MODEL BILL FOR BETTER PUBLIC ACCESS IN OTTAWA ©
by Ken Rubin

contact: kenrubin@rogers.com **613 234 2808**

Reversing Ottawa's pro-secrecy first-generation *Access To Information Act* **can be achieved through several key means in a newly entitled** *Public's Right to Know Act***.**

Public Access as A Right and Freedom

Within a revised *Act,* **public access becomes a constitutional right, not just a privilege. It's preamble would recognize that access is part of the freedom of expression and liberty rights found in the Canadian Charter of Rights and Freedoms and the United Nations Declaration of Rights.**

Pro-Active Disclosure and Fewer Restrictions

The *Act's* **purpose must also be exclusively devoted to the principle of disclosure rather than emphasizing secrecy as a prime focus. That dual past emphasis has meant starting with exemption code practices, gag orders, delays and avoidance of service.**

Making pro-active disclosure codes the integral predominant feature of an information law means ensuring immediate and widespread release of data, especially health, safety, environment and consumer information. Better access service is then not just dependent on reacting to requests and not just periodic and limited.

This approach maximizes and mandates disclosures. It avoids having to try to meet a nearly impossible-to-achieve "public interest" legal test in order to override exemptions. It means fewer hurdles because many unnecessary restrictions like policy advice are eliminated. Only a narrow range of specific and verifiable sensitive material may, upon review, be of sufficient significance to be withheld for a very short time.

Ending Special Privileges/Broadening Coverage

A pro-active disclosure code system would enable much broader private as well as public sector coverage. No public monies would go to those without disclosure service.

Such broader coverage puts everyone on the transparency track. No agency would be granted special exemptions and no corporate third parties would be given special powers to object to disclosures while remaining outside of disclosure codes.

Fair disclosure practices include a prior understanding that data submitted or gathered, save private personal information, is subject to access disclosure provisions.

Having an Arms-Length Public Access Authority

An arms-length Public Access Authority would be created to act as an accountable administrative instrument for facilitating and providing disclosure service practices.

Better Timing/Less Delays/Mandatory Record Keeping

Greater accountability means tighter consultation rules, and having enforceable powers in place to order prompt service. Agencies must provide quick access at low cost. There must be a duty, too, for agencies to keep up-to-date records or face penalties.

A Three Person Information Commission with Binding Order Powers

There is a need for a tougher appeal process where there is binding order powers to review and enforce pro-active disclosure practices. This is best done through a three-person Information Commission selected by Parliament. One Commissioner simply requesting voluntary compliance is no longer sufficient.

Broader Commission powers are required to ensure that records are created and quickly released, access to meetings is granted, whistle blowers data is not hidden and that those meeting their obligations to provide disclosure service are not mistreated.

A permanent parliamentary oversight committee

Parliament must be vigilant in its promotion of legislation with transparency clauses and have a committee with oversight powers to advance disclosure practices.

Open Board and Commission Meetings

Providing public access to agency's board and commission meetings as well as to their records offers the means for more immediate scrutiny. Other jurisdictions combine such a "sunshine" measure with record disclosure in their information laws.

A community and court review program

Those members of the public with fewer resources need to be able to have the means and support to challenge secrecy practices in the community and through the courts.

An international centre for freedom of information excellence

Canada once again can make a contribution to global transparency by housing an arms-length international centre for freedom of information excellence.

Ken Rubin, a long-time transparency advocate, has put such changes together in a Public's Right To Know Act.

