



Office of the
Information and Privacy
Commissioner of Alberta

Report on the Use of “Paramount” Clauses in Acts
and Regulations to Override the *Freedom of
Information and Protection of Privacy Act*

Introduction

There is no doubt that the Freedom of Information and Protection of Privacy Act is a complex law. It covers a lot of ground: it contains extensive provisions on what is excluded from the Act and what exceptions are allowed under the Act. As well, many other statutes contain provisions respecting the collection, use and disclosure of information. The result can be conflicting laws. This is not new or unique to the FOIP Act. Section 5 addresses this issue by stating that where a conflict arises, the FOIP Act prevails unless the other statute says the FOIP Act does not prevail.

Of course the FOIP Act should prevail. Section 2 says the purpose of the Act is to allow any person a right of access to the records in the custody or under the control of a public body subject to limited and specific exceptions as set out in the FOIP Act. The right of access is fundamental to openness, accountability and transparency for public bodies. Without the right of access, the public can only rely on what information public bodies choose to share.

However, the right of access must be as nearly universal as possible. The right of access becomes less meaningful as exclusions from disclosure and exceptions to disclosure multiply. Left unchecked, the practice of taking other enactments out of FOIP by making them “paramount” to FOIP has the potential to turn FOIP into “a piece of Swiss cheese”, causing its death “by a thousand cuts” or bringing about its virtual “repeal by degrees”. Pick a metaphor.

I am not saying that there is a conspiracy anywhere to undermine the Act. However, in reviewing enactments which over the years grant themselves paramountcy I have come to two conclusions which prompted the writing of this report.

First, I think the “paramountcy” process is used too often without good cause. It is sometimes said to be used to avoid uncertainty; to make it clear that FOIP doesn’t apply; to avoid having the matter go to inquiry and having the Commissioner write an order as to whether or not FOIP applies. It is sometimes said that specific circumstances are so compelling that the chance cannot be taken that access to certain records might be granted so the matter is taken right out of FOIP. As I said, the FOIP Act is a very broad, general statute that covers a lot of ground. This is inevitable. In order to cover that much ground, the Act must contain rules of general application. These rules are applied by the public bodies, then the Commissioner and ultimately the courts, if need be. Trying to replace these rules of general application with dozens of specific rules not only carves up the Act, it is extremely confusing to the public and those who have to use the Act. Furthermore, it undermines the words of section 2, i.e. “to allow any person a right of access to records”. I believe the general rules in FOIP can apply to just about any situation and paramountcy need only be resorted to in the rarest of situations.

Second, the Legislative Assembly is placed in a difficult position since, when they deal with paramountcy provisions one by one in specific Bills, as is the normal case, the Members are not in a position to see the forest. Although my Office always comments on paramountcy provisions and, occasionally we even agree with them, they do not attract much attention. The FOIP Act is a law of Alberta. It was made law by the Legislature. It is beyond question that the Legislature is free to pass, repeal or amend laws as it sees fit (subject to the Constitution of course). But where a continuous stream of seemingly inconsequential paramountcy provisions amount to something resembling the virtual repeal of FOIP, the Legislative Assembly needs to know about that trend. Then, if it chooses to proceed, it does so with better knowledge of the big picture consequences. The purpose of this report is to make the Legislative Assembly aware of that big picture.

The Office of the Information and Privacy Commissioner has thought about how to address this issue. This report is one step. Another step is to make departments initiating paramountcy provisions more careful as to when paramountcy is resorted to. We always question these provisions. Further, we suggest, as a matter of practice, not law, that when a Bill contains a paramountcy provision, that provision should be specifically flagged to whichever Legislative Committee reviews that Bill. The Legislative Assembly can then deal with it in full knowledge. It is also possible to create a paramountcy by regulation. The Legislative Assembly does not review regulations. In order to make Ministers and the Lieutenant Governor in Council aware of regulatory paramountcies, I am, through this report, urging the next Commissioner to adopt the practice of writing the responsible Minister directly whenever a proposed regulation contains a paramountcy provision so that it can also be considered in full knowledge.

The FOIP Act is good law. It is important for the reasons aforesaid. Some Courts have even considered whether the right of access is a "quasi fundamental right". I do not think the Act has, to date, been seriously impaired by the use of paramountcy provisions. However, continual erosion of the Act, bit by bit, has the potential to result in a virtual and unintended repeal of the Act.

