



Treasury Board of Canada  
Secrétariat

Secrétariat du Conseil du Trésor  
du Canada

Canada

# ***Preparing for Bill C-58 – Proactive Publication Requirements***

## ***Government Institutions***



# *Phase I Improvements to Access to Information*

## **Mandate Commitment**

- The President of the Treasury Board was mandated to work with the Minister of Justice and Minister of Democratic Institutions to review the *Access to Information Act* to ensure that:
  - the Information Commissioner is empowered to order government information to be released
  - the *Access to Information Act* applies appropriately to the Prime Minister's and Ministers' Offices, as well as to administrative institutions that support Parliament and the courts

# Milestones

Through **mandate letters**, the Government commits to reform the *Access to Information Act*

Nov.  
2015

**Interim Directive** issued, which enshrines the principle of open by default, waives all fees apart from the \$5 application fee and directs the release of information in user-friendly formats

March  
2016

The Government announces its intent to reform the *Access to Information Act* through a **two-phased approach**

May  
2016

The Government holds **consultations** on its commitments and proposals to improve access to information

May-  
June  
2016

**ETHI publishes a report** on its findings stemming from its study of the *Access to Information Act*

June  
2016

The Government tables its **response** to the report

Oct.  
2016

**Government introduces Bill C-58**, an Act to amend the *Access to Information Act*

June  
2017

House of Commons **adopted** Bill C-58 at Third Reading.

Dec. 6  
2017

# Bill C-58, An Act to amend the Access to Information Act

## Key elements of Bill C-58

- Would improve the request-based system, including:
  - Providing the Information Commissioner with order-making power
  - Allowing government institutions to seek the Information Commissioner's approval to decline to act on requests that are vexatious or made in bad faith
  - Facilitating the sharing of access to information and personal information request processing services between institutions within the same Ministerial portfolio
- Would create a new Part 2 of the Act legislating proactive publication, making key information available to all Canadians without the need for a request and expanding coverage of the Act to new institutions not previously covered
  - Takes advantage of opportunities of digital age
- These targeted changes will be followed by a full review of the Act, to be initiated within one year of coming into force of Bill C-58

# Coming into force of key provisions

## Upon Royal Assent

### Part 1 – Requests

- Authority to seek Commissioner's approval to decline to act on a request

### Part 2 – Proactive publication

- The Prime Minister's Office and Ministers' Offices
- Government institutions

### General

- Institutions' annual reports to be tabled within 15 sitting days of first sitting day in September
- "InfoSource" requirements (s.5) replaced by requirement for government institutions to publish title and address of ATIP Coordinator and for the President to publish annual statistical report for Government
- Names and titles of Ministers' Office staff no longer "personal information" within meaning of *Privacy Act*, so this information could be consistently released. Would apply only to records created on or after coming into force.
- Sharing of ATIP processing services
- Clarify that disclosure of solicitor-client privileged records to the Information Commissioner or Privacy Commissioner does not constitute a waiver of the privilege
- Requirement for five-year reviews

# Coming into force of key provisions

## One year after Royal Assent

### Part 1 – Requests

- Order-making power for the Information Commissioner
  - Would apply to the release of government records, time extensions, fees, access in official language requested, and format for accessibility purposes
  - Would not alter existing exemptions and exclusions in the Act nor heads of institutions' responsibilities currently set out in the Act
  - Would have no application to records that are excluded from the Act, such as Cabinet Confidences
  - Would not apply to proactive disclosure measures for government institutions, the Prime Minister's and Ministers' offices, institutions that support Parliament and Members of Parliament and Senators, and administrative institutions that support the courts

### Part 2 – Proactive publication requirements

- Senators
- Members of Parliament
- Institutions that support Parliament
- Institutions that support the courts

# Other Phase I ATI Commitments



## Additional measures to improve service to Canadians

- Requestors would be provided with a plain language guide that explains the rationale for each exemption and exclusion, and its relationship to the work of government institutions
- Institutions would be required to regularly review types of information being requested under the Act, and use this trend analysis to expand the kinds of government information that could be made more easily available, including through proactive publication
- Improved digital request processing tools would be secured, for better efficiency