SUMMARY FEATURES OF A BILL FOR THE PUBLIC'S RIGHT TO KNOW@

proposed by:

Ken Rubin kenrubin@rogers.com
613 234 2808

The *Public's Right To Know Act* **major features include:**

. Upgrading public access to a constitutional right as part of the Canadian and United Nations freedom of expression and liberty rights

. Making pro-active disclosure integrity and codes the predominant feature of the Act; including for the immediate release of health, safety, environment and consumer matters

. Greatly reducing and making exemption exceptions secondary and restrictive

. Broadly extending coverage of institutions in the public and private sectors while taking away corporate third party special privileges designed to reverse public access

. Providing public access to agency's meetings as well as to their records

. Creating a Public Access Authority to facilitate pro-active disclosure practices

. Giving the Parliamentary-selected three-person Information Commission binding and broader powers, including in ensuring decision making records are created, transparency service is provided, and whistle blowers data is not hidden or that they are not mistreated

. Establishing a community and court secrecy challenge program and an arms-length international centre for freedom of information excellence.

There are 23 sections to the *Public Right to Know Act***:**

Section 1 title, Section 2 purpose; and Section 3 and 4 record and meeting access practices; Section 5 coverage; Section 6 access rights; Section 7 designated authority; Section 8 timings; Section 9 fees,waivers, refunds; Section 10 and 11 limited exemptions; Section 12 appeals; Section 13 information commission mediation and inquiry process; Section 14 enforceable orders of the commission Section 15 powers, duties, functions of the commission; Section 16 selection and terms of commissioners Section 17 court review; Section 18 option of direct court injunction and redress; Section 19 penalties; Section 20 parliamentary oversight committee; Section 21 community and court review program; Section 22 intergovernmental and international centre for freedom of information: Section 23 implementation, regulations.

THE PUBLIC'S RIGHT TO KNOW ACT

As Proposed By: **Ken Rubin**
contact: kenrubin@rogers.com
613 234 2808

SECTION ONE: Title

- The Public's Right to Know Act *[referred hereafter as "the Act"]*
(*reflects broader coverage that is not limited to government agencies and that makes transparency a multi-dimensional pro-active and definite right)*

SECTION TWO: Purpose (*the opening preamble must be strong and meaningful)*

. This *Act* provides a right to full and timely pro-active disclosure and to widespread transparency for greater accountability.

. That right is guaranteed as part of the freedom of expression and liberty clauses in the Canadian Charter of Rights and Freedom and the UN Declaration of Rights and Covenants, and its provisions supersede any other Act of Parliament. Freedom of expression includes seeking, retrieving and imparting information and opinion in any kind or in any form.

. This *Act* requires the immediate mandatory release of information on health, safety, environmental, and consumer issues.

. This *Act* requires the wide coverage of institutions and groups.

. This *Act* establishes entry to key government board and commission meetings.

. This *Act* takes precedent over other acts or resolutions.

. This *Act* provides for full review by an Information Commission and the Courts of all access decisions made by covered agencies.

. This *Act* provides the option of the public's right to directly petition and sue for resolution of secrecy practices.

. This *Act* provides for damages and penalties being ordered when necessary to avoid secrecy abuses.

. This *Act* requires a permanent parliamentary oversight committee.

SECTION THREE: Record Access Practices

. "Records" can be manual and electronic and are broadly defined to include correspondence, memorandum, book, plan, map, drawing, diagram, pictorial, graphic, photograph, film, micro form, sound recording, videotape, machine readable, electronic communications, software, user guides, or any other formats.

. Records are promptly accessible, accurate, up to date, retrievable, and user friendly and to be immediately placed on the Internet where possible.

. Records cannot be altered, claimed to not exist, be sanitized or lessened in factual and analytical information content so as to avoid disclosure.

. There is an obligation to acknowledge records' existence, and to keep records in detail of decisions, actions, and deliberations.

SECTION FOUR: Access to Meeting Practices

. "Meetings" occur where more than one person get together to hold deliberations.

. Meetings must be open to the public, known in advance, publicized, and held in accessible places.

SECTION FIVE: Coverage

A. Records

. For records, institutions, agencies, corporate and group entities receiving public benefits and performing public functions are covered for public access and these entities require pro-active disclosure codes. This includes records of executive and ministerial offices and Parliament.