Respectfully submitted,

Frank Work, Q.C.

Information and Privacy Commissioner

PARAMOUNTCY PROVISIONS AND THE FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT

How does the FOIP Act work?

The *Freedom of Information and Protection of Privacy Act* came into effect on October 1, 1995 and governs information held by public bodies which, essentially, are public sector entities. The purposes of the FOIP Act fall into two categories: access to records held by a public body and protection of individual privacy.

Part 1 of the FOIP Act governs the first category, freedom of information, in that it grants every person the right to access any record held by a public body unless that record falls outside the ambit of the FOIP Act or the FOIP Act permits it, or part of it, to be withheld. Exceptions to disclosure, discussed below, are limited and specific; the starting premise is access.

Part 2 of the FOIP Act requires public bodies to protect individuals' privacy by governing the collection, use and disclosure of personal information. It also ensures an individual's general right of access to his or her own personal information held by a public body and his or her right to request corrections to it.

The FOIP Act also provides for the appointment of the Information and Privacy Commissioner, who is an officer of the Legislature. The Commissioner's mandate includes, but is not limited to, conducting independent reviews of decisions made by public bodies in responding to access requests under the FOIP Act and resolving privacy complaints under the FOIP Act, including conducting investigations and inquiries as an administrative tribunal, as well as advising bodies subject to provincial access and privacy legislation, commenting on the access and privacy implications of legislative schemes and programs and educating the public about the legislation and issues arising within that context.

What is an "exception" to disclosure?

In responding to an access request under the FOIP Act, a public body is able to refuse access to information contained in a record only if it falls within an exception to disclosure that is expressly stipulated by the FOIP Act. Some such exceptions are mandatory, meaning that, if the information falls within the ambit of the applicable provision, the public body must refuse to disclose it, whereas other of the exceptions are permissive, in that, if they apply, the public body may choose to disclose or not to disclose the information.

In general terms, the FOIP Act requires that public bodies refuse to disclose information when:

- such disclosure would be harmful to the personal privacy of a third party individual [s.17] or to the business interests of a third party [s.16];
- the information is in a law enforcement record and disclosure would be an offence under an Act of Canada [s.20(4)];
- the specified person or entity has not consented to a disclosure that could be harmful to intergovernmental relations [s.21];

- disclosure would substantively reveal deliberations of the Executive Council, the Treasury Board or any of their respective committees [s.22]; and
- the information is subject to any type of legal privilege and relates to a person other than a public body [s.27(2)].

Generally speaking, the FOIP Act permits, but does not require, public bodies in their discretion to refuse to disclose information:

- that could be harmful to individual or public safety [s.18];
- within confidential evaluations about the applicant [s.19];
- the disclosure of which could be harmful to law enforcement [s.20], to economic or other interests of a public body or the Government of Alberta [s.25] or to the conservation of heritage sites or vulnerable forms of life [s.28];
- the disclosure of which could be harmful to intergovernmental relations, unless the specified person or entity has not consented to the disclosure, in which case the public body is prohibited from disclosing the information [s.21];
- that could reveal local public body confidences [s.23] or advice from officials [s.24];
- relating to testing procedures, tests and audits [s.26];
- that is privileged information [s.27]; and
- that is or will be available to the public [s.29].

Exceptions to disclosure apply narrowly, given that one of the explicit purposes of the FOIP Act is “to allow any person a right of access to...records...subject to limited and specific exceptions as set out in this Act”. Disclosure of records is the default under the FOIP Act.

What is “excluded” from the FOIP Act?

Section 4 confirms that “[the] Act applies to all records in the custody or under the control of a public body, including court administration records,” except for specific classes of records and information which are expressly excluded from the FOIP Act’s ambit. These exclusions are listed in the 22 paragraphs of section 4(1) of the FOIP Act:

- information in a court file, records of judges, masters and justices of the peace, judicial administration records and records relating to support services for judges [s.4(1)(a)];
- personal notes, communications and draft decisions created by or for a person acting in a judicial or quasi-judicial capacity [s.4(1)(b)];
- quality assurance records as defined in the *Alberta Evidence Act* [s.4(1)(c)];
- records of an officer of the Legislature relating to the exercise of the officer’s functions under an Act of Alberta [s.4(1)(d)];
- information of the Ethics Commissioner relating to the disclosure statements of deputy ministers and other senior officers deposited with him [s.4(1)(e)], and records of the Ethics Commissioner relating to advice about conflicts of interest [s.4(1)(f)];
- examination or test questions [s.4(1)(g)], and post-secondary teaching materials [s.4(1)(h)] and research information [s.4(1)(i)];
- some archival materials [s.4(1)(j)];
- library materials [s.4(1)(j.1)];
- records relating to a prosecution that has not been completed [s.4(1)(k)];
- records made from information in registries and registrars’ offices including the Personal Property Registry, the motor vehicles registry, the corporate registry, a Land Titles Office and offices under the *Vital Statistics Act* [s.4(1)(l)];

