

The Public Interest Disclosure Regulations

being

[Chapter P-38.1 Reg 1](#) (effective September 1, 2011).

NOTE:

This consolidation is not official. Amendments have been incorporated for convenience of reference and the original statutes and regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the original statutes and regulations, errors that may have appeared are reproduced in this consolidation.

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CHAPTER P-38.1 REG 1
The Public Interest Disclosure Act

Title

- 1** These regulations may be cited as *The Public Interest Disclosure Regulations*.

Interpretation

- 2** In these regulations, “**Act**” means *The Public Interest Disclosure Act*.

2 Sep 2011 cP-38.1 Reg 1 s2.

Government institutions prescribed pursuant to subclause 2(1)(d)(ii)

- 3** For the purposes of subclause 2(1)(d)(ii) of the Act, the following are government institutions:

- (a) the bodies set out in Part I of the Appendix to *The Freedom of Information and Protection of Privacy Regulations*;
- (b) all subsidiaries of a Crown corporation that is prescribed as a government institution pursuant to clause (a).

2 Sep 2011 cP-38.1 Reg 1 s3.

Permanent heads pursuant to section 2(1)(f)(ii)

- 4** For the purposes of subclause 2(1)(f)(ii) of the Act:

- (a) the chief executive officer of a Crown corporation that is prescribed as a government institution pursuant to clause 3(a) is the permanent head of the Crown corporation;
- (b) if a subsidiary of a Crown corporation is prescribed as a government institution pursuant to clause 3(b), the chief executive officer of the parent Crown corporation is the permanent head of the subsidiary;
- (c) the chairperson of a body, other than a Crown corporation, that is prescribed as a government institution pursuant to clause 3(a) or the chairperson of the board of the body, as the case may be, is the permanent head of the government institution;
- (d) in the case of a corporation sole prescribed as a government institution pursuant to clause 3(a), the individual that constitutes the corporation sole is the permanent head of that government institution.

2 Sep 2011 cP-38.1 Reg 1 s4.

Additional procedure pursuant to clause 6(2)(h) of the Act

5 The procedures mentioned in subsection 6(1) of the Act must include a provision permitting the permanent head or designated officer for a government institution to refer a disclosure to the Commissioner if, in the opinion of the permanent head or designated officer, it would be inappropriate for him or her to deal with the disclosure either because of the nature of the wrongdoing or because of the persons involved in the disclosure.

2 Sep 2011 cP-38.1 Reg 1 s5.

Exception re subsection 7(1) of the Act

6 If, after consultation with the Commissioner, the permanent head determines that sections 5 and 6 of the Act do not apply to the government institution for which the permanent head is responsible, the permanent head shall:

- (a) refer a disclosure made by a public servant to the Commissioner; and
- (b) provide the public servant who made the disclosure mentioned in clause (a) with notice of the referral.

2 Sep 2011 cP-38.1 Reg 1 s6.

Notice of decision involving investigation pursuant to clause 17(2)(b)

7 For the purposes of clause 17(2)(b) of the Act, the information to be provided by the Commissioner must also include sufficient information to identify the individuals who are allegedly involved in the wrongdoing set out in the disclosure.

2 Sep 2011 cP-38.1 Reg 1 s7.

Confidentiality of information to be maintained

8(1) Subject to subsection (2), no person shall disclose any of the following information that comes to the person's knowledge in the course of performing his or her duties pursuant to the Act or these regulations:

- (a) the identity of the public servant making a disclosure;
 - (b) the identity of all persons who provide information relating to a disclosure, a wrongdoing or a reprisal;
 - (c) the identity of a person alleged to have committed a wrongdoing.
- (2) A person may disclose information described in subsection (1) if:
- (a) the information is required to administer the Act or these regulations or to perform a duty or exercise a power imposed or conferred by the Act or these regulations, including managing a disclosure in accordance with procedures established pursuant to section 6 of the Act;
 - (b) the person to whom the information relates consents;

- (c) the disclosure is to the Commissioner;
- (d) in the case of information mentioned in clause (1)(c), the disclosure is to:
 - (i) the permanent head of the relevant government institution; or
 - (ii) in the case of a government institution that is a Crown corporation, the Crown corporation's board of directors; or
- (e) the disclosure is made on the grounds set out in section 29 of *The Freedom of Information and Protection of Privacy Act*, and that section applies, with any necessary modification, for the purposes of this clause.

2 Sep 2011 cP-38.1 Reg 1 s8.

Prescribed forms

9 For the purposes of the Act:

- (a) Form A of the Appendix is prescribed as the form for disclosures; and
- (b) Form B of the Appendix is prescribed as the form for a complaint of a reprisal.

2 Sep 2011 cP-38.1 Reg 1 s9.

Coming into force

10 These regulations come into force on the day on which section 1 of *The Public Interest Disclosure Act* comes into force.

2 Sep 2011 cP-38.1 Reg 1 s10.

AppendixFORM A
[Clause 9(a)]*The Public Interest Disclosure Act*
[Subsection 10(1)]**DISCLOSURE OF WRONGDOING**

Pursuant to subsection 10(1) of the Act, if a public servant reasonably believes that he or she has information that could show that a wrongdoing has been committed or is about to be committed or that could show that a public servant has been asked to commit a wrongdoing, the public servant may make a disclosure to:

- (a) the designated officer for the government institution where the public servant is employed, or
- (b) the Public Interest Disclosure Commissioner

Current Date:

(Please print)

Last Name:**First Name:**

Government Institution:

Contact Information**Address:** _____**City or Town:****Province:**

Postal Code:**Telephone Number:**

E-mail Address: _____**Preferred Time to Contact:** Day ____ Evening ____ Weekend ____

Details:

(Please provide the details of the nature of the wrongdoing, date(s), location(s), etc., attaching any supporting documentation, if possible. Use additional pages, if required)

I believe this to be true to the best of my knowledge.*

Signature

*Knowingly making a false or misleading statement is an offence pursuant to the Act.

FORM B
[Clause 9(b)]

The Public Interest Disclosure Act
[Subsection 36(1)]

COMPLAINT OF REPRISAL

Pursuant to subsection 36(1) of the Act, no person shall take or direct a reprisal against a public servant or former public servant because the public servant has, in good faith:

- (a) sought advice about making a disclosure from the designated officer or permanent head of the government institution in which he or she is employed or the Commissioner;
- (b) made a disclosure;
- (c) co-operated in an investigation pursuant to this Act; or
- (d) declined to participate in wrongdoing.

If a public servant or former public servant alleges that a reprisal has been taken or directed against him or her, the public servant or former public servant may make a written complaint to the Commissioner respecting the matter.

Current Date:

(Please print)

Last Name: _____

First Name: _____

Government Institution: _____

Contact Information

Address: _____

City or Town: _____

Province: _____

Postal Code: _____

Telephone Number: _____

E-mail Address: _____

Preferred Time to Contact: Day ____ Evening ____ Weekend ____

Details:

(Please provide the details of the nature of the wrongdoing, date(s), location(s), etc., attaching any supporting documentation, if possible. Use additional pages, if required)

I believe this to be true to the best of my knowledge.*

Signature

*Knowingly making a false or misleading statement is an offence under the Act.