B. Meetings

. For meetings, public access and coverage includes meetings held by federal boards and commissions (*Examples include the National Capital Commission, the Canadian Nuclear Safety Commission, the Transportation Safety Board and the National Energy Board).*

. Coverage includes federal-provincial meetings, involving federally elected representatives.

. Public access to annual shareholder, non-profit group, professional and trade association or other group or agency or international meetings is enabled as well opting-in through pro-disclosure agreements.

SECTION SIX: Right of Access

. Everyone has the right to full service and access to records and meetings on an equal and pro-active and timely basis without discrimination (*the notion of frivolous and vexatious users is ruled out and applicants must be treated equally***).**

. Anyone may request records for regularly scheduled activities or selected topics on an on-going basis for up to a three year period at mutually agreed on intervals ***(****Ontario legislation allows applicants to file for data for up to a 2 year period****).***

SECTION SEVEN: Designated Authority

. The Minister of State (with responsibilities for public access) is responsible for an arms-length Public Access to Information and Meetings Authority (Public Access Authority) and shall ensure pro-disclosure practices are in place and enforced.

. The Public Access Authority, shall promote and ensure and administer pro-disclosure policy practices. These include pro-active record, service, and meeting management practices and disclosure code agreements.

. The Public Access Authority shall ensure that no counter-disclosure practices such as early warning systems, flagging users, unnecessary consultations, communications damage control strategies, gag orders, record ownership disputes or the like can be put in place within agencies.

. The Public Access Authority shall publish and keep up to date finding aides and undertake full and daily reporting on disclosures via a public register and facilitate throughout Canada and abroad physical and virtual sites accessibly as reading rooms for the public.

. The Public Access Authority shall have a secretariat that assists agencies carrying out their disclosure and meeting obligations, including assigning personnel on a long or short term basis.

. The Public Access Authority shall delegate administration of disclosure and meeting admission work to Access Integrity Coordinators who are responsible for facilitating pro-active service and disclosure practices within their agencies. Access Integrity Coordinators cannot perform tasks that set up parallel systems designed to thwart pro-active service and disclosure practices.

. All officials of agencies and bodies should be routinely made familiar with and practice their agency's pro-active disclosure service code, incentives, obligations and ethical codes, and are subject, when necessary, in cases of non-compliance, to disciplinary or criminal action.

. All access decisions by agencies taken must be recorded and identify the official making

the decision.

. The Public Access Authority or its employees, or delegated agency Access Integrity Coordinators or Access Integrity Officers experiencing resistance or creative avoidance tactics have the right to present their concerns to the Information Commission if agency management and responsible heads or ministers take no timely action to resolve outstanding issues and in such instances, be protected from the loss of employment.

. The designated agency, the Public Access Authority, shall table in Parliament via its designated minister an annual comprehensive report on its activities and obligations under the *Act* and present its report for review to the permanent parliamentary committee and be prepared to answer promptly at any time queries from that Committee or Parliament.

SECTION EIGHT: Quick Access - Timings

. Public access to records and meetings must be very prompt, or otherwise mean being subjected to penalties and being placed on non-compliance lists.

A. Records

. For records, this means routine and immediate automatic release and posting of safety, health, environmental and consumer records. Immediate means same as the record is created, or the next day at the latest where necessary.

. Within 10 days of receipt of a formal access requests, a requester shall receive in writing or otherwise notices of any fees, the specifics of identified consultations, any specific time extensions claimed, any transfers, and any claims of records not existing, notice of exemptions to be applied, and notice of records to be created.

. Within 20 days of receipt of an access request, a requester shall receive or be granted access to releasable records. Any exceptions must be specifically cited. Those making these decision(s) must be identified.

. Time extension can be made for only up a specified time not to exceed an up to additional 30 days, and be in cases of either identified and documented legitimate and necessary consultations (not for routine or agreed to pro-disclosure records) or in the case of documented large volume of records of over 10,000 pages or the electronic equivalent (not to include already public or available records) that can be proven to take time to process.

