

The Companion Guide to the Statistics Act

**Data Access and Control Services Division -
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Introduction

The **Statistics Act** is not only the instrument that gives Statistics Canada its authority to collect and obtain information and its obligation to protect the confidentiality of respondents, it is also an embodiment of the history, evolution and culture of the Agency.

The Companion Guide is intended to foster a better understanding of the legislation and as a consequence, a more informed application of its various provisions.

Status of the Agency

Before Confederation, statistical activity was largely confined to census taking that reported on the progress of colonization. This was the rationale for giving the Minister of Agriculture the responsibility for census-taking and statistics. In 1867, the *British North America Act* listed "the census and statistics" as falling under the exclusive jurisdiction of the federal government. This effectively set the legal framework for the development of a central statistical agency. However, it was only in 1905 that legislation introduced by the Minister of Agriculture was passed creating a permanent Census and Statistics Office. The benchmark *Statistics Act* of 1918 created Canada's national statistics bureau, now called Statistics Canada. [Section 3](#) of the legislation is a provision that maintains the continuity of this legal status. Originally established as a branch of the Department of Trade and Commerce, the Agency received full departmental status by Order in Council in 1965.

[Section 3](#) also specifies that the bureau reports to a Minister designated by the Governor in Council as the Minister responsible for Statistics Canada. For most of the years since its establishment, the Agency has reported to a minister with a broad economic mandate. In consistence with this practice, the Minister currently responsible for the Agency is the Minister of Industry. The Minister represents the agency in Parliament and Cabinet and provides general guidance to the Chief Statistician.

The Chief Statistician

Section 4 of the legislation specifically provides for the appointment by the Governor in Council of a Chief Statistician of Canada to be the deputy of the Minister for the purposes of the Act. There is no time limit to the appointment.

Under the direction of the Minister, according to **paragraph 4(2)(a)** the Chief Statistician is charged with the administration of the Act, the provision of advice on statistical matters within the federal government, and the general management of Statistics Canada. In accordance with **subsection 4(3)**, the Chief Statistician must report to the Minister on Statistics Canada's activities and that report is to be included in the Minister's annual report to Parliament. The manner in which such reports are made to Parliament has evolved over the years. Currently, they are a component of the Government Expenditure Management System (GEMS) and are presented in two separate documents, one entitled **Performance Report** and the other, **Report on Plans and Priorities**.

The Staff

Regular office staff of the agency are appointed under the Public Service Employment Act. Their terms of appointment are the same as those of other federal

public servants. Given its status as a federal government agency, Statistics Canada obviously must abide with the policies and rules prescribed by the government in the hiring of staff, the awarding of contracts, and the expenditure of funds.

Subsection 5(1) gives the Minister the authority to hire the enumerators and commissioners needed to collect statistics and information for the agency. The duties of these temporary employees are prescribed by the Minister. The rates of remuneration and allowances for expenses for commissionaires, enumerators and other persons employed under the Act are recommended by the Minister and require the approval of the Governor in Council (**section 16**).

The Minister can also use the services of federal public servants to carry out any agency function or to perform the specific duties of any officer of the agency. When acting in such a capacity, these federal public servants are deemed to be persons employed under the Act and assume the powers and responsibilities of Statistics Canada employees (**subsection 5(2)**).

In a like manner, contractors and their employees who have been retained to perform work pursuant to the Statistics Act will also have the status of "deemed employees" while performing these services (**subsection 5(3)**). As is the case for Statistics Canada employees, "deemed employees" must take an oath of office (**section 6**). Procedures related to the oath of office and an explanation of who could be considered to be a "deemed employee" can be found in **Chapter 4** of the **Security Practices Manual**.

Statistics Canada's Mandate

The legislation gives the agency a very comprehensive mandate, broad in scope and continuing in nature. This mandate, which outlines the purposes for which the agency was created, is described in **sections 3, 19, 20, and 22** of the Act.