- personal and constituency records of elected members of a local public body [s.4(1)(m)], and personal records of appointed and elected members of the governing body of a local public body [s.4(1)(n)];
- personal and constituency records of members of Executive Council [s.4(1)(o)];
- records created by or for the Speaker or an MLA that are in the Legislative Assembly Office [s.4(1)(p)], and records created by or for a member of Executive Council, an MLA or the chair of a Provincial agency under the *Financial Administration Act* who is an MLA that have been or are to be sent to anyone in any of these three categories [s.4(1)(q)];
- treasury branch records that do not relate to a non-arm's length transaction between the Government of Alberta and another party [s.4(1)(r)];
- credit union records that do not relate to a non-arm's length transaction between the Government of Alberta and another party [s.4(1)(s)], and records of information relating to long-term unclaimed balances with, and loans assumed by, the Credit Union Deposit Guarantee Corporation [s.4(1)(t)]; and
- health information as defined in the *Health Information Act* that is in the custody or under the control of a public body that is also a custodian as defined in the *Health Information Act*.

Generally speaking, then, by virtue of section 4, the FOIP Act generally does not apply to records and information of the legislative and judicial branches of government, or to records and information that are subject to a different scheme of access to information and protection of privacy, or to records and information that the Legislature has carved out of the FOIP Act for any other reason.

What does a “paramountcy” provision do?

Sometimes applying or complying with a provision in one piece of legislation will give rise to a contravention or breach of a provision in another piece of legislation because the two provisions conflict or are inconsistent with each other. One possible means of resolving such a conflict is a paramountcy provision that establishes a hierarchy between the two. In such a case, the law that is paramount prevails by rendering the other law inapplicable, thereby curing the conflict caused by the overlap. In effect, a paramountcy provision states that the provision that is paramount trumps the other provision.

How does a paramountcy provision work?

Section 5 of the FOIP Act states:

5 If a provision of this Act is inconsistent or in conflict with a provision of another enactment, the provision of this Act prevails unless

- (a) another Act, or
- (b) a regulation under this Act

expressly provides that the other Act or regulation, or a provision of it, prevails despite this Act.

The Commissioner has interpreted this provision as setting out two rules that should be read independently of each other [Order F2005-007].

First, if a provision of the FOIP Act and a provision of another enactment are inconsistent or in conflict, the provision of the FOIP Act prevails: it applies, and the provision of the other enactment does not. Under this first rule, if there is no such inconsistency or conflict, both provisions apply.

Second, if either another Act or a regulation made under the FOIP Act expressly provides that the other Act or regulation, or a provision of it, prevails despite the FOIP Act, then the FOIP Act does not apply. In this scenario, the other Act or regulation, or a provision of it, applies according to its own terms: if that provision contains the words “inconsistent” or “in conflict with”, then it prevails only to the extent of such inconsistency or conflict; if it does not, then there is no requirement that an inconsistency or conflict *vis-à-vis* the FOIP Act first be established. This second rule operates independently from the first.

When should a paramountcy provision be used?

Transitional paramountcy clauses were enacted when the FOIP Act first came into force to afford ministries an opportunity to determine whether any prohibitions or restrictions then-existing in their legislation should continue despite the FOIP Act. Other than those, a paramountcy provision should be included in an enactment only when the Legislature determines that a scheme for access to information and/or protection of privacy significantly differs from, and is incompatible with, that established by the FOIP Act. If it is possible for the alternative scheme to be distinct from, but still co-exist with, the FOIP Act and for both to apply without one entailing a breach of the other, then no paramountcy provision should be enacted. If the alternative scheme is partially but not entirely irreconcilable with the scheme of the FOIP Act, the paramountcy provision should expressly apply only to the extent of an inconsistency or conflict, so that the FOIP Act is ousted to the least extent possible. A paramountcy provision should only apply without limitation if the alternative scheme is exhaustive and/or is entirely inconsistent or in conflict with the scheme of the FOIP Act; in that case, it is unnecessary for the provision to contain the words “inconsistent with” or “in conflict with” *vis-à-vis* the FOIP Act. A paramountcy provision is unnecessary and redundant if the FOIP Act does not apply based on an exclusion set out in section 4 of the FOIP Act.