. Any agency not routinely releasing safety, health, environmental and consumer records or meeting the above deadlines for formal access requests is in a deemed refusal situation.

. Any agency not meeting these time deadlines may be subject to penalties and forfeits to the those seeking public access any fees assessed.

B. Meetings

. For meetings, ten days or preferably earlier before the meeting, accessible and available public notices about the specifics of the meeting and its exact locale shall be posted and widely available. If the meeting called is an emergency one, then immediate posting on the Internet of such meetings and specifics about the meeting and its exact locale is required.

. Two days before the meeting or preferably well before the meeting, requesters will receive decisions by the Information Commission if public access to the meeting or parts of meetings is an issue.

SECTION NINE: Fees, Waivers and Refunds

. Public access to records and meetings must be at no cost to the public, where possible or otherwise be inexpensive should costs be considered necessary, with the right to fee waivers and refunds under published guidelines.

. For records, the most that may be charged for making a formal access request is $5.

. The first 25 hours of search time shall not be chargeable and there can be no search charge at all if records are not kept in efficient and retrievable form. After the first 25 hours, search costs cannot be more than $10 an hour.

. Preparation, alternate format, translation and review time are not chargeable items, and nor are computer extraction/cataloguing costs.

. No charges apply to previously released data or for data provided on CD discs. Photocopy costs after the first free 250 pages shall be at .03 cents or less a page.

. Computer programming costs can be chargeable at up to $10 per half hour after the first 3 hours of legitimate computer programing time.

. Fees cannot be collected for accessing personal information.

. Fee waivers must be granted when the data sought is of public interest and benefit, including in matters of safety, health, environment and consumer protection.

. Fees must be refunded if time deadlines are not honoured, when search or other cost estimates prove to be too high or collected when there is poor record keeping practices or where there is use of creative avoidance practices.

. Fees must be waived where over 25 per cent of the data requested is claimed to be exempt.

. For meetings, there can be no fees charged to attend meetings. Verbatim transcripts should be accessible and not subject to charge either.

SECTION TEN: Limited Restrictions to Receiving Records

A. Mandatory Guidelines

. The basic principle of the *Act* is records are first and foremost releasable, and all denial restrictions are secondary, few, limited, narrow and specific and are subject to the severance principle, significant injury proof tests, and time restrictions.

. All denial restrictions are discretionary save private personal information and are subject to independent review by the Information Commission and the Federal Court.

. There are no exemption veto powers by third parties (provinces, territories, corporations, international bodies).

. Every effort shall be made to sever and disclose any part of the record where restrictions are claimed.

. Denial restrictions do not apply to matters that involve safety, health, environment or consumer protection issues (*reversing the onus via a next- to- impossible- to- meet public interest override provision so that very little if any such material sees the light of day is counter-productive).*

. Denial restrictions cannot be cited to prevent embarrassment, be because of unwanted publicity or excessive spending, or be unreasonably used or joined together with other exemptions without cause or explanation.

. There can be no special clause added or retained that permits other act's provisions to override the *Act,* or any confidentiality arrangement made that takes precedence over the *Act,* or any confidential claims made based on past treatment outside the scope of this *Act* .

. No new denial restrictions can be added to this *Act* or existing denial restrictions made more secretive without a disclosure impact analysis or without a thorough parliamentary review and public submissions and widespread public hearings.

. All records where total restrictions are claimed, shall be identified by the type of record, date, title and author.

B. Specific Denial Restrictions

a) *private personal information* shall be withheld subject to independent review unless there is individual's consent or it is publicly available or is that individual's information or the person has been deceased for 5 years or there is a significant public interest reason that outweighs any invasion of privacy.

Public and private officials' salary, benefits, and compensation, including for the offices of ministers and executives, is not personal information and is immediately releasable as is

data that identifies people in their official job capacities.

Individuals have the option of indicating in their wills or in written consent statements if they wish their personal data released (and to who) after they die. Data about deceased people (verified as being deceased) can otherwise be withheld for 5 years.

