 105(1), the Commissioner initiates negotiations to enter into a compliance agreement with the organization, the Commission must suspend proceedings in respect of the contravention in relation to the act or omission that is the subject of the negotiations and notify the complainant and the organization without delay.

Termination of proceedings

(2) If a compliance agreement is entered into with the organization, the Commission must terminate the proceedings commenced in respect of the contravention in relation to the act or omission that is the subject of agreement and notify the complainant and the organization without delay.

Resumption of proceedings

(3) If the Commissioner and the organization fail to enter into a compliance agreement, the Commission must resume the proceedings and notify the complainant and the organization without delay.

Conclusion of Investigation, Penalties and Orders

Notification and reasons

88104 The Commissioner must notify the complainant and the organization of their decision and give the reasons for the decision it if an, after concluding their investigation has concluded and the Commissioner has decided, they decide not to conduct an inquiry issue a notice of contravention.

Inquiry

Inquiry — complaint

89Complaint

105 (1) After investigating a complaint, the Commissioner may conduct an inquiry in respect of the complaint must cause to be served on the organization a notice of contravention if the matter they have reasonable grounds to believe that the organization has contravened any provision of this Act, and the complaint is not

- **(a)** the subject of dispute resolution under section 86;
- **(b)** 101 and has not been resolved or discontinued; or

(c) resolved.

Notice

(2) The Commissioner must give notice of the inquiry to notify the complainant and the organization of their decision.

Inquiry — compliance Compliance agreement

90(1)106 If the Commissioner believes on has reasonable grounds to believe that an organization is not complying with the terms of a compliance agreement entered into under subsection 87(1), the Commissioner may conduct an inquiry in respect of the non-compliance 102(1), they must cause a notice of contravention to be served on the organization.

Notice

(2) The Commissioner must give **Notice of contravention — investigation of a complaint**

107 (1) A notice of contravention referred to in section 105 must set out

- **(a)** the inquiry to facts of the alleged contravention and the Commissioner's reasons for believing there is a contravention;
- **(b)** the provisions of this Act that have been contravened;

- **(c)** the penalty, if any, that the organization~~.~~ is liable to pay and the time and manner in which the penalty must be paid;

~~**Nature of inquiries**~~

- ~~**91(1**~~**(d)** the proposed order, if any, that the Commissioner considers reasonably necessary to ensure compliance with this Act and the Commissioner's reasons for it;

- **(e)** a summary of the organization's rights and obligations under this Act, including the right to apply for a review and to make representations to the Commission under section 109 within 30 days after the day on which the notice is served, or within any further period set out in the notice, and the procedure for doing so;

- **(f)** the fact that, if the organization does not pay the penalty, if any, in accordance with the notice or if neither the complainant nor the organization exercise the remedies referred to in section 109, the organization will be deemed to have contravened the provisions at issue; and

- **(g)** the fact that if neither the complainant nor the organization exercise the remedies referred to in section 109 in relation to a proposed order, the organization will be deemed to have contravened the provisions at issue and the proposed order will be made by the Commission.

Notice to complainant

(2) The Commissioner must notify the complainant that the notice of contravention was served and that they may apply for a review and make representations to the Commission under section 109 within the period set out in that notice.

Proposed order to ensure compliance

(3) The Commissioner may, if they consider it reasonably necessary to ensure compliance with this Act, propose to order the organization to

- **(a)** take any measure necessary in order to comply with this Act;

- **(b)** cease any act that contravenes this Act; and

- **(c)** make public anything done or planned to be done to correct policies, practices or procedures that it put in place to comply with its obligations under this Act.

Payment of the penalty

(4) Subject to ~~subsection~~ section 103, if the organization pays the penalty in accordance with the notice of contravention, the organization is deemed to have contravened the provisions of the Act at issue, the proposed order, if any, relating to the provisions in respect of which the penalty was paid is made, as proposed, by the Commission, proceedings in respect of those provisions are ended and the Commission must notify the complainant.

Presumption

(5) Subject to section 103, if the organization does not pay the penalty, if any, in accordance with the notice of contravention or if neither the complainant nor the organization exercise the remedies referred to in section 109, the organization is deemed to have contravened the provisions at issue and liable to pay the penalty, if any, set out in the notice and the proposed order, if any, in respect of the contravention is made, as proposed, by the Commission. The Commission must notify the complainant of the deemed contravention.

Presumption

(6) Subject to section 103, if neither the complainant nor the organization exercise the remedies referred to in section 109 in relation to a proposed order, the organization is deemed to have contravened the provisions at issue in the order and the proposed order is made, as proposed, by the Commission. The Commission must notify the complainant of the deemed contravention.

Notice of contravention — compliance agreement

108 (1) A notice of contravention referred to in section 106 must set out

- **(a)** the facts of the alleged non-compliance with the compliance agreement and the Commissioner's reasons for believing there is non-compliance;
- **(b)** the provisions of this Act that have been contravened;
- **(c)** the penalty, if any, that the organization is liable to pay and the time and manner in which the penalty must be paid;
- **(d)** the proposed order, if any, that the Commissioner considers reasonably necessary to ensure compliance with this Act and the Commissioner's reasons for it;
- **(e)** a summary of the organization's rights and obligations under this Act, including the right to apply for a review and to make representations to the Commission under section 109 within 30 days after the day on which the notice is served, or within any further period set out in the notice, and the procedure for doing so;
- **(f)** the fact that, if the organization does not pay the penalty, if any, in accordance with the notice or if neither the complainant nor the organization exercise the remedies referred to in section 109, the organization will be deemed to have contravened the provisions at issue or to have not complied with the compliance agreement; and
- **(g)** the fact that if neither the complainant nor the organization exercise the remedies referred to in section 109 in relation to a proposed order, the organization will be deemed to have contravened the provisions at issue or to have not complied with the compliance agreement and the proposed order will be made by the Commission.

Notice to complainant

(2~~**), the Commissioner**~~**)** The Commissioner must notify the complainant that the notice of contravention was served and that they may apply for a review and make representations to the Commission under section 109 within the period set out in that notice.

Proposed order to ensure compliance

(3) The Commissioner may, if they consider it reasonably necessary to ensure compliance with this Act, propose to order the organization to

- **(a)** take any measure necessary in order to comply with this Act;
- **(b)** cease any act that contravenes this Act;
- **(c)** comply with the compliance agreement that the organization entered into; and
- **(d)** make public anything done or planned to be done to correct policies, practices or procedures that it put in place to comply with its obligations under this Act.

Payment of the penalty

(4) If the organization pays the penalty in accordance with the notice of contravention, the organization is deemed to have contravened the provisions at issue, the proposed order, if any, relating to the provisions in respect of which the penalty was paid is made, as proposed, by the Commission, proceedings in respect of those provisions are ended and the Commission must notify the complainant.

Presumption

(5) If the organization does not pay the penalty, if any, in accordance with the notice of contravention or if neither the complainant nor the organization exercise the remedies referred to in section 109, the organization is deemed to have contravened the provisions at issue and liable to pay the penalty, if any, set out in the notice and the proposed order, if any, in respect of the contravention is made, as proposed, by the Commission. The Commission must notify the complainant of the deemed contravention.

