



Freedom of Information and Protection of Privacy Act

FREEDOM OF INFORMATION AND
PROTECTION OF PRIVACY REGULATION

B.C. Reg. 155/2012

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Consolidated Regulations of British Columbia

This is an unofficial consolidation.

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This is an unofficial consolidation provided for convenience only. This is not a copy prepared for the purposes of the *Evidence Act*.

This consolidation includes any amendments deposited and in force as of the currency date at the bottom of each page. See the end of this regulation for any amendments deposited but not in force as of the currency date. Any amendments deposited after the currency date are listed in the B.C. Regulations Bulletins. All amendments to this regulation are listed in the *Index of B.C. Regulations*. Regulations Bulletins and the Index are available online at www.bclaws.ca.

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Freedom of Information and Protection of Privacy Act

**FREEDOM OF INFORMATION AND PROTECTION OF
PRIVACY REGULATION**

B.C. Reg. 155/2012

Contents

| | | |
|----|---|-----------|
| 1 | Definitions | 1 |
| 2 | Oral requests | 1 |
| 3 | Who may act for a minor | 1 |
| 4 | Who may act for an adult | 1 |
| 5 | Who may act for a deceased individual | 2 |
| 6 | Anthropological and heritage sites | 3 |
| 7 | Disclosure relating to mental or physical health | 4 |
| 8 | Disclosure for audit purposes | 4 |
| 9 | Purposes for collection of personal information | 4 |
| 10 | Consent respecting extending the time limit for responding to a request | 5 |
| 11 | Consent respecting personal information | 5 |
| 12 | Common or integrated program or activity – written documentation | 6 |
| 13 | Fees | 7 |
| 14 | Form respecting notice of disclosure | 7 |
| 15 | Social media sites | 7 |
| | SCHEDULE 1 | 8 |
| | SCHEDULE 2 | 9 |
| | SCHEDULE 3 | 10 |

Freedom of Information and Protection of Privacy Act

**FREEDOM OF INFORMATION AND
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B.C. Reg. 155/2012**

Definitions

- 1** In this regulation:
- “**Act**” means the *Freedom of Information and Protection of Privacy Act*;
 - “**commercial applicant**” means a person who makes a request for access to a record to obtain information for use in connection with a trade, business, profession or other venture for profit;
 - “**health professional**” means a medical practitioner, psychologist, registered nurse or registered psychiatric nurse.

Oral requests

- 2** An applicant may make an oral request for access to a record if
- (a) the applicant’s ability to read or write English is limited, or
 - (b) the applicant has a physical disability that impairs the applicant’s ability to make a written request.
- [am. B.C. Reg. 64/2021, s. 3.]

Who may act for a minor

- 3** (1) A guardian of a minor may act for the minor in relation to any of the following sections of the Act if the minor is incapable of acting under that section:
- (a) section 5;
 - (b) section 10 (1) (d);
 - (c) section 26 (d);
 - (d) section 27 (1) (a) (i);
 - (e) section 29 (1);
 - (f) section 30.1 (a);
 - (g) section 32 (b);
 - (h) section 33.1 (1) (b).
- (2) A guardian of a minor may exercise a power granted to the guardian under subsection (1) of this section only if the power is within the scope of the guardian’s duties or powers.

Who may act for an adult

- 4** (1) In this section, “**representative**” means any of the following persons:
- (a) a committee appointed under the *Patients Property Act*;
 - (b) a person acting under a power of attorney;
 - (c) a litigation guardian;

FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY REGULATION

- (d) a representative acting under a representation agreement, as defined in the *Representation Agreement Act*.
- (2) A representative of an adult may act for the adult in relation to any of the following sections of the Act:
- (a) section 5;
 - (b) section 10 (1) (d);
 - (c) section 26 (d);
 - (d) section 27 (1) (a) (i);
 - (e) section 29 (1);
 - (f) section 30.1 (a);
 - (g) section 32 (b);
 - (h) section 33.1 (1) (b).
- (3) A representative of an adult may exercise a power granted to the representative under subsection (2) of this section only if the power is within the scope of the representative's duties or powers.