What are some examples of appropriate and inappropriate paramountcy provisions relative to the FOIP Act?

In some cases, a statute has been made paramount to the FOIP Act appropriately, on the bases outlined above.

The *Child, Youth and Family Enhancement Act*, for instance, contains several paramountcy provisions. These include section 3.1 and section 74.1(2). Section 3.1 states, in part:

3.1(1) Subject to the regulations, a child, the guardian of a child or a person who in the opinion of a director has a significant connection to a child may, with the agreement of the director, enter into alternative dispute resolution, as defined in the regulations, with the director with respect to any decision made by the director with respect to the child.

(2) All information provided orally during alternative dispute resolution is confidential and is the privileged information of the person providing it, and all documents and records created as a result of alternative dispute resolution are confidential and are privileged documents and records of the person creating them.

(3) No person shall disclose or be compelled to disclose the documents, records or information described in subsection (2) except

- (a) with the consent of all who participated in the alternative dispute resolution,
- (b) if disclosure is necessary to make or to carry out an agreement under this Act,
- (c) if disclosure is pursuant to an order of the Court granted with the consent of all the parties to the Court application,
- (d) to the extent that the disclosure is necessary to protect the survival, security or development of the child, or
- (e) for the purposes of disclosure required by section 4.

(4) If there is a conflict or inconsistency between subsection (2) or (3) and the *Freedom of Information and Protection of Privacy Act*, subsection (2) or (3) prevails despite that Act.

....

Section 3.1(4) ousts the FOIP Act to the least extent possible by specifying that it prevails only in the event of a conflict or inconsistency. To the extent that section 3.1 and the scheme of the FOIP Act can co-exist without one entailing a breach of the other, they continue to do so given the narrow application of section 3.1(4).

On the other hand, section 74.1 of that Act states:

74.1(1) The clerk of the Court must seal all documents possessed by the Court that relate to an adoption, and those documents are not available for inspection by any person except on order of the Court or with the consent in writing of the Minister.

(2) Despite the *Freedom of Information and Protection of Privacy Act*, the Minister must seal adoption orders, all documents required by section 63 of this Act to be filed in support of adoption petitions, adopted children's original registrations of birth and other documents required to be sealed by the regulations that are in the possession of the Minister, and they are not available for inspection by any person except on order of the Court or pursuant to this Division.

Section 74.1(1) requires that all Court documents related to adoptions be sealed. Such records are excluded from the FOIP Act in any event under section 4(1)(a) as "information in a court file". However, section 74.1(2) was enacted to protect those same records along with supporting and related records from disclosure through an access request to the Minister (as head of the public body) while they are in her possession. The alternate scheme for access provided for here—by Court order or otherwise pursuant to that Division of that statute—is exhaustive and inconsistent with the FOIP Act, and so is paramount to it and applies exclusively in respect of the stipulated records.

Another example of an appropriate paramountcy provision is set out in section 16(b) of the *Freedom of Information and Protection of Privacy Regulation*, which provides that section 15(1) of the *Maintenance Enforcement Act* prevails despite the FOIP Act. Section 15(1) of that Act states:

15(1) Information received by the Director under this Act may be used only for the purpose of enforcing a maintenance order and is otherwise confidential.

Section 15 of the *Maintenance Enforcement Act* sets out a complete regime in respect of the relevant information that is inconsistent with that established by the FOIP Act and, like section 74.1(2) of the *Child, Youth and Family Enhancement Act*, the application of the FOIP Act is ousted entirely in this context.

However, there are numerous examples of paramountcy provisions that do not meet the criteria discussed above and are, therefore, inappropriate. One example is section 58 of the *Cemeteries Act*, which states:

58(1) The Director may disclose any information relating to

- (a) the refusal, cancellation or suspension of a licence issued under this Act, or
- (b) a disciplinary action taken under this Act.

(2) If there is an inconsistency or conflict between subsection (1) and a provision of the *Freedom of Information and Protection of Privacy Act*, subsection (1) prevails.