Presumption

(6) If neither the complainant nor the organization exercise the remedies referred to in section 109 in relation to a proposed order, the organization is deemed to have contravened the provisions at issue and the proposed order is made, as proposed, by the Commission. The Commission must notify the complainant of the deemed contravention.

Application for review

109 (1) Within the period set out in the notice of contravention, the complainant and the organization on which the notice was served may apply for a review of any determination in relation to the elements referred to in paragraphs 107(1)(a) to (d) or 108(1)(a) to (d), as the case may be, and may make representations to the Commission in accordance with the notice.

Hearing

(2) The Commission may conduct a hearing for the purpose of determining an application and may hold all or any part of the hearing in private.

Rules of evidence

(3) The Commission is not bound by any legal or technical rules of evidence in conducting ~~an inquiry~~proceedings under subsection (1) and must deal with the ~~matter~~matters set out in the notice as informally and expeditiously as the circumstances and considerations of fairness and natural justice permit.

~~**Restriction**~~

~~**(2)**The Commissioner must not receive or accept as evidence anything that would be inadmissible in a court by reason of any privilege under the law of evidence.~~

~~**Opportunity to be heard**~~

~~**(3)**In conducting the inquiry, the Commissioner must give the organization and the complainant an opportunity to be heard and to be assisted or represented by counsel or by any person.~~

~~**Inquiry in private**~~

Balance of probabilities

(4) The ~~Commissioner may hold all or any part of the inquiry in private.~~

~~**Rules**~~

~~**92**The Commissioner must make rules respecting the conduct of an inquiry, including the procedure and rules of evidence to be followed, and must make those rules publicly available.~~

~~**Decision**~~

~~**93(1)**The Commissioner must complete an inquiry by rendering a decision that sets out~~

~~**(a)**the Commissioner's findings~~Commission must determine, on a balance of probabilities, whether the organization ~~has contravened this Act or has not complied with the terms of a compliance agreement;~~committed the contravention.

Decision

- ~~**(b)**any order made~~**110 (1)** After considering any representations, the Commission may confirm, cancel or vary any determination that is the subject of proceedings under subsection ~~(2);~~
- ~~**(c)**any decision made under subsection 94~~ 109(1~~); and~~
- ~~**(d)**the Commissioner's reasons for the findings, order or decision.~~

~~**Compliance order**~~

~~**(2)**The Commissioner~~), may decide whether or not to make the proposed order, if any, and vary its content before making it and may, to the extent ~~that~~it is reasonably necessary to do so in order to ensure compliance with this Act, order the organization to

- **(a)** take ~~measures~~ any measure necessary in order to comply with this Act;
- **(b)** ~~stop doing something~~cease any act that ~~is in contravention of~~contravenes this Act;
- **(c)** comply with ~~the terms of~~ a compliance agreement that ~~has been~~the organization entered into ~~by the organization; or~~; and
- **(d)** make public ~~any measures taken~~anything done or ~~proposed~~planned to be ~~taken~~done to correct ~~the~~ policies, practices or procedures that ~~the organization has~~it put in place to ~~fulfill~~comply with its obligations under this Act.

~~**Communication**~~**Contravention not committed — effect**

(2) If the Commission decides under subsection (1) that the organization did not commit the contravention, the proceedings in respect of it are ended.

Copy of decision

(3) The Commission must send a copy of the decision ~~must be sent~~and the reasons for it to the complainant and the organization without delay.

~~**Extension of time**~~

~~**(4)**An inquiry conducted under section 89 must be completed within one year after the day on which the complaint is filed or is initiated by the Commissioner. However, the Commissioner may extend the time limit, for a period not exceeding one year, by notifying the complainant and the organization of the anticipated date on which the decision is to be made.~~

~~Administrative Monetary Penalties~~

~~**Recommendation**~~

~~**94(1)**If, on completing an inquiry under~~**Inconsistent interests**

111 (1) If a member of the Commission who is assigned to hear, or is hearing, an application referred to in section 109, either alone or as a member of a panel, holds any pecuniary or other interest that could be inconsistent with the proper performance of their duties and functions in relation to the application, the member must disclose the interest to the Chairperson without delay. The member must also disclose, without delay, any reason why their participation could result in a reasonable apprehension of bias.

Commissioner has no jurisdiction

(2) The Commissioner does not have jurisdiction to hear an application referred to in section 109.

For greater certainty

~~89 or 90, the Commissioner finds~~**(3)** For greater certainty, a member of the Commission does not lack jurisdiction to hear an application referred to in section 109 by reason only that they participate in the work of the Division.

Rules

112 The Commission must make rules respecting the conduct of proceedings in respect of an application referred to in section 109, including the rules of evidence to be followed, and must make those rules publicly available.

Penalty

113 (1) A penalty may only be imposed on an organization ~~has contravened~~in relation to a contravention of one or more of the following provisions~~, the Commissioner must decide whether to recommend that a penalty be imposed on the organization by the Tribunal~~:

- **(a)** subsection 9(1);
- **(b)** subsection 11(1);
- **(c)** subsections 12(1), (3) and (4);
- **(d)** section 13;
- **(e)** subsection 14(1);
- **(f)** subsections 15(1) and (7);
- **(g)** section 16;
- **(h)** subsection 17(2);
- **(i)** section ~~53~~52;
- **(j)** subsections ~~55~~54(1) and (~~4~~5);
- **(k)** subsection ~~57~~56(1);
- **(l)** subsections 58(1) and (3);
- **(m)** section 61; and
- **(n)** subsection 62(1).

Factors to ~~consider~~take into account

(2) In ~~making~~determining the ~~decision~~amount of a penalty, the ~~Commissioner must take into account the~~ following factors must be taken into account:

- **(a)** the nature and scope of the contravention;
- **(b)** any evidence that the organization exercised due diligence to avoid the contravention;
- **(c)** whether the organization made reasonable efforts to mitigate or reverse the contravention's effects;

- **(d)** the organization's history of compliance with this Act;
- **(e)** the organization's ability to pay the penalty and the likely effect that paying it would have on the organization's ability to carry on its business;
- **(f)** any financial benefit that the organization obtained from the contravention;
- **(g)** any prescribed factor; and
- **(~~f~~h)** any other relevant factor.

Limitation

(3) ~~The Commissioner~~ A penalty must not ~~recommend that a penalty~~ be imposed ~~on an organization~~ if ~~the Commissioner is of the opinion that,~~

- **(a)** at the time of the contravention of the provision in question, the organization was in compliance with the requirements of a certification program that was in relation to that provision and was approved by the ~~Commissioner~~Division under subsection ~~77~~93(2~~).~~);

~~**Notice to Tribunal**~~

~~**(4)**If the Commissioner decides to recommend that a penalty be imposed on an organization, the Commissioner must file with the Tribunal a copy of the decision rendered under subsection 93(1) that sets out the decision to recommend.~~

~~**Imposition of penalty**~~

~~**95(1)**The Tribunal may, by order, impose a penalty on an organization if~~

- ~~**(a)**the Commissioner files a copy of a decision in relation to the organization in accordance with subsection 94(4) or the Tribunal, on appeal, substitutes its own decision to recommend that a penalty be imposed on the organization for the Commissioner's decision not to recommend;~~
- ~~**(b)**the organization and the Commissioner are given the opportunity to make representations; and~~
- ~~**(c)**the Tribunal determines that imposing the penalty is appropriate.~~

~~**Findings**~~

~~**(2)**In determining whether it is appropriate to impose a penalty on an organization, the Tribunal must rely on the findings set out in the decision that is rendered by the Commissioner under subsection 93(1) in relation to the organization or on the Tribunal's own findings if, on appeal, it substitutes its own findings for those of the Commissioner.~~

~~**Limitations**~~

- ~~(3)The Tribunal must not impose a penalty on an organization in relation to a contravention if~~ **(b)** a prosecution for the act or omission that constitutes the contravention has been instituted against the organization ~~or if the organization establishes that it exercised due diligence to prevent the contravention.~~; or

- **(c)** the organization establishes that it exercised due diligence to prevent the contravention.