Collection and Production Role

Subsection 3(a) of the Act requires the agency to "collect, compile, analyze, abstract, and publish information on the economic, social and general conditions of the country and its citizens."

Without limiting the generality of this coverage, **section 22** of the Act directs the Chief Statistician to produce statistics on a very detailed list of specific matters, such as health and welfare, education, wholesale and retail trade, public administration, community, business and personal services, labour and employment to name a few. This section also provides for the development of statistics on "any other matters prescribed by the Minister or by the Governor in Council", with respect to a matter not listed in this section.

The obligation to produce is interpreted literally. Information must be published or otherwise released as soon as it is ready and made available to everyone, at the same time, in both official languages. This release must be carried out officially and is governed by the **Policy on Statistics Canada's Daily (Official Release)**.

Special provision is also made at **subsection 3(c)** and **section 19** for a Census of Population to be taken every five years generating population counts for each federal district of Canada. Quinquennial censuses have been taken in Canada since 1906.

At that time and until 1956, these censuses covered the Prairie provinces only. From 1956 on they covered the whole of the country.

Section 20 provides for the taking of the Census of Agriculture. The section stipulates that such a census must be taken every tenth year after the year 1971. It also stipulates that such a census must be taken every tenth year after 1976 unless the Governor in Council directs otherwise.

Statistical Leadership and Coordination Role

In addition to its preponderant collection and production role, Statistics Canada is also assigned a coordination role within the federal and provincial governments. The Agency has been charged with collaborating with departments of government in the collection and publication of statistical information (**subsection 3(b)**); promoting the avoidance of duplication in the information collected by departments (**subsection 3(d)**); and advising and conferring with departments and agencies within the government on matters pertaining to their statistical programs (**paragraph 4(2)(a)**).

Additionally, an overall statistical leadership role within the national statistical system is given to the Agency by the requirements to promote and develop integrated social and economic statistics at the national and at each provincial level, and to coordinate plans for the integration of those statistics (**subsection 3(e)**).

Liaison with Provinces and Territories

To facilitate effective cooperative working relations with its provincial and territorial counterparts, Statistics Canada meets regularly with them through the Federal-Provincial Consultative Council on Statistical Policy, chaired by the Chief Statistician. At the meetings of the Council and of its several committees covering different statistical sectors, information requirements and outputs are reviewed to ensure the continuing relevance of programs, to ascertain changes in priorities, to avoid program duplication by data sharing, to make arrangements for the supply of administrative data, and to harmonize definitions, standards and practices.

Liaison with Federal Departments

For essentially the same reasons, Statistics Canada interacts and consults closely and continuously with federal departments, through a variety of means, both formal and informal. These consultations recognize the major impact of these stakeholders on the policy agenda of the country.

International Liaison

Although the legislation does not make any formal provision for international collaboration in statistics, such a role is considered to be essential for progressive national statistical organizations.

As a very active member of the international statistical community, Statistics Canada maintains extensive contacts with international statistical organizations and with national statistical offices to share professional expertise and to promote common concepts, standards, and practices. The agency's information production attempts to meet international standards to permit comparability of Canadian data on social and economic phenomena with those of other countries.

Statistics Canada's Powers

The legislation gives Statistics Canada the authority to collect information by contacting respondents directly and by accessing administrative records held by other departments, at the federal and provincial level, by municipal governments, businesses, corporations and organizations. The Act also gives the Agency the authority to: prescribe the questions to be asked of respondents; enter into work arrangements with provincial government departments and enter into agreements to share collected information with other organizations, subject to certain conditions.

1. Authority to Collect Information from Respondents

a) Mandatory Response

The legislation which assigns to Statistics Canada its wide scope for data collection also makes it mandatory for all respondents to provide the information requested unless an order is obtained to make response voluntary. The Act considers refusals or the provision of false or misleading information as criminal offences subject to penalties.

