

The Updated *Access to Information Act*: Understanding how the new authorities apply

ATIA section	Description	Application
s. 5	Information publication requirement Requirement to publish information about programs and information holdings (<i>Info Source</i>).	Section 5 was retained, therefore institutions must continue to publish information about their programs and information holdings.
s. 6.1	Decline to act The head of the institution can, with the approval of the Information Commissioner, decline to act on a request if the head considers it vexatious, made in bad faith or otherwise an abuse of the right of access.	An institution may seek the Information Commissioner's approval to decline to act on a request only if that request is made <u>on or after Royal Assent</u> (clause 43 of Bill C-58).
s. 11	No fees except \$5 application fee Consistent with the Government's policy since 2016, the government no longer has the authority to set or charge additional fees, such as fees for processing a request or reproduction of documents.	No fees can be charged in relation to requests, other than the application fee. The amount of the application fee is set through regulation and is currently fixed at \$5.
3(j.1), <i>Privacy Act</i>	Exception to the definition of personal information The name and title of ministerial staff, as well as the fact that someone is or was a ministerial staff member, will no longer be considered personal information for the purposes of section 19 of the <i>Access to Information Act</i> and section 7, 8 and 26 of the <i>Privacy Act</i> .	Applies to records created <u>on or after Royal Assent</u> (section 3.02 of the <i>Privacy Act</i>)
s. 36–41	Information Commissioner's order-making power Information Commissioner has the power to make binding orders to government institutions following the investigation of complaints regarding: <ul style="list-style-type: none"> the release of records (s. 30(1)(a)) fees (s. 30(1)(b)) time extensions (s. 30(1)(c)) access in the official language requested (s. 30(1)(d)) format of release for accessibility purposes (s. 30(1)(d.1)) s. 5 requirements to publish information about institutions and information holdings (<i>Info Source</i>) (s. 30(1)(e)) 	The order-making power applies to complaints made <u>on or after the date of Royal Assent</u> (clause 45 of Bill C-58). Complaints made <u>before</u> the date of Royal Assent are subject to the pre-Bill C-58 legislation.
s. 26	Refusal of access if information to be published Allows government institution to refuse disclosure of record if the information will be published within 90 days after the request is made or within any further period of time that may be necessary for printing or translating the material for the purpose of printing it, other than information that will be published pursuant to Part 2 of the ATIA.	The section 26 exemption cannot be applied to materials that will be published under Part 2 of the <i>Access to Information Act</i> .
s. 68	Exclusion of published material An institution does not need to provide access to information that has been published or that is available for purchase by the public, other than material published pursuant to Part 2.	The section 68 exclusion cannot be applied to materials published under Part 2 of the <i>Access to Information Act</i> .
s. 94 and s. 72, <i>Privacy Act</i>	Annual Reports Annual reports to Parliament are to be tabled before each House on any of the first 15 sitting days in each House after September 1. This change applies to both the <i>Access to Information Act</i> and the <i>Privacy Act</i> .	If an institution has not tabled its 2018-2019 Annual Report prior to the date of Royal Assent, the 2018-2019 Annual Reports must be tabled on any of the first 15 sitting days after September 1 st , 2019 in each House of Parliament.