Receiver General

(4) A penalty paid or recovered in relation to a contravention is payable to the Receiver General.

Maximum penalty

~~(4)~~**114** The maximum penalty for all of the contraventions found to have been committed by an organization following the completion of proceedings in ~~a recommendation taken together~~relation to any one investigation is the ~~higher~~greater of $10,000,000 and 3% of the organization's gross global revenue in its financial year before the one in which the penalty is imposed.

~~**Factors to consider**~~

~~**(5)**In determining whether it is appropriate to impose a penalty on an organization and in determining the amount of a penalty, the Tribunal must take the following factors into account:~~

- ~~**(a)**the factors set out in subsection 94(2);~~

- ~~**(b)**the organization's ability to pay the penalty and the likely effect of paying it on the organization's ability to carry on its business; and~~

- ~~**(c)**any financial benefit that the organization obtained from the contravention.~~

Purpose of penalty

~~(6)~~**115** The purpose of a penalty is to promote compliance with this Act and not to punish.

~~**Recovery as debt**~~ **Debt due to ~~Her~~His Majesty**

~~96A penalty imposed under section 95 constitutes a debt~~ **116 (1)** The following amounts are debts due to ~~Her~~His Majesty ~~and the debt is~~ in right of Canada that are payable and that may be recovered by the Minister ~~as~~in the Federal Court:

- **(a)** the amount of any penalty set out in a notice of contravention, beginning on the day on which it is required to be paid in accordance with the notice, unless an application for a review is made under section 109 in the time and manner set out in the notice or a compliance agreement has been entered into under section 103;

- **(b)** if an application referred to in paragraph (a) is made,

    - **(i)** the amount of any penalty set out in the Commission's decision, beginning on the day on which it is required to be paid in accordance with the decision, if the decision changes the amount of a penalty set out in the notice of contravention, or

- **(ii)** if the decision does not change any such amount, the amount of any penalty set out in the notice of contravention, beginning on the day specified in the Commission's decision;

- **(c)** if the Commission's decision is appealed under section 126,

  - **(i)** the amount of any penalty set out in the decision of the Federal Court, beginning on the day on which it is required to be paid in accordance with that decision, if that decision changes the amount of a penalty set out in the Commission's decision, or

  - **(ii)** if the decision of the Federal Court does not change any such amount, the amount of any penalty set out in the Commission's decision, beginning on the day specified in the Court's decision; and

- **(d)** if the decision of the Federal Court is appealed, the amount of the penalty, if any, set out in the final decision after all rights of appeal have been exhausted.

Limitation period or prescription

~~imposed~~**(2)** No proceedings to recover a debt referred to in subsection (1) may be commenced more than five years after the day on which the debt becomes payable.

Certificate of default

117 (1) The Commission may issue a certificate for the unpaid amount of any debt referred to in section 116.

Registration in Federal Court

(2) Registration of a certificate in the Federal Court has the same effect as a judgment of that Court for a debt of the amount set out in the certificate and all related registration costs.

Audits

Ensure compliance

~~97~~**118** The Commissioner may, on reasonable notice and at any reasonable time, carry out an audit of the personal information management practices of an organization if the Commissioner has reasonable grounds to believe that the organization has contravened, is contravening or is likely to contravene Part 1.

Report ~~of findings and recommendations~~

~~98~~**119 (1)** In the course of carrying out an audit, the Commissioner may require the audited organization to, subject to the conditions that the Commissioner may specify, cause to be prepared, and submit to the Commissioner, a report, by a third party that is approved by the Commissioner, on any matter that the Commissioner specifies relating to the organization's compliance with Part 1.

Time limit

(2) The Commissioner must specify the time within which the report is to be submitted.

Reasons for refusal

(3) If the Commissioner refuses to approve the third party designated by the organization, the Commissioner must inform the organization in writing of the refusal, setting out the reasons.

Assistance and cost

(4) The organization must give all reasonable assistance to the third party and is responsible for the cost of the preparation of the report.

Commissioner's report and recommendations

120 (1) After carrying out an audit, the Commissioner must provide the audited organization with a report that contains the findings of the audit and any recommendations that the Commissioner considers appropriate.

Reports may be included in annual reports

(2) The report may be included in a report made under section ~~121~~83.

~~Commissioner's~~ Powers of the Commission and Commissioner — Investigations, ~~Inquiries and~~ Audits and Proceedings

Interim order

121 (1) In the course of proceedings in respect of an application referred to in section 109, the Commission may, in exigent circumstances, make any interim order that the Commission considers appropriate.

Powers of ~~Commissioner~~Commission

(2) The Commission may, in the course of proceedings in respect of an application referred to in section 109 or an interim order referred to in subsection 123(4),

- **(a)** summon and enforce the appearance of persons before the Commission and compel them to give oral or written evidence on oath and to produce any records and things that the Commission considers necessary for the purposes of the proceedings, in the same manner and to the same extent as a superior court of record;
- **(b)** administer oaths;
- **(c)** receive and accept any evidence and other information, whether on oath, by affidavit or otherwise, that the Commission sees fit, whether or not it is or would be admissible in a court of law;
- **(d)** order an organization that has information that is relevant to the proceedings to retain the information for as long as is necessary to allow the Commission to complete the proceedings;

- **(e)** at any reasonable time, enter any premises, other than a dwelling-house, occupied by an organization on satisfying the organization's security requirements for the premises;

- **(f)** converse in private with any person in any premises entered under paragraph (e) and otherwise make any inquiries in those premises that the Commission sees fit; and

- **(g)** examine or obtain copies of, or extracts from, records that are found in any premises entered under paragraph (e) and that contain any matter relevant to the proceedings.

Return of records

~~99~~**(3)** The Commission or its delegate must, within a reasonable time, return to a person or an organization any record or thing produced by that person or organization under this section, but nothing precludes the Commission or delegate from again requiring that the record or thing be produced.