Census data older than 70 years if the individual is deceased is releasable.

Third party use of individual personal information must be recorded. Data that effects or invades individual privacy must be releasable.

b) ***national security*** **that involves highly sensitive military defence data or data concerning verifiable hostile, organized crime or terrorist activities may be withheld. Such data is inaccessible for up to 5 years. This denial restriction does not include associated costs, and is subject to an injury test and to public interest override and independent oversight and independent review. Other acts cannot take precedent and must be repealed including the exemption certificate provisions found in Bill C-36.**

c) ***trade secrets*** **that may be withheld are proprietary formula, products, and techniques, the disclosure of which would result in significant harm or losses. Verifiable proof of significant injury upon independent review is required. Such infringement protection is restricted to a 5 year period and does not include cases where safety, health, environment or consumer protection is involved.**

d) ***Unannounced monetary, tax or share pre - decisions*** **may be withheld where significant harm and or speculation and inside or outside profit-making can be validated subject to independent review. Where such unannounced economic decisions in the making were then not acted on, or announced, again only where significant harm and or speculation and inside or outside profit-making can be shown, such documentation can only be withheld for up to a one year period.**

e) specific case by case identified detailed data during the course of ***criminal law investigations*** **(but not consumer, environmental, health, safety investigations or audits and other special reviews) may be withheld unless the documents are filed publicly in the courts or obtained in the course of legal discovery and made public. Once criminal law investigations are completed, data is releasable. Summary case data during the course of criminal law investigations is releasable.**

f) ***verbatim cabinet or cabinet subcommittee pre-decision deliberations or communications about them*** **may be withheld for up to a 3 year period unless already made public or cabinet consents to the release of such cabinet records or summaries of cabinet records (***no longer referred to as cabinet confidences***) or the cabinet record is factual analysis, or the data involves safety, health, environment, consumer or civil liberties issues or there is no significant injury in release. (***There is no longer a requirement to consult the Privy Council Office as such cabinet records or references to them must clearly be marked as cabinet records and be in a readily recognizable format***).**

Should decisions not be made by cabinet or its subcommittees, then any connected cabinet records shall be releasable after 2 years from the time of the deliberations. All cabinet discussion papers and cabinet agendas are immediately releasable. All cabinet records, including all ministerial records, must be preserved and are not personal records. Records of former ministers or prime ministers must be available within a 3 year period after the individual leaves the ministry or prime minister ship.

SECTION ELEVEN: Limited Exceptions To Public Access to Meetings

A. Mandatory Guidelines

. No meeting can be entirely held that is closed to the public and in private, and all meetings existence must be known.

. Any exceptions to public access to meetings are discretionary, limited and few, and subject to independent review.

B. Exceptions to Public Access to Parts of Meetings

a) *personnel hiring, discipline, firing* (but not accompanying public expenditures or outcomes) may only be exempted for up to 1 year.

b) *sensitive security matters* related specifically to assets and holdings may be exempted withheld for up to 5 years subject to a significant injury test, annually applied.

c) *specific criminal law investigations underway* (but not the summary or public portions) may be exempted. Upon completion of the investigation, records are releasable.

SECTION TWELVE: Grounds for Appeals

. Requesters under the *Act* have a right to appeal to the Information Commission when:

- Agencies receiving public funds or performing public functions are not being covered under the *Act.*
- Records are denied in whole or part, or considered not relevant.
- Records are late or delayed by unnecessary consultations.
- Records are incomplete, missing, altered, not user-friendly, or not created.
- **Service is not pro-active and accurate information is not fully disclosed.**
- **Fees are unreasonably assessed.**

- Inadequate routine disclosure practices are in place.
- Creative avoidance tactics are being used to avoid prompt disclosure.
- Finding aides, registers, internet information, indexes of exempt records are unsatisfactory.
- Access to meetings is denied.
- Meeting advance notification and meeting locale is inadequate, or
- In respect to other matters pertaining to record and meeting access under the *Act*.

