

This is an official version.

Copyright © 2017: Queens Printer,
St. John's, Newfoundland and Labrador, Canada

Important Information

(Includes details about the availability of printed and electronic versions of the Statutes.)

[Table of Public Statutes](#)

[Main Site](#)

[How current is this statute?](#)

[Responsible Department](#)

SNL2005 CHAPTER M-1.01

MANAGEMENT OF INFORMATION ACT

Amended:

2008 c54; [2016 cR-15.2 s33](#) (not in force-not included)

CHAPTER M-1.01

AN ACT RESPECTING THE MANAGEMENT OF GOVERNMENT INFORMATION FOR THE PROVINCE

(Assented to May 19, 2005)

Analysis

- [1. Short title](#)
- [2. Definitions](#)
- [3. Application](#)
- [4. Crown property](#)
 - [4.1 Electronic information](#)
- [5. Management of government records](#)
 - [5.1 Government Records Committee](#)
 - [5.2 Removal and destruction of records](#)
 - [5.3 Dispute](#)
 - [5.4 Exceptions](#)
- [6. System for management of information](#)
 - [7. Application](#)
 - [7.1 Regulations](#)

[8. Offence](#)[9. RSNL1990 cA-16 Rep.](#)

Be it enacted by the Lieutenant-Governor and House of Assembly in Legislative Session convened, as follows:

Short title

1. This Act may be cited as the *Management of Information Act* .

[2005 cM-1.01 s1](#)

[Back to Top](#)**Definitions**

2. In this Act

- (a) "abandoned record" means a government record to which ownership cannot be established and which has been determined to be an abandoned record by the chief information officer;
- (a.1) "archives" means The Rooms Provincial Archives referred to in section 21 of the *Rooms Act* ;
- (a.2) "cabinet record" means a record that
 - (i) is a memorandum, the purpose of which is to present proposals or recommendations to Cabinet,
 - (ii) is a discussion paper, policy analysis, proposal, advice or briefing material, including all factual and background material prepared for Cabinet,
 - (iii) is an agenda, minute or other record of Cabinet recording deliberations or decisions of Cabinet,
 - (iv) is used for or reflects communications or discussions among ministers on matters relating to the making of government decisions or the formulation of government policy,
 - (v) is created for or by a minister for the purpose of briefing that minister on a matter for Cabinet,
 - (vi) is created during the process of developing or preparing a submission for Cabinet,
 - (vii) is draft legislation or a draft regulation, or
 - (viii) contains information about the contents of a record within a class of information referred to in subparagraphs (i) to (vii);
- (a.3) "chief information officer" means the Chief Information Officer of the Office of the Chief Information Officer;
- (a.4) "committee" means the committee established under section 5.1;
- (b) "department", unless the context indicates otherwise, means the department presided over by the minister;

CIMFP Exhibit P-04471

- (b.1) "government record" means a record created by or received by a public body in the conduct of its affairs and includes a cabinet record, transitory record and an abandoned record;
- (c) "minister", unless the context indicates otherwise, means the minister appointed under the *Executive Council Act* to be responsible for this Act;
- (d) "public body" means
- (i) a department created under the *Executive Council Act* or a branch of the executive government of the province,
 - (ii) a corporation, the ownership of which, or a majority of shares of which, is vested in the Crown,
 - (iii) a corporation, commission, board or other body, the majority of the members of which, or the majority of members of the board of directors of which, are appointed under an Act of the province, the Lieutenant-Governor in Council or a minister of the Crown,
 - (iv) a court established under an Act of the province, and
 - (v) the House of Assembly and committees of the House of Assembly;
- (e) [Rep. by 2008 c54 s2]
- (f) "record" means a correspondence, memorandum, form, paper, parchment, manuscript, map, plan, drawing, painting, print, photograph, magnetic tape, computer disc, microform, electronically produced document and other documentary material regardless of physical form or characteristic;
- (g) "record management" means a program of record and information management instituted to provide an economical and efficient system for the creation, maintenance, retrieval and disposal of government records; and
- (h) "transitory record" means a government record of temporary usefulness in any format or medium having no ongoing value beyond an immediate and minor transaction or the preparation of a subsequent record.

[2005 cM-1.01 s2; 2008 c54 ss1&2](#)

[Back to Top](#)

Application

3. This Act applies to all public bodies in the province.

[2005 cM-1.01 s3](#)

[Back to Top](#)

Crown property

4. (1) All records created by or received by a public body in the conduct of its affairs are the property of the Crown.

- (2) Records referred to in subsection (1) shall not be destroyed or removed from the ownership or control of the Crown unless the destruction or removal is authorized under this Act.

[2008 c54 s3](#)[Back to Top](#)

Electronic information

4.1 (1) A requirement under this Act to retain a record is satisfied by the retention of electronic information where

- (a) the electronic information is retained in the format in which it was made, sent or received or in a format that does not materially change the electronic information that was originally created, sent or received; and
- (b) the electronic information will be accessible, and capable of being retained for subsequent reference, if required, by a person who is entitled to have access to the information or who is authorized to require its production.

(2) Where the electronic information was sent or received, the requirement in subsection (1) is only met where information that identifies the origin and destination of the electronic information and the date and time when it was sent or received is also retained.

