

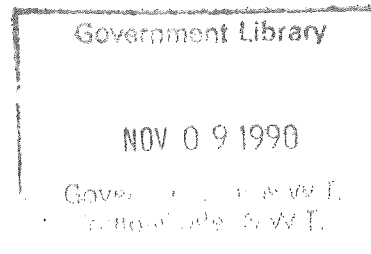
LEGISLATIVE ASSEMBLY OF THE NORTHWEST TERRITORIES

1990 ( ) SESSION

PRIVATE MEMBER'S BILL

BILL ( ) - 90( )

ACCESS TO INFORMATION ACT



STATEMENT OF PURPOSE

The purpose of this Bill is to enact a new Act to provide a right of access to information in records under the control of a government institution in accordance with the principles that government information should be available to the public, that any exceptions to the right of access should be limited and specified and that decisions on the disclosure of government information be subject to specified methods of review and appeal.

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PRIVATE MEMBER'S PUBLIC BILL  
FOR TABLING AND DISCUSSION ONLY

ACCESS TO INFORMATION ACT

The Commissioner of the Northwest Territories, by and with the advice and consent of the Legislative Assembly, enacts as follows:

- Title 1. This Act may be cited as the Access to Information Act.
- Interpretation 2. In this Act,
- (a) "Archivist" means the Territorial Archivist appointed pursuant to the Archives Act;
  - (b) "government body" means,
    - (i) any department, division or unit of the Government of the Northwest Territories,
    - (ii) any commission, board, bureau or other branch of the public service of the Northwest Territories, and
    - (iii) any corporation, board, foundation or other similar agency established as an agent of the Government of the Northwest Territories;
  - (c) "information" means information in any form including information that is written, photographed, recorded, stored as a machine readable record or electronic data printout, or otherwise stored in any manner regardless of its physical form or characteristics;
  - (d) "public business" means any activity or function carried on or performed by a government body;
  - (e) "record" means the form in which information is kept.
- Purpose 3.(1) The purpose of this Act is to provide reasonable access by the public to information in records of government bodies and to subject that right only to specific and limited exceptions necessary for the effective operation of government in the public interest.
- (2) This Act is intended to complement and not replace existing procedures for access to government information and is not intended to limit in any way access to the type of government information that is normally available to the general public.

Access

4. Subject to this Act, every person shall have access to information relating to the public business of the Government of the Northwest Territories.

Request

5.(1) Any person may request information in a record of a government body by applying to the Archivist.

(2) The request shall be made in writing.

(3) The person who makes the request shall describe the record or the subject matter of the information he wants with enough detail about time, place, person or event to enable a person familiar with the subject matter to identify the relevant record.

(4) If the record containing the requested information cannot be identified, the Archivist shall, in writing, tell the person who made the request that the record cannot be identified and ask him to give more details that might help a department official identify the relevant record.

(5) If the record containing the requested information can be identified but the information cannot be supplied immediately or the record cannot be located, the Archivist shall, in writing, tell the person who made the request when he can reasonably expect to receive the information.

(6) If the record that contained the information no longer exists the Archivist shall, in writing, tell the person who made the request that the record no longer exists and, if possible, when it was destroyed.

(7) A request for information shall be delivered or mailed to the office of the Archivist.

(8) The Archivist shall transmit all requests for information to the head of the government body identified in the request who shall then deliver the requested information to the Archivist.

Time

6.(1) A request for information shall be granted or denied within 30 days after the day on which the request is made.

(2) A request for information that is not granted within 30 days of the day on which the request was made or within the extended time allowed under subsection (3), shall be deemed to have been denied and the reasons for the denial shall be provided.

(3) If the record containing the requested information cannot be identified and the person who requested it has been asked to give more details to help identify the relevant record, the request shall be granted or denied within 30 days after enough additional details are given to enable the record to be identified.

(4) The Archivist shall have access to any record that is under the control of a government body and is the subject matter of a request for information.

Grant of Request

7. If the request for information is granted and the prescribed fee has been paid the Archivist shall make the information available and provide copies of the record upon request.

Exceptions

8.(1) There is no right to information under this Act where access to it or its release,

- (a) would disclose information the confidentiality of which is protected by law;
- (b) would reveal information concerning another person's identity, residence, dependents, marital status, employment, financial transactions, income, assets and liabilities, credit worthiness, education, character, reputation, health, physical or personal characteristics, or mode of living, where that information was given in the reasonable expectation that its confidentiality would be protected;
- (c) would violate the confidentiality of information that was given by another government;
- (d) would violate the confidentiality of information that was given by another person and is of a kind consistently treated as confidential by that person;
- (e) would likely cause a financial loss to or gain for a person or government body or affect the competitive position of a person or government body;
- (f) would jeopardize negotiations in relation to an existing or proposed agreement or contract;
- (g) would disclose the substance of proposed legislation or regulations;
- (h) would disclose the existence or content of opinions or recommendations communicated to, between, or from members of the Executive Council on matters relating to the formulation of government policy and the making of government decisions;
- (i) would disclose any agenda for or record of the deliberations of the Executive Council;
- (j) would disclose legal opinions or advice given to a person or government body, or privileged communications as between lawyer and client in a matter of government business;

- (k) would be detrimental to the proper enforcement of any law of Canada or of the Northwest Territories, the conduct of lawful investigations in respect of such laws, the administration of justice, or the proper custody, control or supervision of persons under sentence;
- (l) would violate any right respecting intellectual property, including any copyright, patent right or trademark right;
- (m) would hamper an audit in progress or reveal an auditing program or auditing operation plant; or
- (n) would likely prejudice the outcome of judicial proceedings in progress.

(2) Subsections (1)(h) and (i) do not apply in respect of a record that contains only an account of a decision that is made in the exercise of the powers or functions of the Executive Council.