The legislation does not contain one clearly articulated provision that conveys the obligation of respondents to provide requested information. The Agency relies on a combination of sections to establish that obligation. For all surveys, **section 3** sets out the general mandate of Statistics Canada to collect information, and **section 22** sets out the matters about which it is to collect.

For surveys involving the completion of forms, **subsection 23(2)** requires that respondents answer the inquiries made on forms they receive and return them to Statistics Canada. **Subsection 31(b)** establishes that those respondents who refuse or neglect to furnish any information or to fill in the form to the best of their knowledge, who do not return the form or who knowingly gives false or misleading information are guilty of an offence.

In the case of collection of information not involving forms, **subsection 31(a)** establishes that persons who refuse or neglect to answer or who wilfully answer falsely any question asked by Statistics Canada are guilty of an offence.

b) Exceptions to Mandatory Surveys

As an exception to the legal obligation on the part of respondents to provide information to Statistics Canada, the Minister can authorize surveys to be undertaken on a voluntary basis, as long as these surveys are not the Census of Population or the Census of Agriculture (**section 8**). Currently, all household surveys, with the exception of the Labour Force Survey, are carried out on a voluntary basis. Most business surveys are carried out on a mandatory basis. Guidelines to help determine which survey should be mandatory and which require a ministerial order to carry it out on a voluntary basis have been developed. Entitled **Guidelines for the Determination of Mandatory and Voluntary Surveys** they form part of the **Policy on Informing Survey Respondents**. The guidelines are to be consulted when preparing the necessary documentation for obtaining approval to carry out a survey. The Director of the division responsible for the survey must make a recommendation

to the Chief Statistician as to whether that survey should be carried out on a mandatory or voluntary basis.

c) Authority to Access Administrative Records

Section 13 stipulates that files, records, and documents held by any department, at the federal and provincial level, municipal office, corporation, business or organization must be provided to an authorized Statistics Canada employee for purposes of the *Statistics Act*. This is the provision that allows the Agency to obtain administrative files maintained by other organizations such as government departments. Typically, a Memorandum of Understanding (MOU) governs the release of such information to Statistics Canada. A copy of a model MOU can be obtained from Data Access and Control Services. **Section 14** is an administrative provision providing for a presumption of authorization of any person employed under the Act.

Section 24 gives Statistics Canada a specific right of access to federal income tax records and **section 25**, the right of access to excise tax records. The manner and times of the Agency's access to these records require the approval of the Governor in Council and are set out in a MOU between Statistics Canada and Revenue Canada. While Statistics Canada has had access to corporate tax records since 1962 by way of the *Corporations and Labour Unions Returns Act* (now called the *Corporations Returns Act*) which Statistics Canada was asked to administer, access to other tax records, such as personal tax records was granted in 1971 when the *Statistics Act* was substantially modified.

There are also a number of specific provisions in the legislation for giving Statistics Canada access to records relating to crime and justice statistics. **Section 26** requires officials of criminal justice courts or tribunals to provide information on the criminal business transacted on those premises. In like manner, **section 27** requires sheriffs and penitentiary and reformatory wardens to provide Statistics Canada with information on prisoners, in the manner directed. **Section 28** requires that court officials, sheriffs and wardens who are requested by Statistics Canada to provide information, ensure that they keep records that will enable them to provide that information. Finally, **section 29** requires that the Solicitor General of Canada ensure that statistical information on pardons be provided to Statistics Canada. These specific provisions for providing crime and justice statistics to the Agency date back to the 1918 *Statistics Act*. Special arrangements were deemed necessary to ensure the development of comprehensive national criminal statistics from a large number of source units in a complex jurisdictional setting.

d) Sanctions

Unless a Statistics Canada survey is voluntary, **section 31** imposes an obligation to respond to it, whether the information sought is asked on a form or otherwise. A breach of this obligation renders a person liable on summary conviction to a fine not exceeding \$500 or to a prison term not exceeding three months, or to both.