(3) Nothing in this section prevents the disposal of electronic records according to a process or schedule approved under this Act.

[2008 c54 s4](#)[Back to Top](#)

Management of government records

5. (1) The minister shall

- (a) be responsible for the development and implementation of a management program for government records in the province;
- (b) provide advice to and assist public bodies with the development, implementation and maintenance of record management systems and provide direction on that material as it relates to the preservation of potential archival material; and
- (c) recommend standards, principles or procedures to the Treasury Board for adoption.

(2) The minister may, in the manner permissible by law, appoint and employ those persons necessary to carry out the purposes of this Act.

(3) A person appointed or employed under subsection (2) to be responsible for information and record management shall consult with the Director of The Rooms Provincial Archives appointed under section 22 of the *Rooms Act* to ensure the efficient implementation of information management policies and procedures for the preservation of archival government records.

[2005 cM-1.01 s5; 2008 c54 ss1&5](#)[Back to Top](#)

Government Records Committee

5.1 (1) There shall be a committee to be known as the Government Records Committee consisting of

CIMFP Exhibit P-04471

- (a) the Director of The Rooms Provincial Archives appointed under section 22 of the *Rooms Act* ;
- (b) the Deputy Minister of Justice or a person designated by him or her to act on his or her behalf;
- (c) the Deputy Minister of Finance or a person designated by him or her to act on his or her behalf;
- (d) the Chief Information Officer or a person designated by him or her to act on his or her behalf; and
- (e) those other persons whom the minister may appoint.

(2) The person appointed under subsection (1)(d) or a person designated by him or her to act on his or her behalf shall be the chairperson of the committee.

(3) The committee shall designate from among its members a person who shall be the secretary for the committee.

(4) The Office of the Chief Information Officer shall provide administrative support for the committee in order to assist the committee in executing its powers and duties.

(5) The committee may

- (a) establish and revise schedules for the retention, disposal, destruction or transfer of records;
- (b) make recommendations to the minister respecting government records to be forwarded to the archives;
- (c) establish disposal and destruction standards and guidelines for the lawful disposal and destruction of government records; and
- (d) make recommendations to the minister regarding the removal, disposal and destruction of records.

(6) A decision of a majority of the members of the committee shall be the decision of the committee.

[2008 c54 s6](#)

[Back to Top](#)

Removal and destruction of records

5.2 The minister may, after considering recommendations of the committee under subsection 5.1 (5), direct the removal, disposal or destruction of records.

[2008 c54 s6](#)

[Back to Top](#)

Dispute

5.3 Where a dispute arises between a public body and the committee with respect to the

- (a) adoption or operation of a disposal schedule; or

- (b) destruction or disposal of government records,

the committee may submit the matter to the minister who may issue directions with respect to the dispute.

[2008 c54 s6](#)

[Back to Top](#)

Exceptions

5.4 (1) Cabinet records shall be managed in the manner determined by Cabinet Secretariat.

(2) The chief information officer may determine that records are abandoned records and shall transfer the custody of those records to the Director of The Rooms Provincial Archives appointed under section 22 of the *Rooms Act* who shall dispose of the records in accordance with this Act.

(3) Transitory records may be disposed of when they are no longer of value, and shall only be disposed of through means which render them unreadable, including secure shredding or in the case of electronic records, secure electronic erasure.

(4) Records that may present a health or biohazard may be disposed of in a manner determined by the committee.

[2008 c54 s6](#)

[Back to Top](#)

System for management of information

6. (1) A permanent head of a public body shall develop, implement and maintain a record management system for the creation, classification, retention, storage, maintenance, retrieval, preservation, protection, disposal and transfer of government records.

(2) A system required under subsection (1) shall provide for retention periods and disposition by

- (a) destruction, or
- (b) transfer to the archives,

in accordance with the guidelines and schedules established by the Government Records Committee established under section 5.1.

(3) A permanent head of a public body shall ensure that the retention, disposal and removal of government records is carried out in accordance with this Act.

[2005 cM-1.01 s6; 2008 c54 ss1&7](#)

[Back to Top](#)

Application

7. The minister may apply for an order under rule 27 of the *Rules of the Supreme Court, 1986* for the recovery of government records to which a public body is entitled.

[2005 cM-1.01 s7; 2008 c54 s1](#)

[Back to Top](#)

Regulations

7.1 The Lieutenant-Governor in Council may make regulations

- (a) respecting the procedures and duties of the committee established under section 5.1; and
- (b) generally to give effect to the purpose of this Act.

[2008 c54 s8](#)

[Back to Top](#)

Offence

8. (1) A person who unlawfully damages, mutilates or destroys a government record or removes or withholds a government record from the possession of a public body or otherwise violates this Act is guilty of an offence and is liable on summary conviction to a fine of not less than \$1,000 and not more than \$50,000 and in default of payment to imprisonment for a term of not less than 3 months and not more than 18 months or to both a fine and imprisonment.

(2) In addition to a penalty imposed under subsection (1) a judge may make an order that the record that is the subject of an offence be returned to the possession of the public body.

[2005 cM-1.01 s8](#); [2008 c54 s1](#)

[Back to Top](#)

RSNL1990 cA-16 Rep.

9. *The Archives Act* is repealed.

[2005 cM-1.01 s9](#)

©Queen's Printer