Another is section 21 of the *Funeral Services Act*, which states:

21(1) The Director may disclose any information relating to

- (a) the refusal, cancellation or suspension of a licence issued under the regulations, or
- (b) a disciplinary action taken under this Act or the regulations.

(2) If there is an inconsistency or conflict between subsection (1) and the *Freedom of Information and Protection of Privacy Act*, subsection (1) prevails.

Both section 58(1) of the *Cemeteries Act* and section 21(1) of the *Funeral Services Act* grant authority to the respective directors to disclose information. Such authority is sufficient within the scheme of the FOIP Act to permit the disclosure of information, including personal information: refer to sections 16(3)(b), 17(2)(c) and 40(1)(f) of the FOIP Act, all of which permit disclosure authorized or required by an enactment of Alberta. Because by its very nature the information in question would not fall within any of the other mandatory exceptions to disclosure under the FOIP Act, section 58(1) of the *Cemeteries Act* and section 21(1) of the *Funeral Services Act* are sufficient to permit disclosure under the FOIP Act; there is no inconsistency or conflict with the FOIP Act and sections 58(2) and 21(2), respectively, are unnecessary.

...so what?

Attached for ease of reference is a table of legislation that has been made paramount over the FOIP Act, along with the wording of the specific paramountcy provisions. Evidently, there are very many such provisions. It is highly undesirable that the FOIP Act be thwarted by a great number of paramountcies, particularly when such provisions are unnecessary or overly broad. Undermining the overarching scheme of the FOIP Act in this manner calls into question the Legislature's commitment to access to information and protection of privacy.

Legislation Paramount Over the *Freedom of Information and Protection of Privacy Act* and the *Health Information Act*

Act or Regulation Paramount over the FOIP Act	Sections Paramount	Minister Responsible	Information at Issue
<i>Animal Health Act</i> (S.A. 2007, c. A-40.2)	Section 55(2) <i>Paramountcy established in section 55(3) of that Act.</i>	Agriculture and Rural Development	No access rights to personal information of another individual under FOIP, if the personal information was collected to minimize the risk of a reportable disease spreading or to protect public/animal health.
<i>Cemeteries Act</i> (R.S.A. 2000, c. C-3)	Section 58(1) <i>Paramountcy established in section 58(2) of that Act.</i>	Service Alberta	Director authorized to disclose information relating to refusal, cancellation or suspension of crematory licenses or license of pre-need contracts (plots, supplies) or disciplinary actions taken against a licensee.
<i>Child, Youth and Family Enhancement Act</i> (R.S.A. 2000, c. C-12)	Sections 3.1(2), (3), 74.1(2), and 126.1(1) <i>Paramountcies established in sections 3.1(4), 74.1(2), and 126.1(3) of that Act.</i>	Children and Youth Services	No access or disclosure (except as provided by the Act) to information provided during alternative dispute resolution with respect to a child; regarding adoption records; information provided by a child to the Child and Youth Advocate; or, to the name of any person making a report to the director regarding a child in need of intervention or a child who has committed an offense

Legislation Paramount Over the *Freedom of Information and Protection of Privacy Act* and the *Health Information Act*

Act or Regulation Paramount over the FOIP Act	Sections Paramount	Minister Responsible	Information at Issue
<i>Climate Change and Emissions Management Act</i> (S.A. 2003, c. C-16.7)	Section 59(2) <i>Paramountcy established in section 59(4) of that Act.</i>	Environment	No access rights to “prescribed information” provided to the Government under this Act. “Prescribed information” is defined as: <ul style="list-style-type: none"> • Information provided under this Act or the regulations • Commercial, financial, scientific or technical information that would reveal proprietary business • competitive or trade secret information about a specific facility, technology or comparative initiative and • is of a class or type prescribed in the regulations.
Coal Conservation Regulation	Sections 51, 52, 57, 58 and 59 <i>Paramountcy established in section 9(3.1) of the Coal Conservation Act, R.S.S. 2000, c. C-17</i>	Energy	No access rights to confidential records, reports or information submitted to or acquired by the Board under this Act.
<i>Court of Queen’s Bench Act</i> (R.S.A. 2000, c. C-31)	Section 14.1 <i>Paramountcy established in section 14.1 of that Act.</i>	Justice and Attorney General	Records containing information arising from the process for the selection of masters in chambers are not subject to the FOIP Act.