In the case of administrative records, **section 32** establishes that custodians of documents or records held by a department, corporation, business or organization must grant access to these records or documents to authorized employees of Statistics Canada on request. Should the custodians of the requested records or documents not grant access to Statistics Canada, they could be liable on summary conviction to a fine not exceeding \$1,000 or to a prison term of up to six months, or to both.

e) Operational Approach to Data Collection

Unless otherwise prescribed by the Minister, all surveys are mandatory and refusals to provide requested information are subject to penalties under the legislation. However, Statistics Canada's policy and practice emphasize explanations, courtesy and persuasion in eliciting willing responses rather than the threat of penalties. In the past, the mandatory provisions of the Act were mentioned only when respondents questioned whether they had to provide the information requested. More recently, the practice has been, in the case of business surveys, to state at the time of data collection the mandatory requirement to respond, and in the case of household surveys, the voluntary nature of the survey. Only in the Censuses of Population and Agriculture is the prosecution of non-respondents generally pursued, and then only after all attempts at persuasion have failed. This does not preclude however, the prosecution of businesses. The determination of which business to prosecute would have to be based on a number of criteria including the impact of the refusal on the quality of the data to be produced.

2. Authority to Prescribe Questions

As previously indicated in the Mandate section, the Act gives the Minister the authority to prescribe the rules, instructions, forms and schedules to carry out the work of the Agency (**section 7**). The order prescribing these rules, instructions, forms and schedules is prepared by Data Access and Control Services on an ad hoc basis for any new survey the Agency undertakes and updated on an annual basis for on-going surveys.

A specific exception to the above-mentioned provision are the questions to be asked in any census of the population and agriculture. [Section 21](#) of the Act specifies that such questions must be approved by the Governor in Council and be published in the Canada Gazette (Volume 1) within 30 days of their approval.

3. Authority to Enter into Data-Sharing and Work Agreements

While Statistics Canada is the focal point for the Canadian statistical system, provincial and territorial statistical bodies are important participants in the system, as are a number of other federal and provincial government departments. A number of sections of the Act provide for cooperative agreements and arrangements between the stakeholders in the system. These provisions for data-sharing are key elements of federal-provincial and inter-governmental cooperation within the national statistical system and have had a major impact on the elimination of duplication in statistical reporting and a related reduction in response burden. It is with this objective in mind that the *Statistics Act* was extensively revised in 1971.

a) Data Sharing with Provincial Statistical Agencies

Section 11 recognizes the special status of provincial statistical offices which administer legislation containing protection for information provided by respondents equivalent to federal law. It provides the authority for the Minister, with the approval of the Governor in Council, to enter into agreements to share data collected jointly with the statistical agencies of provinces. Thus, information can be shared with provincial statistical agencies if (i) respondents were notified at the time of collection, (ii) the provincial agency has the statutory authority to collect the information on its own, and (iii) the provincial agency's confidentiality protection requirements are

substantially the same as those of Statistics Canada. Agreements must be in place at the time the information is being collected. In other words, information cannot be shared retroactively.

b) Data Sharing with Government Departments or Corporations

Section 12 of the Act provides for the sharing of information collected jointly by Statistics Canada and with any department or municipal or other corporation. Sharing of data is conditional on giving respondents prior notification of the proposed sharing, and giving them the right to refuse to allow their information to be shared. A respondent's right of refusal to the sharing of information does not apply if the department or corporation is authorized by law to require the respondent to provide that information. As is the case for agreements with provincial statistical agencies, agreements must be in place at the time of the data collection.

Data sharing agreements are legal documents that are prepared by Data Access and Control Services in conjunction with the Department of Justice legal counsel assigned to Statistics Canada. They are signed on behalf of the parties by the Chief Statistician and his equivalent. Guidelines for notifying respondents of their right to object to data sharing and sample statements informing respondents of data sharing arrangements can be found on the Intranet under the **Confidentiality, Privacy and Security module - Related Policies and Guidelines**.

c) Work Arrangements

Section 10 allows the Agency to enter into any arrangement with the government of a province to support the administration of the Act, including using provincial offices or staff to collect information, and having statistical information provided by provincial departments or officers. It is under such a work arrangement that Statistics Canada obtains vital statistics and pension plan data for example.