Who may act for a deceased individual

- 5 (1) In this section:

“appropriate person” means,

- (a) in respect of a deceased adult, one of the following:
 - (i) a committee acting under section 24 of the *Patients Property Act* for the deceased;
 - (ii) if there is no committee acting for the deceased, the personal representative of the deceased;
 - (iii) if there is no committee acting for the deceased and no personal representative of the deceased, the nearest relative of the deceased, and
- (b) in respect of a deceased minor, one of the following:
 - (i) the personal representative of the deceased;
 - (ii) if there is no personal representative of the deceased, a guardian of the deceased immediately before the date of death;
 - (iii) if there is no personal representative or guardian of the deceased, the nearest relative of the deceased;

“nearest relative” means the first person referred to in the following list who is willing and able to act under subsection (2) of this section for a deceased individual:

- (a) spouse of the deceased at the time of death;
- (b) adult child of the deceased;
- (c) parent of the deceased;

FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY REGULATION

- (d) adult sibling of the deceased;
- (e) other adult relation of the deceased other than by marriage;
- (f) an adult immediately related to the deceased by marriage;

“spouse” means a person who

- (a) is married to another person and is not living separate and apart, within the meaning of the *Divorce Act* (Canada), from the other person, or
- (b) is living with another person in a marriage-like relationship for a continuous period of at least one year immediately before the death of the other person.

(2) If an individual is deceased, an appropriate person may act for the deceased in relation to any of the following sections of the Act:

- (a) section 5;
- (b) section 10 (1) (d);
- (c) section 26 (d);
- (d) section 27 (1) (a) (i);
- (e) section 29 (1);
- (f) section 30.1 (a);
- (g) section 32 (b);
- (h) section 33.1 (1) (b).

(3) If a nearest relative who is acting under this section ceases to be willing or able to act, the right to act under subsection (2) of this section passes to the person who is next in the definition of “nearest relative” and who is willing and able to act.

(4) If the right to act under subsection (2) of this section passes to persons of equal rank in the listed order in the definition of “nearest relative”, the right passes to the person who is the eldest of the persons and descends in order of age to the next person who is willing and able to act.

(5) A committee, or a guardian of a minor immediately before the minor’s death, may exercise a power granted under subsection (2) of this section to the committee or the guardian only if the power is within the scope of the duties or powers of the committee or the guardian.

[am. B.C. Reg. 64/2021, s. 8.]

Anthropological and heritage sites

6 For the purposes of section 18 of the Act,

- (a) a site has anthropological value if it contains an artifact or other physical evidence of past habitation or use that has research value, and
- (b) a site has heritage value if it is the location of a traditional societal practice for a living community or it has historical, cultural, aesthetic, educational, scientific or spiritual meaning or value for the Province or for a community including an aboriginal people.

Disclosure relating to mental or physical health

- 7 (1) The head of a public body may disclose information relating to the mental or physical health of an individual to a health professional for an opinion on whether disclosure of the information could reasonably be expected to result in grave and immediate harm to the individual's safety or mental or physical health.
- (2) A health professional to whom information is disclosed under subsection (1) must not disclose or use the information except for the purposes described in that subsection.
- (3) The head of a public body may require a health professional to whom information is disclosed under this section to do either or both of the following:
- (a) enter into a confidentiality agreement;
 - (b) examine the record containing the information on the public body's premises.
- (4) If a copy of a record containing information relating to the mental or physical health of an individual is forwarded to a health professional for examination, the health professional must return the record to the head of the public body after giving the opinion.
- (5) The head of a public body may recommend that an applicant who makes a request for access to a record containing information relating to the applicant's mental or physical health should not examine the record until a health professional or a member of the applicant's family is present to assist the applicant in understanding the information in the record.

Disclosure for audit purposes

- 8 A public body may, for audit purposes, disclose personal information under section 33.2 (f) of the Act to the ministry of the minister responsible for the administration of the *Financial Administration Act*.

Purposes for collection of personal information

- 9 For the purposes of section 26 (d) of the Act, personal information may be collected for one or more of the following purposes:
- (a) to allow one or more
 - (i) public bodies, and
 - (ii) government institutions subject to the *Privacy Act* (Canada)specified by the individual to record or update
 - (iii) the individual's personal contact information, including the individual's address, phone number and e-mail address, and
 - (iv) the individual's name, if the individual has changed the individual's name under the *Name Act*;

FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY REGULATION

- (b) if the person is acting for a deceased individual under section 5 of this regulation, to allow one or more
 - (i) public bodies, and
 - (ii) government institutions subject to the *Privacy Act* (Canada) specified by the person to receive notification of the death in order that benefits or services relating to the deceased may be provided or cancelled, as applicable.

[am. B.C. Reg. 64/2021, s. 3.]

