



Fact Sheet

Proactive Publication Requirements under the Access to Information Act for the Prime Minister's Office, ministers' offices, government institutions, senators, members of Parliament and administrative institutions that support Parliament and the courts

What is in the new legislation?

The government committed to raise the bar for openness and transparency and is taking steps to become “open by default,” by sharing an ever increasing amount of government data and information with Canadians.

To accomplish this, Bill C-58 would add a new part to the Access to Information Act that requires institutions to proactively publish specific information known to be of interest to the public, and which provides greater transparency and accountability for the use of public funds. More specifically, the proposed amendments to the Access to Information Act would put into law proactive disclosure practices previously only covered by federal policy, and introduce important new disclosure requirements that would apply the Access to Information Act to a wider range of organizations.

Who, specifically, do the new proactive publication requirements apply to?

The new proactive publication requirements would apply to all the institutions currently covered by the Access to Information Act, including departments, agencies, administrative tribunals and boards, Crown corporations, and other institutions such as Port Authorities. The Prime Minister's Office, ministers' offices, senators and members of Parliament, and administrative institutions that support Parliament and the courts would also be subject to these requirements.

What kind of information would be published by ministers' offices and government institutions?

The government has made progress regarding the proactive disclosure of frequently requested information related to ministers' offices and government institutions. Establishing a legal requirement for these practices would create more consistency in the release of this information.

The Access to Information Act would require that ministers' offices, including the Prime Minister's Office, proactively publish:

- ✓ Mandate letters (within 30 days of being issued)
- ✓ Briefing packages for new ministers (within 120 calendar days of appointment)
- ✓ Titles and tracking numbers of briefing notes (within 30 days after the end of the month in which they were received by the minister's office)
- ✓ Question Period notes (within 30 calendar days following last sitting day in June and December)
- ✓ Briefing materials for Parliamentary Committee appearances (within 120 calendar days after appearance)
- ✓ Travel and hospitality expenses (within 30 days of the end of the month in which expenses are reimbursed)
- ✓ Contracts over \$10,000 (within 30 days after the end of the quarter)
- ✓ Annual report of all expenses incurred by a minister's office (within 120 days of the end of the fiscal year)

Similar requirements would exist in the act for government departments and agencies:

- ✓ Travel and hospitality expenses of senior officials (within 30 calendar days after the end of the month in which expenses are reimbursed)
- ✓ Reports tabled in Parliament (within 30 calendar days after tabling)
- ✓ Briefing packages for new deputy heads (within 120 calendar days of appointment)
- ✓ Titles and tracking numbers of briefing notes to deputy heads (within 30 calendar days after the end of month received)
- ✓ Briefing materials for Parliamentary Committee appearances (within 120 calendar days after appearance)
- ✓ Contracts over \$10,000 (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 (within 30 days after the end of the quarter in which the agreement is entered into)
- ✓ Reclassification of positions (within 30 calendar days after the end of the quarter)

The following requirements would apply to Crown corporations, their wholly-owned subsidiaries, and other government institutions subject to the ATIA:

- ✓ Travel and hospitality expenses of senior officials (within 30 calendar days after the end of the month in which expenses are reimbursed)
- ✓ Reports tabled in Parliament (within 30 calendar days after tabling)

What kind of information would be published by senators and members of Parliament?

Proactive publication requirements for senators and members of Parliament would include:

- ✓ Travel and hospitality expenses (within 90 days after the end of the quarter in which any travel expenses incurred are reimbursed)
- ✓ Service contracts: all amounts (within 90 days after the end of the quarter in which a contract is entered into)

What are the differences between what members of Parliament and senators are currently publishing versus what they would be required to publish?

Pursuant to their internal rules, senators and members of Parliament currently publish information on their travel and hospitality expenses. Senators disclose information on all service contracts they award, while members of Parliament publish the total cost of service contracts they award.

The new legislative requirements would enshrine current practices, and require additional details on the travel expenses and the service contracts awarded by members of Parliament.

Which administrative institutions that support Parliament would be subject to the new proactive publication requirements?

The following administrative institutions that support Parliament would be subject to the new proactive publication requirements:

- The Library of Parliament
- The Parliamentary Budget Officer
- The Parliamentary Protective Service
- The Office of the Conflict of Interest and Ethics Commissioner

- The Office of the Senate Ethics Officer
- The administration of the Senate and the House of Commons.

What kind of information would be published by institutions that support Parliament?

Administrative institutions that support Parliament may at their discretion, proactively disclose additional information, but under the Access to Information Act, they would be required to publish:

- ✓ Travel and hospitality expenses (within 60 days after the end of the quarter in which any travel expenses incurred are reimbursed)
- ✓ Contracts over \$10,000 (within 60 days after the end of the quarter in which a contract is entered into)

Are there any circumstances under which information would not be released under the proactive disclosure requirements for senators, members of Parliament and administrative institutions that support Parliament?

Parliamentary privilege is a core value of our parliamentary system. It affords Parliament and its individual members a measure of autonomy to perform their legislative work effectively and without interference. To protect this important principle, Bill C-58 would not apply to information where disclosure could infringe on parliamentary privilege.

In addition, the new disclosure obligations do not require the release of information which could raise security concerns. In both cases, the Speakers of the Senate and the House of Commons would determine the appropriate application of protections for parliamentary privilege and security concerns.

What kind of information would be published by the administrative institutions that support the courts?

The Office of the Registrar of the Supreme Court of Canada, the Courts Administration Service, and the Office of the Commissioner for Federal Judicial Affairs may at their discretion publish additional information, but under the Access to Information Act they would be required to proactively publish:

- ✓ Travel and hospitality expenses of senior level officials (within 30 days after the end of the quarter in which any travel expenses incurred are reimbursed)
- ✓ Contracts over \$10,000 (within 30 days after the end of the quarter in which a contract is entered into)

The Office of the Commissioner for Federal Judicial Affairs would be required to publish the expenses of the judges of the superior courts (other than the Supreme Court of Canada) including:

- ✓ Expenses reimbursed as part of travel, conference, incidental and representational allowances (within 30 days after the end of the quarter in which any expenses incurred are reimbursed)

The Office of the Registrar of the Supreme Court of Canada would have the obligation to proactively disclose the same information for judges of the Supreme Court of Canada as the Commissioner for Federal Judicial Affairs would be required to disclose of the superior courts.

Are there any circumstances under which information would not be released under the proactive disclosure requirements for administrative institutions that support the courts?

The administrative institutions that support the courts have a critical role in maintaining the independence of the judiciary. To ensure that this fundamental constitutional principle is not undermined, the bill does not apply to information which, if disclosed, could interfere with judicial independence. Other necessary restrictions would also apply, for example with respect to information that is subject to solicitor-client privilege. The Registrar, Chief Administrator or the Commissioner for Federal Judicial Affairs would determine the appropriate application of these protections.