# Preparing to meet proactive publication requirements



## New legal requirements to proactively publish a broad range of information

- Bill C-58 establishes a new Part 2 of the Act, setting out proactive publication requirements for Ministers' Offices, Senators, Members of Parliament, administrative institutions that support Parliament and the courts, government departments and agencies, and Crown corporations
- Would provide Canadians with a broad range of information in a predictable manner, without anyone needing to make an access to information request
  - Takes advantage of opportunities of digital age
- Would not require the release of information that would normally be withheld in a response to an access to information request, such as personal information (sections 80 and 90)
- Underlying documents could be accessed through the request-based system (Part 1)



# Bill C-58, Proposed proactive publication requirements

**On behalf of Minister's offices, Departments and agencies to proactively publish:**

New requirements	Timing
Briefing packages prepared by the institution for new or incoming Ministers (s.74(a))	Within 120 calendar days after appointment
Titles and tracking numbers of briefing notes prepared by the institution for the minister (s.74(b))	Within 30 days after the end of the month in which they were received by the Minister's office
Question Period notes in use on the last sitting day in June and December (s.74(c))	Within 30 calendar days after the last sitting day in June and December (or no later than July 31 or January 31 if the House of Commons is not sitting in June or December)
Briefing package for Ministers' Parliamentary Committee appearances (s.74(d))	Within 120 calendar days after appearance

# Bill C-58, Proposed proactive publication requirements

On behalf of Minister's offices, Departments and agencies to proactively publish:

Existing requirements	Existing timing	Timing in Bill C-58
Travel and hospitality expenses of Ministers, ministerial staff, and ministerial advisers (s.75 and s.76)	Within 30 days after the end of each quarter	Within 30 calendar days after the end of the month in which expenses are reimbursed <ul style="list-style-type: none"> <li>Receipts to be made available within 5 business days upon request (to be required by policy)</li> </ul>
Contracts over \$10,000, including contract amendments (s.77)	Within one month after the end of each quarter	Within 30 days after the end of the quarter
Annual report of all expenses incurred by a Minister's office (s.78)		Within 120 days after the end of the fiscal year

The *Privacy Act* would be amended to align the treatment of the names and titles of Ministerial staff so that these are no longer “personal information” within the *Privacy Act* definition. Would apply only to records created on or after coming into force (Royal Assent).

# Bill C-58, Proposed proactive publication requirements

## Departments and agencies to proactively publish:

New requirements	Timing
Reports tabled in Parliament pursuant to a statutory requirement (s.84)	Within 30 calendar days after tabling
Briefing packages for new or changing deputy heads (s.88(a))	Within 120 calendar days after appointment
Titles and tracking numbers of briefing notes to deputy heads (s.88(b))	Within 30 calendar days after the end of the month in which they were received by his or her office
Briefing package for Parliamentary Committee appearances prepared for the deputy head or equivalent for the purpose of the appearance (s.88(c))	Within 120 calendar days after appearance

# Bill C-58, Proposed proactive publication requirements

## Departments and agencies to proactively publish:

Existing requirements	Existing timing	Timing in Bill C-58
Travel and hospitality expenses of senior officials (s.82 and s.83)	Within 30 days of the end of each quarter	Within 30 calendar days after the end of the month in which expenses are reimbursed <ul style="list-style-type: none"> <li>Receipts to be made available within 5 business days upon request (to be required by policy)</li> </ul>
Contracts over \$10,000, including contract amendments (s.86)	Within one month after the end of each quarter	Within 30 calendar days after the end of the quarter for Q1-3, and within 60 calendar days after the end of Q4
Grants and Contributions over \$25,000, including amendments (s.87)	Within 60 days after the end of the quarter	Within 30 calendar days after the end of the quarter in which an agreement or arrangement is entered into, or amended
Reclassification of positions (s. 85)	Within 30 calendar days after the end of the quarter in which there is a reclassification	No change

