

President
of the Treasury Board



Président
du Conseil du Trésor

Ottawa, Canada K1A 0R5

4/6/13

Ms. Suzanne Legault
Information Commissioner of Canada
Place de Ville, Tower B, 22 Floor
112 Kent Street
Ottawa, Ontario
K1A 1H3

Dear Ms. Legault:

Thank you for your letter dated April 8, 2013 and enclosures regarding your concerns about the information management practices of federal organizations that are being wound down or amalgamated with another institution.

As you know, the management of information in the Government of Canada is undertaken in accordance with the *Library and Archives Canada Act* and a suite of policy instruments such as the *Policy on Information Management*. These instruments and their obligations continue to be applicable during times of transition.

When an institution ceases to exist, the information is managed in accordance with the *Library and Archives Canada Act* which states that, “the Librarian and Archivist shall have the care and control of all records of a government institution whose functions have ceased”.

When institutions are amalgamated, the existing Records Disposition Authorities, as issued by Library and Archives Canada, survive and continue to apply within the new organization. The new organization typically continues to be subject to the *Access to Information Act* and *Privacy Act*. More specifically, where the amalgamated institution is a department as defined in Section 2 of the *Financial Administration Act*, such as the situation with Foreign Affairs and International Trade Canada and Canadian International Development Agency, it continues to be bound by the *Access to Information Act*, the *Privacy Act* and Treasury Board of Canada Secretariat policies on information management, recordkeeping, access to information and privacy for all its information holdings.

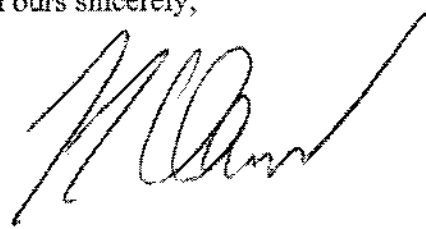
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The Government of Canada continues to be committed to ensuring that Canadians can access information about their government's activities and decisions in an open, comprehensive and timely manner including in times of transition such as those you raise in your letter. In my reply, I have copied the acting Librarian and Archivist of Canada, Mr. Hervé Dery, in the event you wish to follow up with him as well.

Again, thank you for writing.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Tony Clement', written in a cursive style.

The Honourable Tony Clement, P.C., M.P.

c.c.: Mr. Hervé Dery, acting Librarian and Archivist of Canada
Ms. Yaprak Baltacıoğlu, Secretary of the Treasury Board of Canada



Information
Commissioner
of Canada

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APR 08 2013

Hon. Tony Clement, P.C. M.P.
President
Treasury Board
L'Esplanade Laurier, East Tower
140 O'Connor Street, 8th Floor
Ottawa, ON K1A 0R5

Dear President Clement,

I am writing to you as the designated Minister under section 70 of the *Access to Information Act* ("Act") responsible for "caus[ing] to be kept under review the manner in which records under the control of government institutions are maintained and managed to ensure compliance with the provisions of this Act"¹ regarding legislation that eliminates or amalgamates federal institutions that are subject to the Act.

It has recently come to my attention that, in some instances where a federal institution has been eliminated or amalgamated, there is an absence of measures, legislative or otherwise, to ensure the orderly transition of records and the integrity of existing access requests and complaints.

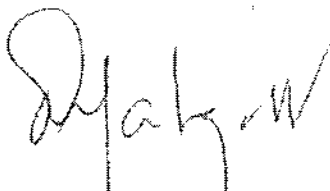
The absence of clear transitional measures has, in at least one instance, negatively impacted on the rights of requesters under the Act, including my ability to effectively investigate complaints.

It is imperative that measures are put in place to protect the rights of requesters under the Act and to preserve the integrity of the access to information system when federal institutions, that are subject to the Act, are eliminated or amalgamated with other institutions. For your review, I have attached a list of institutions that were affected by the *Jobs, Growth and Long-term Prosperity Act* and other pieces of legislation (Appendix A). I will be carefully reviewing Budget 2013 and subsequent related legislation to determine the impact it may have on other institutions.

¹ *Access to Information Act*, R.S.C. 1985, c. A-1 s. 70(1) (the Act)

If you or your officials have any questions, please do not hesitate to contact me at 613-995-9976.

Sincerely,

A handwritten signature in black ink, appearing to read 'Suzanne Legault', written in a cursive style.

Suzanne Legault
Information Commissioner of Canada

cc. Yaprak Baltacioglu
Secretary
Treasury Board Secretariat

Encl. Appendix A

Appendix A

Institutions that have been abolished

- Office of the Inspector General of the Canadian Security Intelligence Service
- Public Appointments Commission Secretariat
- International Centre for Human Rights and Democratic Development
- Assisted Human Reproduction Agency of Canada
- First Nations Statistical Institute (liquidated, March 2013)
- Pensions Appeal Board (replaced by a new institution, April 1, 2013)
- National Round Table on the Environment and the Economy (liquidated, March 29, 2013)

Institutions that have been amalgamated

- Old Port of Montreal Corporation Inc (amalgamated with its parent Crown Corporation, Canada Lands Company Ltd, in March 2013)
- Parc Downsview Park Inc. (amalgamated with its parent Crown Corporation, Canada Lands Company Ltd, in March 2013)
- Canada Lands Company CLC Limited (amalgamated with its parent Crown Corporation, Canada Lands Company Ltd, in March 2013)

Other institutions which will be abolished or amalgamated

- Canadian Wheat Board (will be privatized)
- Canadian Artists and Producers Professional Relations Tribunal (will be abolished)
- Merchant Seamen Compensation Board (will be abolished)
- Hazardous Materials Information Review Commission (will be abolished)
- Canada Employment Insurance Financing Board (institution is currently suspended, will be closed)
- Canadian International Development Agency (will be amalgamated with the Department of Foreign Affairs and International Trade)