Provisions to Facilitate the Administration of the Act

The following provisions are meant to assist Statistics Canada in the administration of the legislation. Much emphasis is put on the production and use of forms. At the time the legislation was originally drafted in 1918, and at the time the Act was last substantially modified, in 1971, there was only one collection method, that is the filling of forms, either by an employee of the statistical office or by the individuals to whom a form was sent.

Section 15 establishes that when a person employed under the *Statistics Act* produces a document or an instruction that purports to be a Statistics Canada form or instruction for the purposes of collecting information, it is presumed that the form or instruction has been provided to such a person by the proper authority.

Section 23 gives the Agency an alternative to using agents or employees to collect information under the Act by allowing for the forms to be sent to persons from whom information is sought.

According to **section 33**, a valid demand for information by Statistics Canada can be leaving a form at any house, office, or other place of business of any person, or mailing a form to a person. The form must bear a notice requiring that the questionnaire be completed and signed within a stated time and, if required by the notice, mailed back to Statistics Canada. When forms are left at a house, the occupant of the house need not be named in the notice and need not be served personally with the notice.

Section 35 provides for penalties ranging from a fine of up to \$1,000 or a prison term of up to six months or both in the case of persons who are found guilty of impersonating an employee of Statistics Canada in seeking information from another person or of falsely representing himself to be making an inquiry under the authority of the Act.

Section 22.1 was added to the *Statistics Act* in 1988 . It requires that Statistics Canada establish a coding system for goods imported into and exported from Canada to facilitate the production of statistics on imports and exports.

Statistics Canada's Obligations

Obligation to Protect Confidentiality

To balance Statistics Canada's extensive powers to collect information, mostly through mandatory reporting, the Act establishes the rigorous legal obligation for the Agency to keep the respondent's information in trust. The legislation makes a formal commitment to respondents that the information they provide will never be released to anyone in a form that will identify them without their authorization. Respondents who believe that providing the Agency with information will not identify them are much more likely to answer truthfully and to cooperate with the collector.

Much of the Agency's credibility rests on confidentiality protection as a bedrock condition of operation. Given its critical importance, this commitment to confidentiality is found not only in the law but also in the culture of Statistics Canada.

The Principle of Confidentiality

The general principle of confidentiality is described in **subsection 17(1)**: no person other than an employee of Statistics Canada who has been sworn in can examine identifiable information collected under the authority of the Act, and such information may not be disclosed in a form that may identify a respondent.

However, a statute will not, of itself, protect records. It has to be supplemented by critical awareness of the overriding importance of maintaining confidentiality by all concerned in the data collection, compilation, and dissemination processes. Statistics Canada has developed and implemented a number of measures to keep this central value in the forefront of all its employees' consciousness. For example, introductory courses for new employees emphasize confidentiality and the physical security measures controlling the access to Statistics Canada buildings underline it daily.

In addition, a number of policies govern employees' day-to-day activities. The **Policy on the Security of Sensitive Statistical Information** requires, among other things, that :

- all staff having access to sensitive statistical information undergo an enhanced reliability check;
- only employees with a "need to know" have access to the Agency's data holdings;
- sensitive statistical information, including identifiable microdata not be taken out of the Agency's secure premises;

- breaches of confidentiality be reported formally to the Departmental Security Officer and to the Departmental Security Coordinator (A.C.S. Management Services) ;
- regular dissemination of information containing quantity and frequency distributions be subjected to confidentiality edit procedures and,
- disposal of sensitive raw data be carried out under secure conditions.

The **EDP Security Policy** requires that Statistics Canada maintain two separate data processing and communications networks called Network A and Network B. The policy stipulates that information provided in confidence be processed, stored and transmitted only on Network A with the exception of a very limited number of approved special circumstances.

