

ACCESS TO INFORMATION AND PROTECTION OF PRIVACY ACT MANUAL

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CHAPTER 8

GENERAL

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DIVISION 1 – TRANSITIONAL PROVISIONS

SECTION 128 Definitions

128 In this Division

“Court” means the Supreme Court;

“former Act” means the Access to Information and Protection of Privacy Act, R.S.Y. 2002, c.1;

“review” means a review by the commissioner of

(a) a matter referred to in any of paragraphs 48(1)(a) to (d) of the former Act as requested by a person under subsection 48(1) of the former Act,

(b) a public body’s refusal or failure to correct the personal information of a person, or annotate a record containing the personal information of a person, as requested by the person under subsection 48(2) of the former Act,

(c) a complaint made by a person under subsection 48(3) of the former Act that a public body has not collected, used or disclosed their personal information in compliance with the former Act,

(d) a decision by a public body to disclose the personal or business information of a third party as asked for by the third party under subsection 48(4) of the former Act.

SECTION 129 Existing access requests

This provision provides that an access request that is being processed when this Act comes into force, is to be processed under the former Act as if it had not been repealed.

129 After the coming into force of this section, the former Act continues to apply to a request made under section 6 of the former Act if the records manager has not responded to the applicant under section 11 of the former Act on or before the day immediately before the coming into force of this section.

SECTION 130 Review not yet commenced by commissioner

This provision provides that if the Information and Privacy Commissioner (IPC) has received a request under the former Act, but has not yet commenced their review, the IPC may choose to:

- proceed under the former Act, or

- treat the request as a complaint under the new Act and conduct an investigation under the new Act in respect of a complaint.

130(1) The commissioner must, without delay after the coming into force of this section, take one of the actions under subsection (2) if

130(1)(a) the commissioner had received a subsection 48(1), (2) or (4) of the former Act, or a request for a review of a complaint made under subsection 48(3) of the former Act, before the coming into force of this section; and

130(1)(b) the commissioner had not, as of the day on which this section came into force, commenced the review, by means of an inquiry or investigation.

130(2) The actions for the purpose of subsection (1) are the following:

130(2)(a) to conduct a review by means of an inquiry of the request for a review or an investigation of the complaint as if the former Act had not been repealed;

130(2)(b) to treat the request made under the former Act as if it had been filed under section 90 of this Act on the day on which section 90 came into force as follows:

130(2)(b)(i) if the request was made under paragraph 48(1)(a) or (b) of the former Act, it is to be treated as a complaint made under section 66 of this Act,

130(2)(b)(ii) if the request was made under paragraph 48(1)(b.1) of the former Act, it is to be treated as a complaint made under subsection 58(2) of this Act,

130(2)(b)(iii) if the request was made under paragraph 48(1)(c) of the former Act, it is to be treated as a complaint made under subsection 62(5) of this Act,

130(2)(b)(iv) if the request was made under paragraph 48(1)(d) of the former Act, it is to be treated as a complaint made under subsection 56(3) of this Act,

130(2)(b)(v) if the request was made under subsection 48(2) of the former Act, it is to be treated as a personal information correction complaint made under section 36 of this Act,

130(2)(b)(vi) if the request is made under subsection 48(3) of the former Act, it is to be treated as a privacy complaint made under section 37 of this Act,

130(2)(b)(vii) if the request is made under subsection 48(3) of the former Act, it is to be treated as a privacy complaint made under section 61 of this Act.

130(3) The former Act (including the requirement for a decision by a public body under subsection 58(1) of the former Act and any appeal to the Court under subsection 59(1) of the former Act) applies as if it had not been repealed in respect of a review of a request or complaint made under the former Act if the commissioner has not concluded the review by

means of an inquiry or investigation on or before the day immediately before the coming into force of this section.

130(4) For greater certainty, if, on the day immediately before the coming into force of this section, the Court had not, under section 61 of the former Act, disposed of an appeal made to it under subsection 59(1) of the former Act, the Court must hear and dispose of the appeal under the former Act as if the former Act had not been repealed.

SECTION 131 Transitional regulations

This provision enables Cabinet to make regulation that address any transitional matters that must be addressed to ensure a consistent repeal and replacement of the former Act with the new Act.

131(1) The Commissioner in Executive Council may make regulations respecting any transitional matters that the Commissioner in Executive Council considers necessary or advisable to facilitate the implementation of this Act.

131(2) The authority to make or amend a regulation made under subsection (1), but not the authority to repeal the regulation, ends three years after the date