# Bill C-58, Proposed proactive publication requirements

**Crown corporations and wholly-owned subsidiaries to proactively publish:**

New requirement	Timing
Reports tabled in Parliament (s.84)	Within 30 calendar days after tabling

Existing requirements	Existing timing	Change in Bill C-58
Travel and hospitality expenses of senior officials (s.82 and s.83)	Within 30 days of the end of each quarter	Within 30 calendar days after the end of the month in which expenses are reimbursed <ul style="list-style-type: none"><li>• Receipts to be made available within 5 business days upon request (to be required by policy)</li></ul>

# Bill C-58, Proposed proactive publication requirements

Other government institutions subject to the ATIA to proactively publish:


New requirements	Timing
Reports tabled in Parliament (s.84)	Within 30 calendar days of tabling
Travel and hospitality expenses of senior officials (s.82 and s.83)	Within 30 calendar days after the end of the month in which expenses are reimbursed <ul style="list-style-type: none"><li>• Receipts to be made available within 5 business days upon request (to be required by policy)</li></ul>

# Prepare in early 2018

## Implementation

- TBS is focusing on awareness and readiness across government to comply with the requirements in Bill C-58
  - Support to institutions through communications, tools, training, and sharing best practices
- Implementation will need participation from Communications, Official Languages, Web and Accessibility, Translation, Parliamentary Affairs, and Legal
- Institutions are encouraged to:
  - Assess their business processes to identify necessary adjustments to meet new proactive publication requirements
  - Consider putting new proactive publication practices into effect before the law comes into force

# Information and Tools available on GCpedia

The logo for GCpedia, featuring the text "GCpedia" in a bold, sans-serif font.[ATI Home](#)[Bill C-58▼](#)[ATIA](#)[ATI Regulations](#)[ATI Policy](#)[Proactive Publication](#)[Contact▼](#)A stylized illustration of a hand holding a large key, with the key's shaft forming the letter 'I' in the word 'publication'. The background is a dark blue gradient with faint icons of documents and a magnifying glass.

## Getting ready for proactive publication

This page provides information and tools to help institutions prepare to meet the proactive publication requirements of [Bill C-58](#).

<http://www.gcpedia.gc.ca/wiki/ATI/PP>



# Establish business processes before coming into force

## Publishing to the Open Government Portal

- There are currently over 70 departments and organizations publishing proactive disclosures to the Open Government portal
- Standardized templates in place for many existing proactive disclosure requirements
- TBS will develop a standardized template for Titles and Tracking Numbers of briefing notes to facilitate publication to the Open Government Portal
- TBS will also provide training and guidance to support organizations to publish to the Open Government Portal
- Institutions can also publish to the Open Government Portal proactive publications that are not easily standardized, such as reports tabled in Parliament, Transition binders, Question Period binders, and binders for Parliamentary Committee appearances
  - Publications must meet Official Language and Accessibility standards
  - TBS will provide tools and guidance to support institutions in meeting the accessibility requirements in multiple file formats (HTML, PDF, EPUB3, ODF)

# Establish business processes before coming into force

## Example: Titles and tracking numbers of briefing notes

- Will need to be published within 30 days after the end of the month in which Bill C-58 comes into force, and monthly after that
- To prepare, departments and agencies can establish necessary business practices:
  - Clarify which documents are “briefing notes” within their institution
  - Establish process for identifying which titles can be released
  - Establish approval process for list for publication
  - Build in time for translation, web coding
  - Process should enable publication by the end of each month
- TBS will offer workshops on proactive publication requirements such as titles and tracking numbers of briefing notes in early 2018.

# Establish business processes before coming into force

## Example: Question Period binders

- Once Bill C-58 receives Royal Assent, notes that were in use on the last sitting day of June or December will need to be published within 30 days after the last sitting day in June and December or, no later than July 31 or January 31 if the House of Commons is not sitting in June or December
- Publication must meet official languages and accessibility requirements
- To prepare, departments and agencies can establish necessary business practices for twice-yearly publication:
  - Approval processes
  - Translation, web coding
  - Publication