In addition, a number of measures, described in the **Security Practices Manual** have been developed to ensure the best possible protection for the confidential information held by the Agency.

The **Microdata Release Policy** was established after the *Statistics Act* was amended in 1971. With the proclamation of the new Act, Statistics Canada was allowed to release microdata as long as they could not identify the individual respondents. Previously, the Agency could only release information in aggregate form. The policy requires that all microdata files be reviewed by a committee of experts before their release as public use sample files. The committee must ascertain that the files do not contain any information that could lead to the identification of a respondent.

Information is Privileged

According to **section 18**, except for purposes of prosecution under the *Statistics Act*, no information obtained under the Act can be used as evidence in any judicial proceeding. No Statistics Canada employee can be required by any court, tribunal, or other body to testify or produce any records in respect of information collected under the Act. Occasionally, Statistics Canada employees are required to testify as to the accuracy of information published by the Agency. In those cases, employees are directed to the Department of Justice's legal counsel assigned to Statistics Canada to obtain guidance.

Exception to the Confidentiality Protection Principle

While rigorously prohibiting the disclosure of identifiable information collected under the Act, the legislation nevertheless provides for some exceptions. These cover :

- 1) the sharing of information under agreements (**section 11** and **section 12**)
- 2) the communication of information for the purposes of a prosecution under the Statistics Act (**subsection 18(1)**) and
- 3) the disclosure by the Chief Statistician, at his discretion and by order, of certain types of information specifically mentioned in the Act (**subsection 17(2)**). This so-called "discretionary release" provision provides that the Chief Statistician disclose the following:
 - a) information collected by persons, organizations, or departments for their own purposes and communicated to Statistics Canada; however the secrecy

provisions applicable at the time the information was collected continues to apply. Examples of the type of information covered by this paragraph are income tax records and vital statistics records.

- b) information relating to a person, business, or organization when consent in writing is given for disclosure by the interested party;
- c) information relating to a business when the owner for the time being of that business gives consent in writing. This has been interpreted to mean that the consent to be provided is the consent from the owner at the time of disclosure, not the former owner who was the owner at the time the information was obtained;
- d) information already available to the public under a law;
- e) information relating to hospitals, libraries, educational and other non-commercial institutions, provided that disclosure does not make it possible to identify the patients, inmates, or other persons in the care of such institutions;
- f) lists of establishments, firms or businesses, showing any of the following details:
 - names and addresses;
 - telephone numbers;
 - official language preferred when contacted;
 - products produced or handled, or services provided and- size according to certain employment size ranges.
- g) information relating to any carrier or public utility.

In the case of information relating to any carrier or public utility, the practice has increasingly been to obtain the consent of the carriers or public utilities rather than to rely solely on the Chief Statistician's discretion to release information about them.

The information described in **subsection 17(2)** of the Act can only be released by an order signed by the Chief Statistician. Requests for obtaining an order are subject to the **Discretionary Release Policy**. This policy ensures that releases of information under the provisions of **subsection 17(2)** are for statistical or research purposes only and that such releases will not harm respondents in any way or the relationship Statistics Canada has with the respondents. Requests are submitted to the Discretionary Release Review Committee which is chaired by the Director, Data Access and Control Services.

Provisions Related to Confidentiality

Two other provision of the Act underline the core character of the confidentiality commitment the Agency makes to its respondents and reinforce its application in actual practice. One provides that each employee must swear an oath not to divulge confidential information and the other provides penalties for breaches of confidentiality.

1) The Oath of Office

Before taking up duties under the *Statistics Act*, all employees and contractors, in accordance with **section 6** must take and subscribe an oath (or solemn affirmation) that they will conform with the requirements of the Act in carrying out their duties and that they will not, without due authority, disclose or make known information that come to their knowledge by reason of their employment.

This practice, in addition to being a requirement of the Act, is also designed to impress upon each employee the need for preserving the confidentiality of information in a graphic way.