. Requester appeals must be made within 90 days of receipt of agency decision letters (unless extenuating circumstances require a longer period) or within a year on matters where no decision letters were issued.

. Employees and Access Integrity Officers, Coordinators, Public Access Authority head or employees under the *Act* have a right to appeal to the Information Commission when:

- They are prevented or penalized from or for releasing materials of public interest,
- They are prevented from upholding record and meeting disclosure codes and practices, or
- In respect to other matters pertaining to record and meeting access under the *Act*.

. The Information Commission may initiate investigations on matters related to accessing records and meetings. Requesters involved, upon notification by the Information Commission, may join in making representations on such appeal actions.

<u>SECTION THIRTEEN: Information Commissioner Mediation and Inquiry Appeal process</u>

. The Information Commission must upon receipt of an appeal notify agencies of appeals and reply to those filing appeals.

. The Information Commission shall attempt upon receipt of an appeal immediately attempt to mediate a resolution of the appeal and report to parties on such efforts within below specified reporting time lines. Mediation work must be done in a matter of hours or days depending on the binding order deadlines. The Information Commissioner in the course of mediation must examine the records and facts at issue or review the specific meeting at issue or review the disclosure or access matter at issue.

. The Information Commission must make a timely summary report of mediation efforts and representations available to the parties.

. Failing prompt mediated resolution, the Information Commission shall move to and conduct an investigation in private, or in some instances, via a hearing, giving parties further opportunities for representations and to exchange their representations. Representations must be on the facts and issues on hand. There can be public hearings held by the Information Commission should the circumstances warrant it.

. The Information Commission has broad powers to conduct full investigations in private, including summoning persons, receiving evidence, entering premises and interviewing persons and further examining records, and entering meetings and interviewing persons.

. The Information Commissioners, or designated adjudicators, must handle all appeals received and assist those considering or making appeals.

. The rules of practice of the Information Commission in handling appeals shall be public and available.

. The Information Commission must make public a summary of all rulings or orders made and make available and have ready the full rulings or orders upon request.

. The Information Commission shall not disclose sensitive data received from agencies or requesters, employees, access integrity officers without consent and can refer possible criminal matters to law enforcement officials and can disclose material received should there be a immediate or long-term safety, health, environment or consumer issue at stake.

. The Information Commission shall produce periodic reports of agencies in non-compliance.

SECTION FOURTEEN: Enforceable Orders of the Information Commission

. The Information Commission must issue a timely binding order to parties appealing, as follows:

- on denied or stalled safety, health, environment and consumer information, within 5 days of the receipt of the appeal.

- on time delay or fee appeals, within 10 days of the receipt of the appeal.

- on meeting access appeals, two hours before a meeting commences.

- on record management matters, within 30 days.

- on information denials, within 30 days or sooner, issue an initial report, and within 90 days or sooner, issue a final order.

- on employee disclosures made in good faith, within 30 days or sooner, issue an initial report, and within 90 days or sooner, issue a final order.

. The Information Commission must notify the requester or employee upon issuing a binding order or a report of findings how to make a further appeal to the Federal Court .

. An Information Commission order is an enforceable matter.

SECTION FIFTEEN: Powers, Duties, and Functions of the Information Commission

. The Information Commission has powers and duties to:

. Investigate, hold hearings and report on appeals and make recommendations and orders.
. Pursue litigation and test cases.
. Advocate improving transparency.

. Conduct regular rating of agencies' transparency practices and compile bimonthly non-compliance lists of agencies with inadequate pro-active disclosure and open meeting codes and practices.
. Audit and review secrecy, and information and communications management and meeting practices.
. Assess the impact of proposed legislation and measures on public access and disclosure.
. Engage in public education and awareness.
. Assist in facilitating agency use of routine and pro-active disclosure, including by electronic means.
. Review claims of agencies that they not be covered under the *Act.*
. Protect whistle blowers who in good faith come forward and disclose information from unwarranted employment penalties.
. Undertake special reports and receive submissions from the public.
. Conduct joint probes with the Auditor General, the Ethics Commissioner, the Integrity Commissioner, the Privacy Commissioner or other officers of Parliament.
. Delegate above powers to adjudicators and investigators and staff.