Powers of Commissioner

122 **(1)** In carrying out an investigation of a complaint~~, conducting an inquiry or carrying out~~ or an audit, the Commissioner may

- **(a)** summon and enforce the appearance of persons before the Commissioner and compel them to give oral or written evidence on oath and to produce any records and things that the Commissioner considers necessary to carry out the investigation~~, conduct the inquiry or carry out the~~ or audit, in the same manner and to the same extent as a superior court of record;

- **(b)** administer oaths;

- **(c)** receive and accept any evidence and other information, whether on oath, by affidavit or otherwise, that the Commissioner sees fit, whether or not it is or would be admissible in a court of law;

- **(d)** ~~make any~~in exigent circumstances, issue a notice of proposed interim order ~~that the Commissioner considers appropriate~~;

- **(e)** order an organization that has information that is relevant to the investigation~~, inquiry~~ or audit to retain the information for as long as is necessary to allow the Commissioner to carry out the investigation~~, conduct the inquiry~~ or ~~carry out the~~ audit;

- **(f)** at any reasonable time, enter any premises, other than a dwelling-house, occupied by an organization on satisfying any security requirements of the organization relating to the premises;

- **(g)** converse in private with any person in any premises entered under paragraph (f) and otherwise make any inquiries in those premises that the Commissioner sees fit; and

- **(h)** examine or obtain copies of or extracts from records found in any premises entered under paragraph (f) that contain any matter relevant to the investigation~~, inquiry~~ or audit.

~~**Return of records**~~

Return of records

(2) The Commissioner or the Commissioner's delegate must return to a person or an organization any record or thing that they produced under this section within ~~10 days after the day on which they make~~ a ~~request to the Commissioner or the delegate~~reasonable time, but nothing precludes the Commissioner or the delegate from again requiring that the record or thing be produced.

~~**Delegation**~~

~~**100(1**~~**Notice of proposed interim order**

(3) The ~~Commissioner may delegate any of the powers, duties or functions set out~~notice of proposed interim order referred to in ~~sections 83 to 97 and subsection 99(1).~~

~~**Certificate of delegation**~~

~~**(2)**Any person to whom powers set out in subsection 99(1) are delegated must be given a certificate of the delegation and the delegate must produce the certificate, on request, to the person in charge of any premises to be entered under~~ paragraph (~~f) of that subsection.~~1)(d) must include

- **(a)** the proposed interim order;
- **(b)** the reasons for the proposed order;
- **(c)** the right of the organization and of the complainant to make representations to the Commission within 10 days after the day on which the notice is served, or within any further period set out in the notice, and the procedure for doing so; and
- **(d)** the fact that, if representations are not made in accordance with the notice, the proposed order will be imposed.

Representations

123 (1) Within the period set out in the notice of proposed interim order, the complainant and the organization may make representations to the Commission in accordance with that notice.

Hearing

(2) The Commission may conduct a hearing for the purpose of considering the proposed interim order and the reasons for it and may hold all or any part of the hearing in private.

Rules of evidence

(3) The Commission is not bound by any legal or technical rules of evidence in conducting proceedings under subsection (1) and must deal with the matter as informally and expeditiously as the circumstances and considerations of fairness and natural justice permit.

Decision — balance or probabilities

(4) After considering the representations, the Commission must decide, on a balance of probabilities, whether or not to make the interim order and may vary its content before making it.

Copy of decision

(5) The Commission must send a copy of the decision and the reasons for it to the complainant and the organization without delay.

Presumption

(6) If neither the complainant nor the organization exercise the remedies referred to in paragraph 122(3)(c), the proposed interim order as proposed is made by the Commission.

Inconsistent interests

124 (1) If a member of the Commission who is assigned to hear, or is hearing, proceedings referred to in subsection 123(1), either alone or as a member of a panel, holds any pecuniary or other interest that could be inconsistent with the proper performance of their duties and functions in relation to the proceedings, the member must disclose the interest to the Chairperson without delay. The member must also disclose, without delay, any reason why their participation could result in a reasonable apprehension of bias.

Commissioner has no jurisdiction

(2) The Commissioner does not have jurisdiction to hear proceedings referred to in subsection 123(1).

For greater certainty

(3) For greater certainty, a member of the Commission does not lack jurisdiction to hear proceedings referred to in subsection 123(1) by reason only that they participate in the work of the Division.

Rules

125 The Commission must make rules respecting the conduct of proceedings referred to in subsection 123(1), including the rules of evidence to be followed, and must make those rules publicly available.

Appeals

Right of appeal

~~101~~**126 (1)** A complainant or organization that is affected by any of the following ~~findings,~~ orders or decisions may appeal it to the ~~Tribunal~~Federal Court:

- **(a)** a ~~finding that is set out in a~~ decision ~~rendered~~made under subsection ~~93~~110(1);
- **(b)** an order made under that subsection ~~93(2);~~; or

- **(c)** a decision made under that subsection ~~94(1) not~~ to ~~recommend that a~~change the amount of the penalty ~~be imposed on the organization~~.

Time limit — appeal

(2) The time limit for making an appeal is 30 days after the day on which the ~~Commissioner renders~~Commission makes the decision under subsection ~~93~~110(1~~) that sets out the finding, order or decision.~~).

Appeal with leave

~~102~~**127** **(1)** A complainant or organization that is affected by an interim order made under ~~paragraph 99(1)(d~~section 121 or subsection 123(4) may, with leave of the ~~Tribunal~~Federal Court, appeal the order to the ~~Tribunal~~Federal Court.

Time limit — leave to appeal

(2) The time limit for making an application for leave to appeal is 30 days after the day on which the order is made.

Disposition of appeals

~~**103(1)**~~**128** The ~~Tribunal~~Federal Court may dispose of an appeal by dismissing it or by allowing it and, in allowing the appeal, the ~~Tribunal~~Federal Court may substitute its own finding, order or decision for the one under appeal~~.~~

~~**Standard of review**~~

~~**(2)**The standard of review~~ or may refer the matter back to the Commission for ~~an appeal is correctness for questions of law and palpable and overriding error for questions of fact or questions of mixed law and fact~~reconsideration.

Enforcement of Orders

~~**Compliance orders**~~

~~**104**~~**Orders — notice of contravention**

129 **(1)** ~~If an~~An order made by the ~~Commissioner~~Commission under subsection ~~93(2) is not appealed to the Tribunal~~107(4), (5) or ~~an appeal of the order is dismissed by the Tribunal, the order~~(6) or 108(4), (5) or (6) may, for the ~~purposes~~purpose of its enforcement, be made an order of the Federal Court and is enforceable in the same manner as an order of that Court.

Compliance orders

~~**Interim orders**~~

(2) If an ~~application for leave to appeal to the Tribunal is not made in relation to an~~ order made by the ~~Commissioner~~Commission under ~~paragraph 99~~subsection 110(1)~~(d), a leave application in relation to~~ is not appealed to the Federal Court or an appeal of the order is dismissed by the ~~Tribunal~~

~~or a leave application in relation to the order is granted by the Tribunal but the appeal is dismissed, then~~Federal Court, the order may, for the ~~purposes~~purpose of its enforcement, be made an order of the Federal Court and is enforceable in the same manner as an order of that Court.

~~Tribunal~~Interim orders

~~105~~(3) If ~~the Tribunal, on~~an application for leave to appeal~~, substitutes its own~~ an interim order ~~for an order of the Commissioner~~ made under subsection ~~93(2~~121(1) or ~~paragraph 99(1)(d),~~ 123(4) to the Federal Court is not made, a leave application in relation to the order is dismissed by the ~~Tribunal's~~Federal Court or the application for leave in relation to the order is granted by the Federal Court but the appeal is dismissed, then the order may, for the ~~purposes~~purpose of its enforcement, be made an order of the Federal Court and is enforceable in the same manner as an order of that Court.

