

The Updated ATIA: What You Need to Know

The **Access to Information Act** (ATIA) is now divided into two parts

PART 1 – The Request System

KEY CHANGES

Request Processing



Fees s. 11

Requesters will pay only the \$5 application fee; all other fees are eliminated.



Decline to Act s. 6.1

Institutions may seek the Information Commissioner's (IC) approval to decline to act on requests that are vexatious, made in bad faith or otherwise an abuse of the right of access. The deadline for responding to a request is suspended until the IC's decision.

If the IC approves the institution's request to decline to act on a request, the \$5 application fee will be refunded to the requester.



Personal Info s. 3(j.1) *Privacy Act*

Names and titles of ministerial staff will no longer be considered personal information for the purposes of administering the ATIA and the *Privacy Act*. This change applies to records created on or after the day of royal assent.



Sharing Resources s. 96, 97 ATIA; s. 73.1, 73.2 *Privacy Act*

Institutions can now partner with institutions in the same ministerial portfolio to share request processing services.

This will allow small institutions to take advantage of larger departments' capacity.

Complaints Process



Order Making Power s. 36-41

IC has the power, following the investigation of a complaint, to make binding orders in relation to access requests, including ordering the release of government records.

Orders will normally take effect after 30 business days. Institutions with serious concern about an order can seek review by the Federal Court within 30 business days.

Requesters, third parties, and the Privacy Commissioner may also seek review by the court.



Establishing a Body of Precedents s. 37

IC may publish her final reports and orders, to establish a body of precedents and make institutions aware of the IC's position on their obligations under the ATIA.



No Investigation s. 30(4), (5)

IC may refuse or cease to investigate a complaint the IC deems trivial, frivolous, vexatious, or made in bad faith, or if an investigation is unnecessary in the circumstances.



Solicitor-Client Privilege s. 23, 36(2), (2.1), (2.2) ATIA; s. 27, 34(2), (2.1), (2.2) *Privacy Act*

Clarifies that the IC and Privacy Commissioner may see information subject to solicitor-client and litigation privilege, and this sharing does not constitute a waiver of privilege.












Reports

- **Annual Reports** (s. 94 ATIA, s. 72 *Privacy Act*) Institutions' annual reports to be tabled in Parliament in the first 15 sitting days after September 1
- **"Info Source"** (s. 5) Requirements to publish information about information holdings remain in place

PART 2

New proactive publication requirements apply to a wide range of institutions, making key information available without a request

Legislative Requirements

-  **Travel** s. 75, 82
Expenses related to travel – ministers' offices, senior officials
-  **Hospitality** s. 76, 83
Expenses related to hospitality – ministers' offices, senior officials
-  **Tabled Reports** s. 84
Reports tabled in Parliament pursuant to a statutory requirement
-  **Briefing Packages** s. 74, 88
Briefing packages prepared for **new or incoming** ministers and deputy heads
Briefing packages for **Parliamentary Committee appearances** for ministers and deputy heads
-  **Briefing Notes** s. 74, 88
Titles and tracking numbers of briefing notes prepared for ministers and deputy heads
-  **Mandate Letters** section 73
New or revised mandate letters for ministers (published by the Prime Minister)
-  **QP Notes** s. 74
Question Period notes in use on the last sitting day in June and December
-  **Grants & Contributions** s.87
Grants or contributions over \$25,000, and any amendments
-  **Contracts** s. 77, 86
Contracts over \$10,000, amendments that increase the value of contracts to over \$10,000, and amendments over \$10,000 – minister's offices, institutions
-  **Ministers' Offices Expenses** s. 78
Annual report of all expenses incurred by a minister's office
-  **Reclassification of Positions** s. 85
All reclassifications

Deadline








- 30 days after the end of the month of reimbursement**
- 30 days after the end of the month of reimbursement**
- 30 days after tabling**
- 120 days after appointment**
- 120 days after appearance**
- 30 days after the end of the month received**
- 30 days after being issued**
- 30 days after the last sitting day in Jun and Dec, or no later than July 31 or Jan 31 if the HoC is not sitting in Jun or Dec**
- 30 days after the quarter**
- 30 days after the quarter for Q1-Q3, 60 days after the quarter for Q4**
- 120 days after fiscal year end**
- 30 days after the quarter**

Affected Institutions










All government institutions subject to ATIA

-  Travel
-  Hospitality
-  Tabled Reports

Departments, agencies and other bodies subject to ATIA and listed in Schedules I, I.1, or II of the FAA

-  Travel
-  Hospitality
-  Tabled Reports
-  Briefing Packages
-  Briefing Notes
-  Grants & Contributions
-  Contracts

Ministers

-  Travel
-  Hospitality
-  Tabled Reports
-  Briefing Packages
-  Briefing Notes
-  Mandate letters
-  QP Notes
-  Contracts
-  Ministers' Offices Expenses

Government institutions for which the Treasury Board is the employer

-  **Reclassification of Positions**