. The Information Commission consists of three Commissioner officers: Chair; Appeals, Investigations and Litigation; and Audits, Research and Public Awareness.

-The Information Commissioner (Chair) is the chief spokesperson and pro-disclosure advocate, employment head, and coordinator of the Information Commission operations.

- The Information Commissioner (Appeals, Investigations and Litigation) is responsible for facilitating and hearing appeals, conducting investigations, and undertaking litigation work.

- The Information Commissioner (Audits, Research and Public Awareness) is responsible for work related to education, public awareness and assistance, audits, special reports, reviews of information, meeting, and communications practices.

. The Information Commissioners shall meet regularly together. The three person Commission can sit as an appeal tribunal. However, the Information Commissioner (Appeals, Investigations and Litigation) and those assigned as adjudicators, of which there would be no less than five, would primarily hear and decide appeals.

SECTION SIXTEEN: Selection and Terms of Information Commissioners

. The three person Information Commission are officers of Parliament selected by Parliament though national advertising for qualified candidates and a fair screening hiring process by the designated parliamentary committee confirmed by the majority of Parliament via a joint resolution.

. The Information Commissioner (Chair) is selected for a seven years subject to good and meritorious behaviour.

. The two other Information Commissioners (Appeals, Investigations and Litigation; and Audits, Research and Public Awareness) are selected for five years subject to good and meritorious behaviour.

. The Information Commissioners' terms of office need not run parallel, can be staggered, and can be renewed by Parliament.

. The Information Commissioners can only be reappointed again by Parliament, using the same selection process, for one further term of the same length. The designated Parliament selection committee has the option of holding an open competition or of interviewing the incumbent without holding an open competition and issuing a selection recommendation report.

. The Information Commissioners cannot hold any other offices that do not deal with advancing disclosure. (*This means, for instance, the Information Commissioners could be the parliamentary office handling whistle blowing legislation but could not be the Privacy Commissioner***).**

. The Information Commissioners are accountable to Parliament.

. The Information Commissioners are subject to removal from office or suspension for cause or incapacity by a two-thirds of members of Parliament through a joint resolution.

. Should the one or more Information Commissioners be temporarily incapacitated or their offices vacant, the remaining Information Commissioner(s) for a period of up to 6 months, can act in their capacities, at which time Parliament must select new Commissioners.

. The Information Commission Office is covered under the *Act* **and appeals concerning information held or delayed by that Office shall be carried out by a qualified independent person.**

. The Information Commissioners shall not agree to proposed secrecy provisions and practices that agencies from time to time may put forward. The Information Commissioners must be consulted and comment on proposed secrecy and disclosure provisions and practices.
. The Information Commission must report annually to Parliament and be readily available for consultations and hearings with the designated parliamentary committee or any special panel reviewing the budgets of parliamentary officers such as the Information Commission.

SECTION SEVENTEEN: Court Review

. Within 45 days of receiving an Information Commission finding or order, parties can appeal the matter to the Federal Court of Canada.

. The Courts must notify the Information Commission in cases filed on access to records and meeting matters.

. The Federal Court of Canada and the Federal Court of Appeal must give priority to access to information and meeting appeals and have a staff assigned to handle administration of access cases.

. Those denying access to records or meetings must immediately file with the Federal Court a public index of records or meeting items at issue and a comprehensive line by line specific explanation of the grounds for denial or of the secrecy practice at issue.

. All applications to Federal Court of Canada are full de novo reviews.