Filing with Court

~~106~~130 An order referred to in section ~~104 or 105~~129 is made an order of the Federal Court by filing a certified copy of it with the Registrar of that Court.

Costs

131 The Federal Court may, in accordance with its rules, award costs. However, no costs may be awarded against the Commission unless the Federal Court is satisfied

- **(a)** that an award is necessary to maintain the public's confidence in the administration of justice; or
- **(b)** that the absence of an award would have a substantial adverse effect on the other party's ability to carry on business.

Private Right of Action

Damages — contravention of Act

~~107~~132 (1) An individual who is affected by an act or omission by an organization that constitutes a contravention of this Act has a cause of action against the organization for damages for loss or injury that the individual has suffered as a result of the contravention if

- **(a)** the Commissioner has made a finding under ~~paragraph 93~~subsection 105(1)~~(a)~~ or section 106 that the organization has contravened this Act and
    - ~~(i~~**(i)** the organization has paid the penalty and subsection 107(4) or 108(4) apply, as the case may be,
    - **(ii)** the finding is not the subject of an application for review under section 109 and the time limit for applying for a review set out in a notice of contravention has expired,
    - **(iii)** the Commission has confirmed or varied the finding under subsection 110(1),

- **(iv)** the finding is not appealed and the time limit for making an appeal under subsection ~~101~~126(2) has expired, or

- **(~~i~~iv)** the ~~Tribunal~~Federal Court has dismissed an appeal of the finding under ~~subsection 103(1); or~~section 128;

- **(b)** the ~~Tribunal~~Federal Court has made a finding under ~~subsection 103(1)~~ section 128 that the organization has contravened this Act;

- **(c)** a final decision dismissing any appeal of the finding, or confirming the finding that the organization has contravened this Act, has been made and all rights of appeal have been exhausted; or

- **(d)** the Commissioner has entered into a compliance agreement with the organization under section 103 and the agreement does not provide for the payment of damages for that loss or injury.

Damages — offence

(2) If an organization has been convicted of an offence under section ~~128~~145, an individual affected by the act or omission that gave rise to the offence has a cause of action against the organization for damages for loss or injury that the individual has suffered as a result of the act or omission.

For greater certainty

(3) For greater certainty, subsections (1) and (2) do not limit or affect an individual's right to avail themselves of a civil remedy under another Act of Parliament, under an Act of a legislature of a province or at common law.

Limitation period or prescription

(4~~Limitation period or prescription~~

~~(3)~~) An action must not be brought later than two years after the day on which the individual becomes aware of

- **(a)** in the case of an action under subsection (1), ~~the Commissioner's finding or, if there is an appeal, the Tribunal's decision; and~~

  - **(i)** the Commissioner's finding,

  - **(ii)** if there is a review under section 109, the decision of the Commission, or

  - **(iii)** if there is an appeal, the final decision after all rights of appeal have been exhausted; and

- **(b)** in the case of an action under subsection (2), the conviction.

Court of competent jurisdiction

(45) An action referred to in subsection (1) or (2) may be brought in the Federal Court or a superior court of a province.

Certificate Under Canada Evidence Act

Certificate under *Canada Evidence Act*

108133 (1) If a certificate under section 38.13 or 38.41 of the *Canada Evidence Act* prohibiting the disclosure of personal information of a specific individual is issued before a complaint is filed by that individual under this Act in respect of a request for access to that information, the provisions of this Act respecting that individual's right of access to their personal information do not apply to the information that is subject to the certificate.

Certificate following filing of complaint

(2) Despite any other provision of this Act, if a certificate under section 38.13 or 38.41 of the *Canada Evidence Act* prohibiting the disclosure of personal information of a specific individual is issued after the filing of a complaint under this Act in relation to a request for access to that information,

- **(a)** all proceedings under this Act in respect of that information, including an investigation, inquiry,proceeding in respect of an application referred to in section 109, proceeding in respect of an interim order referred to in subsection 123(4), audit, appeal or judicial review, are discontinued;

- **(b)** the Commission, the Commissioner or the Division must not disclose the information and must take all necessary precautions to prevent its disclosure; and

- **(c)** the Commission, the Commissioner and the Division must, within 10 days after the day on which the certificate is published in the *Canada Gazette*, return the information to the organization that provided the information.

Information not to be disclosed

(3) The Commission, the Commissioner and the Division and every person acting on their behalf or under thetheir direction of the Commissioner, in exercising their powers and performing their duties and functions under this Act, must not disclose information subject to a certificate issued under section 38.13 or 38.41 of the *Canada Evidence Act* and must take every reasonable precaution to avoid the disclosure of that information.

Power to delegate — Commissioner

(4) The Commissioner must not delegate the investigation or inquiry in respect of any complaint relating to information subject to a certificate issued under section 38.13 or 38.41 of the *Canada Evidence Act* except to one of a maximum of four officers or employees of the CommissionerCommission specifically designated by the Commissioner for the purpose of conducting that investigation or inquiry, as the case may be.

Powers, Duties and Functions of Commissioner

Factors to consider

109 In exercising **Power to delegate — Commission**

(5) The Commission must not delegate the consideration of an application for a review under section 109, or a proceeding in respect of an interim order referred to in subsection 123(4), that is in relation to information subject to a certificate issued under section 38.13 or 38.41 of the *Canada Evidence Act* except to one of a maximum of four employees of the Commission specifically designated by the Commission for the purpose of conducting that review or proceeding, as the case may be.

Security requirements

134 The Commission, the Commissioner, the Division and any powers and performing the person acting on their behalf or under their direction who receives or obtains information relating to any duties and functionsinvestigation under this Act, the Commissioner must must, with respect to access to and the use of that information, satisfy any security requirements applicable to, and take into account

- **(a)** the purpose of this Act;
- **(b)** the size and revenue of organizations;
- **(c)** the volume and sensitivity of the personal information under their control; and
- **(d)**matters of general public interest.

Promoting purposes of Act

110(1) The Commissioner must, in the form and manner that the Commissioner considers appropriate,

- **(a)**develop and conduct information programs to foster public understanding of this Act and recognition of its purposes;
- **(b)**develop guidance materials and tools for organizations in relation to their compliance with this Act — including any guidance materials and tools that are requested by the Minister — in consultation with stakeholders, including any relevant federal government institutions;
- **(c)**undertake and publish research that is related to the protectionoath of personal information, including any research that is requested by the Minister;
- **(d)**undertake and publish any research related to the operation or implementation of this Act that is requested by the Minister;
- **(e)**on request by an organization, provide guidance on — and, if the Commissioner considers it appropriate, recommend corrective measures in relation to — its privacy management program; and

- **(f)**promote, by any other means that the Commissioner considers appropriate, the purposes of this Act.

For greater certainty

(2) For greater certainty, for the purpose of paragraph (1)(e), the Commissioner may prioritize the requests of organizations that the Commissioner considers to be in greatest need of guidance and is not secrecy required to act on a request that the Commissioner considers unreasonable.

