

Publisher's Note

2019 — Release 1

Previous release was 2018-5

From Your Library:

Drapeau & Racicot

Federal Access to Information and Privacy Legislation Annotated

This release features updates to Chapter 1 (Annotated *Access to Information Act*), Chapter 6 (Annotated *Privacy Act*), and Chapter 9 (Annotated *Personal Information Protection and Electronic Documents Act*).

Highlights

- **Annotated Access to Information Act — Disclosure Must be Refused when Restricted by Prescribed Acts** — In accordance with subsection 24(1) of the *Access to Information Act*, the head of a government institution must refuse to disclose any record that contains information which is restricted by or pursuant to any provision set out in Schedule II of the Act. The legislation referenced in Schedule II is included in the Author's Appendix to Schedule II and has been updated. The provisions of the *Greenhouse Gas Pollution Pricing Act*, S.C. 2018, c. 12, have been added to the Appendix.
- **Annotated Privacy Act — Section 16: Where Access is Refused** — In this case, the Federal Court stated that the issue of whether a government institution can adopt a policy of neither confirming nor denying the existence of information is well established in the jurisprudence. The institution has a discretion to do so but it must be exercised reasonably in the context of the factual circumstances

Thomson Reuters Canada®

Customer Support

Toronto 1-416-609-3800 (Toronto & International)

1-800-387-5164 (Toll Free Canada & U.S.)

Fax 1-416-298-5082 (Toronto)

Fax 1-877-750-9041 (Toll Free Canada Only)

Email CarwellSupport.LegalTaxCanada@TR.com

This publisher's note may be scanned electronically and photocopied for the purpose of circulating copies within your organization.

involved in each case. The Court was satisfied that, in this case, the CSE's discretion to adopt a policy to neither confirm nor deny the existence of personal information was reasonably exercised: *Martinez v. Canada (Communications Security Establishment)*, 2018 FC 1179.

- **Annotated Personal Information Protection and Electronic Documents Act Publication – Schedule 1, Principles Set Out in the National Standard of Canada Entitled Model Code for the Protection of Personal Information, CAN/CSA-Q830-96 – Principle 7: Safeguards** — In this Application, the Court concluded that the Respondent was in violation of its obligations under clause 4.7.1 of the PIPEDA by failing to take appropriate safeguard measures to protect against the loss of personal information. The Respondent indicated to the OPC that the Applicant's records had been picked up by a secure destruction service provider when they were actually in the desk of the very same Manager who conducted the initial investigation into the Applicant's complaint. The fact that the Respondent informed the OPC that the Applicant's personal records were destroyed, when in fact they were not, led the court to the conclusion that the Respondent did not know where the Applicant's personal records were located: *Montalbo v. Royal Bank of Canada*, 2018 FC 1155.