. The Courts must produce a substantive summary of evidence and proceedings and issue public Court Orders in cases involving use of the Canada Evidence Act or the Security of Information Act or any other proceedings where claims of confidentiality or national security are cited.

. In-camera procedural and court hearings must be very restricted and confidentiality claims for court records very few and in these cases, must be publicly known.

. The Courts must make provision and give notice for proceedings where in-camera sessions are to proceed and give notice and an opportunity for parties to make submissions before imposing publication bans on proceedings underway.

. No Act can override the Court's ability to investigate and issue orders (*this requires repealing the instrument of exclusion certificates under Bill C-36***).**

. The Court may award costs, including in cases where a principle is being tested even where the party is unsuccessful. In cases where a principle is being tested, costs cannot be issued by the Court against the party initiating the test case should the party be unsuccessful.

SECTION EIGHTEEN: Option of Direct Court Injunction and Redress

. Concerning secrecy practices and issues of secrecy, any person can make applications to the courts, including seeking court injunctions, as an option, without first bringing a secrecy practice matter to the Information Commission.

SECTION NINETEEN: Penalties

. Penalties can be levied for directing or carrying out alteration of records, for reformulating record formats to lessen release, erasing, destroying, mutilating, falsifying, concealing, losing and not keeping records or drafts of records; for directing or carrying out unreasonable delays of record releases or other creative avoidance strategies; for directing or carrying out and concealing meetings held, altering and disguising

deliberative discussions as informal meetings, or for unreasonably holding in-camera meetings; for deliberately avoiding being covered under the provisions of the *Act;* for abusing employees who in good faith bring forward matters of public interest and disclosure; and for not fully disclosing accurate information.

. Jail terms for the above offences are up to a term of 5 years and or fines of up to $250,000 and or disciplinary and demotion sanctions.

SECTION TWENTY: Permanent Parliamentary Oversight Committee

. An active permanent parliamentary committee, chaired by an opposition member, with sufficient resources shall provide oversight review of the *Public's Right To Know Act.*

. The Committee assists in the budget determination for the Information Commission office, in reviewing the operations of that office, and in the selection of the Information Commissioners.

. The Committee within 2 years of the Act's proclamation shall review and report on all statutes with secrecy provisions that require repeal or rewording, with the assistance of the Information Commission, and recommend and put forward an omnibus bill to be presented for passage by Parliament so other statutes do not override the *Act* and are consistent with the *Act.*

. The Committee every 2 years review shall review and report on pro-active disclosure agreements established.

. The Committee every five year shall conduct a statutory review that includes a sunset review of existing discretionary exemptions to determine whether they should be further narrowed or repealed.

SECTION TWENTY-ONE: Community and Court Review Program

. An arms-length Information Practices Community and Court Review program shall be annually allocated sufficient funds for test access application cases, for legal assistance to investigate secrecy practices, and to promote, facilitate, and improve transparency practices.

. The Information Practices Community and Court Review program shall be annually audited and made subject to the *Act.*

SECTION TWENTY-TWO: Intergovernmental and International Centre for Freedom of Information

. Canada in conjunction with the provinces and territories shall establish and incorporate an arms-length Centre for Freedom of Information with a non-partisan and meritorious board of directors, with a sufficient annual allocation. It shall assist meritorious projects

that advance intergovernmental pro-active disclosure agreements and codes, and that advance global transparency.

. The Centre for Freedom of Information shall be annually audited and made subject to the *Act.*

SECTION TWENTY-THREE: Implementation, Regulations

. The *Public's Right to Know Act* **comes into force after receiving Royal Assent within six months after House of Commons and Senate passage.**

. Regulations or any directives proposed under this *Act* **are to be done with adequate and widespread notification, be open to public consultation and review, and be understandable, and consistent with the** *Act's* **purposes.**

. Regulations proposed under this *Act* **are subject to parliamentary and hearing.**

. All directives and internal procedures under this *Act* **are public and available, including access tracking logs and model and adopted disclosure codes.**