Prohibition — use for initiating complaint or audit

111 The Commissioner must notbe taken by, persons who normally have access to and use theof that information the Commissioner receives under section 10 or paragraph 110(1)(e) as grounds to initiate a complaint under subsection 82(2) or to carry out an audit under section 97 unless the Commissioner considers that the organization has wilfully disregarded the corrective measures that were recommended in relation to its privacy management program.

Information — powers, duties or functions

112 The Commissioner must make readily available information on the manner in which the Commissioner exercises the Commissioner's powers or performs the Commissioner's duties or functions under this Act.

Confidentiality

113135 (1) Subject to subsections (3) to (8), 80(2), 81(3) and 82(1), section 7983, paragraph 8185(2)(c), section 95, subsections 8297(4), 98(2) and 83(2), section 88,100(1), sections 103 to 106 and subsections 89(2) and 90(2), section 93, subsections 94(4), 98(1), 118107(2), 119(3) and) and (4) to (6), 108(2) and (4) to (6), 110(3), 120(1) and section 121 123(5), the Commission, the Commissioner or, the Division and any person acting on their behalf or under thetheir direction of the Commissioner must not disclose any information that comes to their knowledge as a result of the exercise of any of the Commissioner'stheir powers or the performance of any of the Commissioner'stheir duties or functions under this Act, other than those referred to in subsection 58(1) or 60(2).

Confidentiality — reports and records

(2) Subject to subsections (3) to (8), 80(2), 81(3) and 82(1), section 7983, paragraph 8185(2)(c), section 95, subsections 8297(4), 98(2) and 83(2), section 88,100(1), sections 103 to 106 and subsections 89(2) and 90(2), section 93, subsections 94(4), 98(1), 118107(2), 119(3) and) and (4) to (6), 108(2) and (4) to (6), 110(3), 120(1) and section 121 123(5), the Commission, the Commissioner or, the Division and any person acting on their behalf or under thetheir direction of the Commissioner must not disclose any information contained in a report made under subsection 58(1) or in a record obtained under subsection 60(2).

Public interest

(3) The Commissioner may, if Commission, the Commissioner considersor the Division may, if they consider that it is in the public interest to do so, make public any information that comes to

~~the Commissioner's~~their knowledge in the exercise of any of ~~the Commissioner's~~their powers or the performance of any of ~~the Commissioner's~~their duties or functions under this Act.

Disclosure of necessary information

(4) The Commission, the Commissioner or the Division may disclose, or may authorize any person acting on their behalf or under ~~the~~their direction ~~of the Commissioner~~ to disclose, information that in ~~the Commissioner's~~their opinion is necessary to

- **(a)** carry out an investigation~~, conduct an inquiry or carry out an~~ or audit under this Act~~;~~, consider an application referred to in section 109 or hear a matter referred to in subsection 123(1); or
- **(b)** establish the grounds for findings and recommendations contained in any decision or report made under this Act.

Disclosure in the course of proceedings

(5) The Commission, the Commissioner or the Division may disclose, or may authorize any person acting on their behalf or under ~~the~~their direction ~~of the Commissioner~~ to disclose, information in the course of

- **(a)** a prosecution for an offence under section ~~128~~145;
- **(b)** a prosecution for an offence under section 132 of the *Criminal Code* (perjury) in respect of a statement made under this Act; or
- ~~**(c)** a proceeding or an appeal before the **(b)**a prosecution for an offence under section 132 of the *Criminal Code* (perjury) in respect of a statement made under this Act;~~
- ~~**(c)**a proceeding or an appeal before the Tribunal~~Federal Court under this Act~~; or~~
- ~~**(d)**a judicial review in relation to the exercise of any of the Commissioner's powers or the performance of any of the Commissioner's duties or functions under this Act or in relation to a decision of the Tribunal~~.

Disclosure of offence authorized

(6) The Commission, the Commissioner and the Division may disclose to the Attorney General of Canada or of a province, as the case may be, information relating to the commission of an offence under any federal or provincial law on the part of an officer or employee of an organization if, in ~~the Commissioner's~~their opinion, there is evidence of an offence.

Disclosure of breach of security safeguards

(7) The Commission, the Commissioner and the Division may disclose, or may authorize any person acting on their behalf or under ~~the~~their direction ~~of the Commissioner~~ to disclose, to a government institution or a part of a government institution, any information contained in a report made under subsection 58(1) or in a record obtained under subsection 60(2) if ~~the Commissioner has~~they have reasonable grounds to believe that the information could be useful in the investigation

of a contravention of any federal or provincial law that has been, is being or is about to be committed.

Disclosure

(8) The Commission, the Commissioner ~~may~~and the Division disclose information, or may authorize any person acting on their behalf or under ~~the~~their direction ~~of the Commissioner~~ to disclose information~~,~~ in ~~the course of proceedings in which the Commissioner has intervened under paragraph 50(c~~accordance with subsection 58(3) or 60(1) of *An Act to promote the efficiency and adaptability of the Canadian economy by regulating certain activities that discourage reliance on electronic means of carrying out commercial activities, and to amend the Canadian Radio-television and Telecommunications Commission Act, the Competition Act, the Personal Information Protection and Electronic Documents Act and the Telecommunications Act* ~~or in accordance with subsection 58(3) or 60(1) of that Act.~~.

Not competent witness

~~114~~**136** The Commission, the Commissioner or the Division or any person acting on their behalf or under ~~the~~their direction ~~of the Commissioner~~ is not a competent witness in respect of any matter that comes to their knowledge as a result of the exercise of any of ~~the Commissioner's~~their powers or the performance of any of ~~the Commissioner's~~their duties or functions under this Act in any proceeding other than

- **(a)** a prosecution for an offence under section ~~128~~145;
- ~~**(b)** a prosecution for an offence under section 132 of the *Criminal Code* (perjury) in respect of a statement made under this Act; or~~
- ~~**(c)** a proceeding or an appeal before the Tribunal~~**(b)** a prosecution for an offence under section 132 of the *Criminal Code* (perjury) in respect of a statement made under this Act; or
- **(c)** a proceeding or an appeal before the Federal Court under this Act.

Protection of Commission, Commissioner and Division

~~115~~**137** **(1)** No criminal or civil proceedings lie against the Commission, the Commissioner or the Division, or against any person acting on their behalf or under ~~the~~their direction ~~of the Commissioner~~, for anything done, reported, decided or said in good faith as a result of the exercise or purported exercise of any ~~power~~ of ~~the Commissioner~~their powers or the performance or purported performance of any ~~duty~~of their duties or ~~function of the Commissioner~~functions under this Act.

Defamation

(2) No action lies in defamation with respect to

- **(a)** anything said, any information supplied or any record or thing produced in good faith in the course of an investigation or audit carried out, or proceedings in respect of an ~~inquiry~~application referred to in section 109 or interim order referred to in

subsection 123(4), conducted by or on behalf of the Commission, the Commissioner or the Division under this Act; and

- **(b)** any report or decision made in good faith by the Commission, the Commissioner or the Division under this Act and any fair and accurate account of the report or decision made in good faith for the purpose of news reporting.

De-identified personal information

~~116~~**138** For the ~~purpose~~purposes of paragraph 75(~~e~~i), the ~~Commissioner~~Division may, on request by an organization, authorize a purpose or situation in which the organization may use ~~information that has been~~ de-identified personal information, alone or in combination with other information, to identify an individual if, in the ~~Commissioner's~~Division's opinion, it is clearly in the interests of the individual.