Legislation Paramount Over the *Freedom of Information and Protection of Privacy Act* and the *Health Information Act*

Act or Regulation Paramount over the FOIP Act	Sections Paramount	Minister Responsible	Information at Issue
<i>Crown's Right of Recovery Act</i> Not proclaimed	Section 16 <i>Paramountcy to HIA established in s. 16(5) of that Act</i>		Director may compel production of health records respecting treatment provided to a recipient; and disclose information for the purpose of enforcing the Crown's right of recovery.
<i>Electric Utilities Act</i> (S.A. 2003, c. E-5.1)	Section 137(1)(a) <i>Paramountcy established in section 137(2) of that Act.</i>	Energy	No access to or disclosure of records provided in confidence by parties involved in a negotiated settlement for ten years.
<i>Emergency Health Services Act</i> (S.A. 2008, c. E-6.6)	Section 40.1 <i>Paramountcy to both FOIP and HIA established in section 40.1(1) of that Act</i>	Health and Wellness	Ambulance attendant is authorized to disclose patient information and attendant observations to a peace officer for the purposes of an investigation.
<i>Emergency Management Act</i> (S.A. 2006, c. E-6.8)	Section 17.1(2) <i>Paramountcy established in section 17.1(2) of that Act</i>	Municipal Affairs	The FOIP Act does not apply to information pertaining to or forming part of a crisis management plan. There are no access rights under FOIP.
<i>Family Law Act</i> (S.A. 2003, c. F-4.5)	Sections 55.61(1) and 55.7(1) <i>Paramountcy established in section 55.61(2) of S.A. 2008, c. 15 – not yet proclaimed and section 55.7(2) of that Act</i>	Justice and Attorney General	No access rights to another individual's personal information in records of the recalculation program. No use or disclosure of personal information unless necessary for the recalculation program; authorized by the Act; or otherwise required by another enactment of Alberta or Canada.

Legislation Paramount Over the *Freedom of Information and Protection of Privacy Act* and the *Health Information Act*

Act or Regulation Paramount over the FOIP Act	Sections Paramount	Minister Responsible	Information at Issue
<i>Funeral Services Act</i> (R.S.A. 2000, c. F-29)	Section 21(1) <i>Paramountcy established in section 21(2) of that Act</i>	Service Alberta	Director authorized to disclose information relating to license refusal, cancellation or suspension, or disciplinary actions.
<i>Gas Utilities Act</i> (R.S.A. 2000, c. G-5)	Section 28.8(1)(a) <i>Paramountcy established in section 28.8(2) of that Act</i>	Energy	No access to or disclosure of records provided in confidence by parties involved in a negotiated settlement for ten years.
<i>Health Care Protection Act</i> (R.S.A. 2000, c. H-1)	Sections 12 and 21(4) <i>Paramountcy established in sections 12 and 21(4) of that Act</i>	Health and Wellness	Publication of agreements between health authority and surgical facility owner/operator information relevant to accreditation or accreditation process of surgical facilities. Minister and health authority authorized to provide records to the Council of the College.
<i>Health Professions Act</i> (R.S.A. 2000, c. H-7)	Section 1(3) of Schedules 3, 9-12, 25, 26 Section 1(4) of Schedule 8 Section 1(3) of Schedules 1, 13, 18 Section 1(2) of Schedule 21.1 <i>Paramountcy established as listed above in that Act.</i>	Health and Wellness	Transfers custody and control of records relating to complaints, registration, and applications of various health providers to the regulatory organization to which the provider belongs (eg. College of Physicians and Surgeons, College of Chiropractors, etc.) *Note: Paramountcy limited to Section 35(b) of the FOIP Act.

Legislation Paramount Over the *Freedom of Information and Protection of Privacy Act* and the *Health Information Act*