(3) Records of the Executive Council that would otherwise be excepted from the operation of this Act may be released upon the authorization of the Executive Council.

**Third Party  
Information**

9.(1) Subject to this section, the Archivist shall refuse to disclose any record requested under this act that contains,

- (a) trade secrets of a third party;
- (b) financial, commercial, scientific or technical information that is confidential information supplied to a government body by a third party and is treated consistently in a confidential manner by the third party;
- (c) information the disclosure of which could reasonably be expected to result in material financial loss or gain to, or could reasonably be expected to prejudice the competitive position of, a third party; or
- (d) information the disclosure of which could reasonably be expected to interfere with contractual or other negotiations of a third party.

(2) The Archivist may disclose any record that contains information described in subsection (1) with the consent of the third party to whom the information related.

(3) The Archivist may disclose any record requested under this Act, or any part thereof, that contains information described in paragraph (1)(b), (c) or (d) if such disclosure would be in

the public interest as it related to public health, public safety or protection of the environment and, if such public interest in disclosure clearly outweighs in importance any financial loss or gain to, prejudice to the competitive position of, or interference with contractual or other negotiations of a third party.

(4) Where the Archivist intends to release any information described in this section, he shall give no less than 20 days notice to the third party affected who may appeal such decision in accordance with the procedure set out in sections 12 and 13 of this Act.

Exceptions for portions of records 10.(1) If a record contains some information that cannot be disclosed, that portion of the record shall not be disclosed and the remainder shall be disclosed.

(2) If it is not practical to separate the portion of the record that can be disclosed from the portion that cannot be disclosed, the portion that can be disclosed shall, if the prescribed fee is paid, be transcribed into a form that can be disclosed to and used by the person who requests the information.

Denial 11. If a request for information is denied the Archivist shall give to the person who made the request,

(a) written reasons for the denial; and

(b) a written description of the right and procedure for appealing against the denial.

Appeal from Denial 12.(1) If the request for information is denied, the person who made the request may appeal the denial by delivering to the Archivist a written notice of appeal within 15 days after the day his request was denied.

(2) The appeal shall be considered and decided by the Executive Council Member charged with responsibility for the government body to whose operation the information relates.

(3) The appeal to the Executive Council Member is not a judicial proceeding and he may review the request and the denial in any manner and consult with any person and hear any representations and receive any recommendations as he thinks appropriate.

(4) The Executive Council Member shall, within 30 days after the notice of appeal is delivered to the Archivist, uphold, vary or overrule the denial and shall give reasons for the decision.

(5) If the Executive Council Member overrules or varies the denial, he shall issue appropriate instructions to ensure that

the requested information, or the portion that he decides can be released, is made available to the person who made the request.

Appeal to Supreme Court

13.(1) If the request for information has been denied by the Executive Council Member the person who requested the information may appeal by means of a petition to a judge of the Supreme Court.

(2) On the appeal to him the Supreme Court judge may require the production of and may inspect the information that is the subject of the appeal, if the information exists, but that inspection shall be conducted without the presence of any person and the confidentiality of the information shall be preserved pending the judge's decision about whether the person who requests the information has a right to it.

(3) Upon hearing the appeal, the Supreme Court judge may,

- (a) order that the Archivist grant the request for some or all of the requested information;
- (b) order that the denial of the request be upheld in relation to some or all of the information, or
- (c) make any order in consequence of, or to implement, an order under paragraphs (a) and (b) that seems necessary and just in the circumstances.

(4) If under sections 8 or 9 there is no right to the requested information the Supreme Court judge shall not order the Archivist to grant the request.

Annual Report

14. The Archivist shall prepare for submission to the Legislative Assembly an annual report on the administration of this Act during each financial year.

Protection

15. No action lies against the Archivist, any Executive Council Member, the head of any government body, or any person acting on behalf of any of them, the Government of the Northwest Territories or any government body, for the disclosure in good faith of any record or any part of a record pursuant to this Act or for any consequences that flow from such disclosure.

Regulations

16. The Commissioner may make regulations,

- (a) prescribing fees for the purposes of this Act;
- (b) without requiring the use of any particular form, prescribing forms that may be used under this Act;
- (c) prescribing such procedures as are not established by the Act as may be necessary to carry out the purposes of the Act.

## CONSEQUENTIAL AMENDMENTS

17. The Archives Act is hereby amended as follows:
  1. Section 3 is hereby renumbered to read as section 3(1).
  2. By adding, immediately after section 3(1), the following:

"(2) The Territorial Archivist shall also have responsibility for the administration of the Access to Information Act."
  3. By adding, immediately after section 6(2), the following:

"(3) In respect of issues relating to public access to public records, the Archivist and the Public Records Committee shall be bound by the provisions of the Access to Information Act."







ד"ר צדוק אהרן בן-ציון 'במחנה אהרן'

הנהגות;

(d) "הנהגות אהרן" ד"ר צדוק אהרן בן-ציון  
במחנה אהרן, אהרן בן-ציון  
הנהגות;

הנהגות.

(e) "הנהגות" ד"ר צדוק אהרן בן-ציון

הנהגות

3.(1) הנהגות אהרן בן-ציון  
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הנהגות אהרן בן-ציון  
במחנה אהרן, אהרן בן-ציון

הנהגות

4. אהרן בן-ציון, אהרן בן-ציון  
במחנה אהרן, אהרן בן-ציון  
הנהגות אהרן בן-ציון  
במחנה אהרן, אהרן בן-ציון

הנהגות

5.(1) אהרן בן-ציון  
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במחנה אהרן, אהרן בן-ציון

(2) אהרן בן-ציון  
במחנה אהרן, אהרן בן-ציון













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