~~**Agreements or arrangements — Minister**~~

~~**117**The Commissioner may enter into an agreement or arrangement with the Minister relating to the administration of this Act.~~

~~**Agreements or arrangements — CRTC and Commissioner of Competition**~~

~~**118(1)**The Commissioner may enter into agreements or arrangements with the Canadian Radio-television and Telecommunications Commission or the Commissioner of Competition in order to~~

- ~~**(a)**undertake and publish research on issues of mutual interest; and~~
- ~~**(b)**develop procedures for disclosing information referred to in subsection (2).~~

~~**Disclosure of information**~~

~~**(2)**The Commissioner may, in accordance with any procedure established under paragraph (1)(b), disclose information, other than information the Commissioner has received under section 10 or paragraph 110(1)(e), to the Canadian Radio-television and Telecommunications Commission or the Commissioner of Competition if the information is relevant to their powers, duties or functions.~~

~~**Purpose and confidentiality**~~

~~**(3)** The procedures referred to in paragraph (1)(b) must~~

- ~~**(a)** restrict the use of the information to the purpose for which it was originally disclosed; and~~
- ~~**(b)**stipulate that the information be treated in a confidential manner and not be further disclosed without the express consent of the Commissioner.~~

~~**Consultations with provinces**~~

~~**119(1)**If the Commissioner considers it appropriate to do so, or on the request of an interested person, the Commissioner may, in order to ensure that personal information is protected in as~~

consistent a manner as possible, consult with any person who, under provincial legislation, has powers, duties and functions similar to those of the Commissioner with respect to the protection of personal information.

Agreements or arrangements with provinces

(2) The Commissioner may enter into agreements or arrangements with any person referred to in subsection (1) in order to

- **(a)**coordinate the activities of their offices and the office of the Commissioner, including to provide for mechanisms for the handling of any complaint in which they are mutually interested;

- **(b)**undertake and publish research or develop and publish guidelines or other documents related to the protection of personal information;

- **(c)** develop model contracts or other documents related to the protection of personal information that is collected, used or disclosed interprovincially or internationally; and

- **(d)** develop procedures for disclosing information referred to in subsection (3).

Disclosure of information to provinces

(3) The Commissioner may, in accordance with any procedure established under paragraph (2)(d), disclose information, other than information the Commissioner has received under section 10 or paragraph 110(1)(e), to any person referred to in subsection (1), if the information

- **(a)**could be relevant to an ongoing or potential investigation of a complaint, inquiry or audit under this Act or provincial legislation that has objectives that are similar to this Act; or

- **(b)**could assist the Commissioner or that person in the exercise of their powers or the performance of their duties or functions with respect to the protection of personal information.

Purpose and confidentiality

(4) The procedures referred to in paragraph (2)(d) must

- **(a)** restrict the use of the information to the purpose for which it was originally disclosed; and

- **(b)**stipulate that the information be treated in a confidential manner and not be further disclosed without the express consent of the Commissioner.

Disclosure of information to foreign state

120(1) Subject to subsection (3), the Commissioner may, in accordance with any procedure established under paragraph (4)(b), disclose information referred to in subsection (2), other than information the Commissioner has received under section 10 or paragraph 110(1)(e), that has

come to the Commissioner's knowledge as a result of the exercise of any of the Commissioner's powers or the performance of any of the Commissioner's duties and functions under this Act to any person or body who, under the legislation of a foreign state, has

- **(a)** powers, duties and functions similar to those of the Commissioner with respect to the protection of personal information; or

- **(b)** responsibilities that relate to conduct that is substantially similar to conduct that would be in contravention of this Act.

Information that can be disclosed

(2) The information that the Commissioner is authorized to disclose under subsection (1) is information that the Commissioner believes

- **(a)** would be relevant to an ongoing or potential investigation or proceeding in respect of a contravention of the laws of a foreign state that address conduct that is substantially similar to conduct that would be in contravention of this Act; or

- **(b)** is necessary to disclose in order to obtain from the person or body information that may be useful to an ongoing or potential investigation, inquiry or audit under this Act.

Written arrangements

(3) The Commissioner may only disclose information to the person or body referred to in subsection (1) if the Commissioner has entered into a written arrangement with that person or body that

- **(a)** limits the information to be disclosed to that which is necessary for the purpose set out in paragraph (2)(a) or (b);

- **(b)** restricts the use of the information to the purpose for which it was originally disclosed; and

- **(c)** stipulates that the information be treated in a confidential manner and not be further disclosed without the express consent of the Commissioner.

Arrangements

(4) The Commissioner may enter into arrangements with one or more persons or bodies referred to in subsection (1) in order to

- **(a)** provide for cooperation with respect to the enforcement of laws protecting personal information, including the disclosure of information referred to in subsection (2) and the provision of mechanisms for the handling of any complaint in which they are mutually interested;

- **(b)** establish procedures for disclosing information referred to in subsection (2);

- ~~(c) develop recommendations, resolutions, rules, standards or other documents with respect to the protection of personal information;~~

- ~~(d) undertake and publish research related to the protection of personal information;~~

- ~~(e) share knowledge and expertise by different means, including through staff exchanges; or~~

- ~~(f) identify issues of mutual interest and determine priorities pertaining to the protection of personal information.~~

~~**Annual report**~~

~~**121(1)**The Commissioner must, within three months after the end of each financial year, cause to be tabled in each House of Parliament a report concerning the application of this Act, the extent to which the provinces have enacted legislation that is substantially similar to this Act and the application of any such legislation.~~

~~**Consultation**~~

~~**(2)**Before preparing the report, the Commissioner must consult with those persons in the provinces who, in the Commissioner's opinion, are in a position to assist the Commissioner in making a report respecting personal information that is collected, used or disclosed interprovincially or internationally.~~

General

Regulations

~~**122**~~**139** **(1)** The Governor in Council may make regulations for carrying out the purposes and provisions of this Act, including regulations

- ~~**(a**~~**(a)** respecting the anonymization of personal information;

- **(b)** respecting the scope of any of the activities set out in paragraphs 18(2)(a) to (c), including specifying activities that are ~~excluded from~~not business activities for the ~~application~~purposes of ~~this Act;~~subsection 18(1);

- **(~~b~~c)** specifying what is a government institution or part of a government institution for the purposes of any provision of this Act;

- ~~**(c)**specifying information for the purpose of section 51;~~

- **(d)** specifying information for the purposes of section 50;

- **(e)** respecting the disposal of personal information for the purposes of section 54;

- **(f)** respecting security safeguards for the purposes of section 56;

- **(g)** specifying information to be kept and maintained under subsection 60(1);

- **(h)** respecting an individual's right of access to their personal information; and

- **(~~e~~i)** prescribing anything that by this Act is to be prescribed.