Act or Regulation Paramount over the FOIP Act	Sections Paramount	Minister Responsible	Information at Issue
<i>Income and Employment Supports Act</i> (S.A. 2003, c. I-0.5)	Section 49(5) <i>Paramountcy established in section 49(6) of that Act</i>	Employment and Immigration	No access rights to or disclosure of information that would reveal confidential sources of personal information collected for the purpose of determining or enforcing support.
<i>Insurance Act</i> (R.S.A. 2000, c. I-3)	Section 816(8) <i>Paramountcy established in section 816(8) of that Act.</i>	Finance and Enterprise	The FOIP Act does not apply to insurer information. No access rights to records and no right to file privacy complaints under FOIP.
<i>Loan and Trust Corporations Act</i> (R.S.A. 2000, c. L-20)	Section 258 <i>Paramountcy established in section 258(8) of that Act</i>	Finance and Enterprise	No disclosure of records or information regarding the business or affairs of a registered corporation or persons dealing with a registered corporation to any person other than the registered corporation for a period of 50 years.
<i>Maintenance Enforcement Act</i> (R.S.A. 2000, c. M-1)	Section 15(1) <i>Paramountcy established in Freedom of Information and Protection of Privacy Regulation s. 16(b)</i>	Justice and Attorney General	Information collected can only be used for the purpose of enforcing a maintenance order and is otherwise confidential.
<i>Mandatory Testing and Disclosure Act</i> (S.A. 2006, c. M-3.5)	Section 16(1) <i>Paramountcy to both FOIP and HIA established in section 16(1) of that Act</i>	Health and Wellness	No disclosure of information regarding individuals that have had mandatory medical tests except as authorized by 16(2) of that Act.

Legislation Paramount Over the *Freedom of Information and Protection of Privacy Act* and the *Health Information Act*

Act or Regulation Paramount over the FOIP Act	Sections Paramount	Minister Responsible	Information at Issue
<i>Mental Health Act</i> (R.S.A. 2000, c. M-13)	Section 45 (2)(b) <i>Paramountcy to HIA established in section 45(3) of that Act</i>	Health and Wellness	Patient Advocate may compel the production of health records for the purpose of an investigation.
Metallic and Industrial Minerals Exploration Regulation (AR 213/98)	Section 42(1) <i>Paramountcy established in Freedom of Information and Protection of Privacy Regulation Section 17(1)(a)</i>	Sustainable Resource Development	No access to or disclosure of a preliminary plan, final plan or assessment work report for one year after the plan or report is received by Government of Alberta.
Metallic and Industrial Minerals Tenure Regulation (AR 145/2005)	Section 27(1) <i>Paramountcy established in Freedom of Information and Protection of Privacy Regulation s. 17(1)(b)</i>	Energy	No access to or disclosure of technical information and data contained in a mineral assessment report for one year after the last day of the assessment work period.
Metis Settlement Land Registry Regulation (AR 361/91)	Sections 68(3) and 92(3) <i>Paramountcy established in Freedom of Information and Protection of Privacy Regulation s. 17(1)(c)</i>	Aboriginal Relations	Access to documents in a registry or in the deposit file and estate instructions of a deceased settlement member are governed by confidentiality requirements established by General Council Policy.

Legislation Paramount Over the *Freedom of Information and Protection of Privacy Act* and the *Health Information Act*

Act or Regulation Paramount over the FOIP Act	Sections Paramount	Minister Responsible	Information at Issue
<i>Mines and Minerals Act</i> (R.S.A. 2000, c. M-17)	Section 50(1)	Energy	<p>No access rights under FOIP to</p> <ul style="list-style-type: none"> any record, return or information obtained under this Act: information that would reveal geological work or geophysical work for a period of 15 years, or to royalty information for a period of 5 years following the end of the year the information relates. <p>Minister authorized to refuse to disclose records of a discontinued business or a dissolved corporation for a period of one year.</p>
	Section 111(1) <i>Paramountcy established in sections 50 (1.1), 50(3) and (4) and section 111(2) of that Act</i>	Sustainable Resource Development	
<i>Municipal Government Act</i> (R.S.A. 2000, c. M-26)	Sections 217(3), 299, 300 and 301 <i>Paramountcy established in sections 217(3) and 301.1 of that Act</i>	Municipal Affairs	Public disclosure of salaries of councillors, chief administrative officers and designated municipality officers. Access and disclosure of assessment information is governed by that Act.
<i>Natural Gas Marketing Act</i> (R.S.A. 2000, c. N-1)	Section 17(1) <i>Paramountcy established in sections 17(1.1) and 17(4) of that Act</i>	Energy	No access rights under FOIP to any record, return or information obtained under this Act. No access rights under FOIP to royalty information for a period of 5 years following the end of the year to which the information relates.