Consent respecting extending the time limit for responding to a request

- 10** For the purposes of section 10 (1) (d) of the Act, consent must
- (a) be in writing, and
 - (b) be done in a manner that specifies the period of time of the extension for which the applicant is providing consent.

Consent respecting personal information

- 11** (1) For the purposes of section 26 (d), 30.1 (a), 32 (b) and 33.1 (1) (b) of the Act, consent must
- (a) be in writing, and
 - (b) be done in a manner that specifies
 - (i) the personal information for which the individual is providing consent, and
 - (ii) the date on which the consent is effective and, if applicable, the date on which the consent expires.
- (2) In addition to the requirements of subsection (1) of this section, for the purposes of
- (a) section 26 (d) of the Act, consent must be done in a manner that specifies
 - (i) who may collect the personal information, and
 - (ii) the purpose of the collection of the personal information,
 - (b) section 30.1 (a) of the Act, consent must be done in a manner that specifies
 - (i) who may store or access the personal information, as applicable,
 - (ii) if practicable, the jurisdiction in which the personal information may be stored or from which the personal information may be accessed, as applicable, and
 - (iii) the purpose of the storage of or access to the personal information,
 - (c) section 32 (b) of the Act, consent must be done in a manner that specifies the use of the personal information, and
 - (d) section 33.1 (1) (b) of the Act, consent must be done in a manner that specifies
 - (i) to whom the personal information may be disclosed,

FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY REGULATION

- (ii) if practicable, the jurisdiction to which the personal information may be disclosed, and
 - (iii) the purpose of the disclosure of the personal information.
- (3) Subject to subsection (4), a consent under section 33.1 (1) (b) of the Act that was given before the date this regulation comes into force, and is still effective on the date this regulation comes into force, continues to be effective in accordance with its terms.
- (4) Unless a consent described in subsection (3) complies with the requirements set out in subsections (1) and (2) (d) within one year after the date this regulation comes into force, the consent ceases to be effective on the date that is one year after the date this regulation comes into force.

Common or integrated program or activity – written documentation

12 The written documentation that confirms that a program or activity is a common or integrated program or activity is

- (a) a written agreement that
 - (i) is signed by the head of each public body and agency through which, or on whose behalf, as applicable, the services of the program or activity are provided, and
 - (ii) includes the following information:
 - (A) a description of the services provided by the program or activity;
 - (B) a description of the types of personal information collected, used and disclosed in the course of providing the program or activity;
 - (C) a description of the purposes, key objectives and expected benefits or outcomes of the program or activity;
 - (D) a description of the respective roles and responsibilities of each public body and agency through which, or on whose behalf, the services are provided;
 - (E) the date on which the program or activity will start and, if applicable, the date on which the program or activity will end, or
- (b) an order of the minister responsible for this Act that
 - (i) states that a program or activity, which provides one or more services through one ministry working on behalf of one or more other public bodies or agencies, is a common or integrated program or activity, and
 - (ii) includes, with respect to the program or activity, the information set out in paragraph (a) (ii).

[en. B.C. Reg. 175/2015, s. 1.]

FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY REGULATION

Fees

- 13** The maximum fees for services provided to different categories of applicants are set out in Schedule 1 of this regulation.

Form respecting notice of disclosure

- 14** The form prescribed for the purposes of section 25 (4) of the Act is set out in Schedule 2 of this regulation.

Social media sites

- 15** The social media sites prescribed for the purposes of the definition of “social media site” in Schedule 1 of the Act are set out in Schedule 3 of this regulation.

FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY REGULATION

Schedule 1

SCHEDULE 1

SCHEDULE OF MAXIMUM FEES

| Item | COLUMN 1 | COLUMN 2 |
|------|---|---|
| | Description of Services | Management Fees |
| 1 | For applicants other than commercial applicants: | |
| | (a) for locating and retrieving a record | \$7.50 per 1/4 hour after the first 3 hours |
| | (b) for producing a record manually | \$7.50 per 1/4 hour |
| | (c) for producing a record from a machine readable record from a server or computer | \$7.50 per 1/4 hour for developing a computer program to produce the record |
| | (d) for preparing a record for disclosure and handling a record | \$7.50 per 1/4 hour |
| | (e) for shipping copies | actual costs of shipping method chosen by applicant |
| | (f) for copying records | |
| | (i) floppy disks | \$2 per disk |
| | (ii) CDs and DVDs, recordable or rewritable | \$4 per disk |
| | (iii) computer tapes | \$40 per tape, up to 2 400 feet |
| | (iv) microfiche | \$3 per fiche |
| | (v) microfilm duplication | \$25 per roll for 16 mm microfilm, \$40 per roll for 35 mm microfilm |
| | (vi) microfiche or microfilm to paper duplication | \$0.50 per page (8.5" x 11") |
| | (vii) photographs, colour or black and white | \$5 to produce a negative \$12 each for 16" x 20" photograph \$9 each for 11" x 14" photograph \$4 each for 8" x 10" photograph \$3 each for 5" x 7" photograph |
| | (viii) photographic print of textual, graphic or cartographic record, black and white | \$12.50 each (8" x 10") |
| | (ix) dot matrix, ink jet, laser print or photocopy, black and white | \$0.25 per page (8.5" x 11", 8.5" x 14" or 11" x 17") |
| | (x) dot matrix, ink jet, laser print or photocopy, colour | \$1.65 per page (8.5" x 11", 8.5" x 14" or 11" x 17") |
| | (xi) scanned electronic copy of a paper record | \$0.10 per page |

FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY REGULATION

Schedule 2

| Item | COLUMN 1 | COLUMN 2 |
|------|--|--|
| | Description of Services | Management Fees |
| | (xii) photomechanical reproduction of 105 mm cartographic record/plan | \$3 each |
| | (xiii) slide duplication | \$0.95 each |
| | (xiv) audio cassette tape (90 minutes or fewer) duplication | \$5 per cassette plus \$7 per 1/4 hour of recording |
| | (xv) video cassette recorder (VHS) tape (120 minutes or fewer) duplication | \$5 per cassette plus \$7 per 1/4 hour of recording |
| 2 | For commercial applicants for each service listed in Item 1 | the actual cost to the public body of providing that service |

SCHEDULE 2

PRESCRIBED FORM UNDER SECTION 25 (4) OF THE ACT

..... *[name of public body]* has disclosed information that relates to you in compliance with the requirements of section 25 of the *Freedom of Information and Protection of Privacy Act* (“Act”) which requires a public body to disclose, without delay, information

- (a) about a risk of significant harm to the environment or to the health or safety of the public or a group of people, or
- (b) the disclosure of which is, for any other reason, clearly in the public interest.

The information disclosed is*[describe the information]*..... .

The information was disclosed*[describe when and how the information was disclosed]*..... .

The information was disclosed to *[tick the appropriate box and provide the information in the brackets unless doing so could reasonably be expected to threaten, or result in immediate and grave harm to the safety or mental or physical health of a person under section 19 of the Act, or unreasonably invade the personal privacy of a third party under section 22 of the Act]*

- the public.
- an affected group *[describe the affected group]*.
- an applicant *[identify the applicant]*.

The reason for disclosure of the information is*[explain the reason for which the information was disclosed]*..... .

The decision to disclose this information was made by*[name, job title]*..... .

Should you have any questions about the disclosure of this information, please contact
.....[name, job title, contact information]..... .

Signed [name, job title]

SCHEDULE 3

[en. B.C. Reg. 123/2014.]

PRESCRIBED SOCIAL MEDIA SITES

- 1** The following social media sites are prescribed for the purposes of the definition of “social media site” in Schedule 1 of the Act:

App.net
Bebo
Blackboard
Blogger
blog.gov.bc.ca
Classmates
Couvon
Dealfind
Delicious
deviantArt
Diaspora
Digg
ethicalDeal
Eventbrite
Fark
Flickr
Flipboard
Fotki
foursquare
Gather
GitHub
Google+
GovLoop
Gowalla
Groupon
hi5
HootSuite
Instagram
Justin.tv
Kaboodle
Last.fm
LinkedIn
LiveJournal
Livestream

FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY REGULATION

Schedule 3

LivingSocial
Medium
Meetup
Metacafe
Movable Type
Ning
orkut
Paper.li
Photobucket
Picasa
Pinterest
PlaceSpeak
Prezi
reddit
Scribd
SeeClickFix
SlideRocket
SlideShare
Snapchat
SoundCloud
Storify
StumbleUpon
Svble
SwarmJam
Tagged
TeamBuy.ca
Tumblr
Typepad
Ustream
Vimeo
Vine
WagJag
We Heart It
Windows Live
WordPress
Yammer
Yelp
Zoomr