Orders

(2) The Governor in Council may, by order,

- **(a)** provide that this Act is binding on any agent of ~~Her~~His Majesty in right of Canada to which the *Privacy Act* does not apply;

- **(b)** if satisfied that legislation of a province that is substantially similar to this Act applies to an organization, a class of organizations, an activity or a class of activities, exempt the organization, activity or class from the application of this Act in respect of the collection, use or disclosure of personal information that occurs within that province; and

- **(c)** amend the schedule by adding or deleting, in column 1, ~~a reference to~~the name of an organization or by adding or deleting, in column 2, the description of personal information in relation to an organization in column 1.

Regulations — substantially similar provincial legislation

(3) The Governor in Council may make regulations establishing

- **(a)** criteria that are to be applied in making a determination under paragraph (2)(b) that provincial legislation is substantially similar to this Act, or in reconsidering that determination; and

- **(b)** the process for making or reconsidering that determination.

Data mobility frameworks

~~123~~140 The Governor in Council may make regulations respecting the disclosure of personal information under section 72, including regulations

- **(a)** respecting data mobility frameworks and prescribing

    - **(i)** safeguards that must be put in place by organizations to enable the secure disclosure of personal information under section 72 and the secure collection of that information, and

    - **(ii)** parameters for the technical means for ensuring interoperability in respect of the disclosure and collection of that information;

- **(b)** specifying organizations that are subject to a data mobility framework; and

- **(c)** providing for exceptions to the requirement to disclose personal information ~~under that section~~, including exceptions related to the protection of proprietary or confidential commercial information.

Distinguishing — classes

~~124~~**141** Regulations made under subsection ~~122~~139(1) or section ~~123~~140 may distinguish among different classes of activities, government institutions or parts of government institutions, information, organizations or entities.

Regulations — codes of conduct and certification programs

~~125~~**142** The Minister may make regulations

- ~~**(a)**respecting the making of an application under subsection 76(2);~~
- ~~**(b)**setting out criteria for the purpose of subsection 76(3);~~
- ~~**(c)**respecting the reconsideration of a determination made under subsection 76(3);~~
- ~~**(d)**respecting the making of an application under subsection 77(1);~~
- ~~**(e)**providing for anything else that must be included in a certification program for the purpose of paragraph 77(1)(f);~~
- ~~**(f)**setting out criteria for the purpose of subsection 77(2);~~
- ~~**(g)**respecting the reconsideration of a determination made under subsection 77(2);~~
- ~~**(h)**specifying, for the purpose of section 78, the time for responding to an application;~~
- ~~**(i**~~**(a)** respecting the criteria for and the manner and the circumstances in which a recommendation may be made under paragraph ~~81~~85(2)(c);
- **(~~j~~b)** respecting the criteria for and the manner and the circumstances in which an approval may be revoked under paragraph ~~81(e); and~~85(2)(d);
- **(c)** respecting the making of an application under subsection 92(2);
- **(d)** setting out criteria for the purposes of subsection 92(3);
- **(e)** respecting the reconsideration of a determination made under subsection 92(3);
- **(f)** respecting the making of an application under subsection 93(1);
- **(g)** providing for anything else that must be included in a certification program for the purposes of paragraph 93(1)(f);
- **(h)** setting out criteria for the purposes of subsection 93(2);
- **(i)** respecting the reconsideration of a determination made under subsection 93(2);
- **(j)** specifying, for the purposes of section 94, the time for responding to an application; and

- **(k)** respecting record-keeping and reporting obligations of an entity that operates an approved certification program, including obligations to provide reports to the ~~Commissioner~~Commission in respect of an approved certification program.

Whistleblowing

~~126~~143 **(1)** Any person who has reasonable grounds to believe that a person has contravened or intends to contravene Part 1 may notify the ~~Commissioner~~Commission of the particulars of the matter and may request that their identity be kept confidential with respect to the notification.

Confidentiality

(2) The ~~Commissioner~~Commission must keep confidential the identity of a person who has notified the ~~Commissioner~~Commission under subsection (1) and to whom an assurance of confidentiality has been provided by the ~~Commissioner~~Commission.

Prohibition

~~127~~144 **(1)** An employer must not dismiss, suspend, demote, discipline, harass or otherwise disadvantage an employee, or deny an employee a benefit of employment, by reason that

- **(a)** the employee, acting in good faith and on the basis of reasonable belief, has disclosed to the ~~Commissioner~~Commission that the employer or any other person has contravened or intends to contravene Part 1;

- **(b)** the employee, acting in good faith and on the basis of reasonable belief, has refused or stated an intention of refusing to do anything that is a contravention of Part 1;

- **(c)** the employee, acting in good faith and on the basis of reasonable belief, has done or stated an intention of doing anything that is required to be done in order that Part 1 not be contravened; or

- **(d)** the employer believes that the employee will do anything referred to in paragraph (a), (b) or (c).

Saving

(2) Nothing in this section impairs any right of an employee, either at law or under an employment contract or collective agreement.

Definitions of *employee* and *employer*

(3) In this section, ***employee*** includes an independent contractor and ***employer*** has a corresponding meaning.

Offence and punishment

~~128~~145 Every organization that knowingly contravenes section 58, subsection 60(1), section 69 or 75 or subsection ~~127~~144(1) or an order made under subsection ~~93(2) or~~110(1), that obstructs the Commissioner or the Commissioner's delegate in the investigation of a complaint~~, in~~

~~conducting an inquiry~~ or in carrying out an audit or that obstructs the Commission or the Commission's delegate in the course of proceedings in respect of an application referred to in section 109 or interim order referred to in subsection 123(4) is

- **(a)** guilty of an indictable offence and liable to a fine not exceeding the ~~higher~~greater of $25,000,000 and 5% of the organization's gross global revenue in its financial year before the one in which the organization is sentenced; or

- **(b)** guilty of an offence punishable on summary conviction and liable to a fine not exceeding the ~~higher~~greater of $20,000,000 and 4% of the organization's gross global revenue in its financial year before the one in which the organization is sentenced.

Review by parliamentary committee

~~129~~**146** **(1)** Five years after the day on which this section comes into force, and every five years after that, a comprehensive review of the provisions and operation of this Act is to be commenced by a committee of the Senate, of the House of Commons or of both Houses of Parliament that may be designated or established by the Senate, the House of Commons or both Houses of Parliament, as the case may be, for that purpose.

Report

(2) Within one year, or any further time that is authorized by the Senate, the House of Commons or both Houses of Parliament, as the case may be, after the day on which the review is commenced, the committee must submit a report on that review to the Senate, the House of Commons or both Houses of Parliament, as the case may be, together with a statement of any changes recommended by the committee.

PART 3

Coming into Force

Order in council

~~**130(1)**Subject to subsections (2) and (3),~~ **147** The provisions of this Act ~~comes into force on the day on which section 3 of the *Digital Charter Implementation Act, 2022* comes into force.~~

~~**Order in council**~~

~~**(2)**Sections 72 and 123~~ come into force on a day or days to be fixed by order of the Governor in Council~~.~~

~~**Order in council**~~

~~**(3)**Sections 76 to 81, paragraph 83(1)(d), subsection 94(3) and section 125 come into force on a day to~~ , but that day or those days must not be ~~fixed by order~~ before the day on which Part 3 of *An Act to enact the Protecting Privacy and Consumer Data Act, to amend* the ~~Governor in Council~~*Personal Information Protection and Electronic Documents Act and to make amendments to other Acts* comes into force.