Legislation Paramount Over the *Freedom of Information and Protection of Privacy Act* and the *Health Information Act*

Act or Regulation Paramount over the FOIP Act	Sections Paramount	Minister Responsible	Information at Issue
<i>Office of Statistics and Information Act</i> (R.S.A. 2000, c. O-5.5)	Sections 8 and 8.1 <i>Paramountcy established in section 8(5) and 8.1(2) of that Act</i>	Employment and Immigration	An individual's or business' access rights under FOIP are limited to information about that individual or business. No disclosure of information contained in an individual return except as authorized by this Act.
Oil and Gas Conservation Regulations (AR 151/71)	Sections 12.150(4), (5), (6), (7), (8) and (8.1) <i>Paramountcy established in section 10(6) of the Oil and Gas Conservation Act, R.S.A. 2000, c. O-6)</i>	Energy	Public release of information supplied in confidence to the Board pertaining to oil and gas industry testing and processing is governed by regulations made by the Board.
Oil Sands Conservation Regulation (AR 76/88)	Sections 15(2), (6), and (7) <i>Paramountcy established in section 20(4) of the Oil Sands Conservation Act, R.S.A. 2000, c. O-7)</i>	Energy	Public release of information supplied in confidence to the Board pertaining to oil sands industry testing and processing is governed by regulations made by the Board.
<i>Provincial Court Act</i> (R.S.A. 2000, c. P-31)	Sections 9.32 and 67(5) <i>Paramountcy established in sections 9.32 and 67(5) of that Act.</i>	Justice and Attorney General	FOIP Act does not apply to records containing information on the selection of judges and records regarding pre-trial conference or mediation.

Legislation Paramount Over the *Freedom of Information and Protection of Privacy Act* and the *Health Information Act*

Act or Regulation Paramount over the FOIP Act	Sections Paramount	Minister Responsible	Information at Issue
<p><i>Public Health Act</i> (R.S.A. 2000, c. P-37)</p>	<p>Section 53 <i>Paramountcy to HIA and FOIP established in s. 75</i></p>	<p>Health and Wellness</p>	<p>Records pertaining to communicable disease treatment or patient identification may be compelled by the Chief Medical Officer and disclosed where required by law, for reasons of public safety, to other governments for the purpose of addressing public health matters, or with the written consent of the Minister.</p>
<p><i>Safer Communities and Neighbourhoods Act</i> (S.A. 2007, c. S-0.5)</p>	<p>Section 31(1) <i>Paramountcy established in section 31(2) of that Act</i></p>	<p>Solicitor General and Public Security</p>	<p>No access to or disclosure of the identity of the complainant or information that may identify the complainant without the written permission of the complainant.</p>
<p><i>Securities Act</i> (R.S.A. 2000, c. S-4)</p>	<p>Sections 44, 45, 46(4), 146, 221(4), (5), (6) and (7) <i>Paramountcy established in section 46.1 of that Act</i></p>	<p>Finance and Enterprise</p>	<p>No access to or disclosure of investigation information except as authorized by the Act. Paramountcy over FOIP does not apply to information after the elapse of 50 years since the information was collected or retrieved.</p>
<p>Security Management Regulation (AR 253/2007)</p>	<p>Section 2(5) <i>Paramountcy established in section 78(4) of the Alberta Utilities Commission Act, S.A. 2007, c. A-37.2 and in section 50(4) of the Energy Resources Conservation Act, R.S.A. 2000, c. E-10</i></p>	<p>Energy</p>	<p>Access to information relating to the security measures of critical facilities (eg. wells, pipelines, power plants) is governed by regulations made by the Board.</p>

Legislation Paramount Over the *Freedom of Information and Protection of Privacy Act* and the *Health Information Act*

Act or Regulation Paramount over the FOIP Act	Sections Paramount	Minister Responsible	Information at Issue
Student Evaluation Regulation (AR 177/2003)	Section 8(2)(c) <i>Paramountcy established in s. 17(1)(d) of the Freedom of Information and Protection of Privacy Regulation</i>	Education	No access right under FOIP to a student's official transcript for a period of one year if the student interfered with the security of evaluation materials or falsified information on an examination.
<i>Wills Act</i> (R.S.A. 2000, c. W-12)	Section 52 <i>Paramountcy established in section 16(d) of the Freedom of Information and Protection of Privacy Regulation</i>	Justice and Attorney General	No access or disclosure of information concerning the international will of a testator except as authorized by the Act.
<i>Bill 11, Witness Security Act</i> (Not yet proclaimed)	Section 18, Section 19 <i>Paramountcies established in sections 18(1) and 19(3) of that Act</i>	Justice and Attorney General	No access to information and no disclosure of any information that may reveal the identity or location of a protected person except as authorized by the Act.