2) Penalties

Pursuant to **section 30**, violations of the confidentiality provisions are a criminal offence. After taking the oath of office, all persons who seek to obtain information they are not authorized to have, who desert from their duties or make false statements or returns in the performance of their duties, or who disclose identifiable statistical information are liable to fines of up to \$1,000 or to a prison term of up to six months, or to both.

Additionally, **section 34** provides for more severe penalties for staff members who, after taking the oath of office, disclose to people not authorized to receive it information which might influence the value of any security or other asset, or who use such information for the purpose of speculation. Penalties in these circumstances can be fines ranging up to \$5,000 or prison terms of up to five years, or both.

Obligation Not to Discriminate

Section 9 of the Act forbids the use of discriminatory practices in Statistics Canada's administration of the Act working to the prejudice of individuals or companies. The same section allows the Agency to use sampling methods for the collection of statistics. Even though sampling may be putting differential burden on some individuals or businesses, the legislation thus ensures that these methods are not construed as being discriminatory.

Miscellaneous Provisions

Application of Fines

The Act specifies that all fines imposed pursuant to the Act belong to the Crown and that they are to be paid to the Receiver General. Consequently, fines collected do not become part of the agency's operating budget.

Limitation Period

Section 37 of the Act provides that prosecutions in respect of offences under the Act must be instituted within two years after the time the incident in question arose.

About the Cover Page

The cover page of the current version of the *Statistics Act* carries the notation "Office Consolidation" and the reverse side of the page contains a warning note stating that "users of this office consolidation are reminded that it is prepared for convenience of reference only and that , as such, it has no official sanction."

In March 1992, Statistics Canada produced an Office Consolidation of the Act which incorporated amendments in the legislation in 1988, 1990 and 1992. An Office Consolidation is normally prepared by a government department to incorporate any new, deleted or revised provisions for convenience of reference by its employees and other users in a timely manner. Although the Office Consolidation contains a warning note indicating that it has no official sanction, this is only to point out to users that only the bound version produced by the Department of Justice is the official version.

The current Act, Revised Statutes of Canada, 1985 is the result of an administrative revision to all federal statutes in 1985 under the *Statute Revision Act*. Those revisions include the addition of new clauses, renumbering of clauses in cases where provisions may have been added or removed and minor correction to language inconsistencies between the English and French versions.

Impact of the Access to Information Act and the Privacy Act

In 1983 two pieces of information legislation were proclaimed: the **Access to Information Act** and the **Privacy Act**. The following describe the impact this legislation has had on the **Statistics Act**.

The **Access to Information Act** gives the general public the right to access information controlled by federal government institutions, subject to limited and specific exceptions. Some of these exceptions are mandatory, others are discretionary. By virtue of section 24, which is a mandatory provision, information collected under the *Statistics Act* and protected by section 17 of that act, cannot be made available to anyone attempting to obtain it using the *Access to Information Act*. This exception enables the Agency to continue giving a clear and unqualified assurance to its respondents that the confidentiality provisions of the *Statistics Act* are preserved by the *Access to Information Act*.

Another section of the *Access to Information Act*, section 68, provides for the exclusion of information which is available to the public either free of charge or for a price. In other words, the legislation cannot be used to obtain information that is available through other established mechanisms, such as Statistics Canada publications or special tabulations.

The **Privacy Act** which concerns itself only with personal information, stipulates that government institutions can collect personal information only if it relates to operating programs or activities of these institutions. What is implicit in this, is the notion that government departments cannot collect information of a personal nature unless it is required. The legislation further demands that individuals from whom information is collected be informed of the purpose served by the collection. The legislation also generally protects collected information from disclosure.

Moreover, under this Act, a government institution can only use personal information for the purpose for which it was collected or for a use consistent with that purpose, unless the individuals involved consent to their information being used for another purpose. The *Privacy Act* does allow however, for personal information collected for one purpose to be used for another on an exceptional basis. A case in point, is that personal information can be released to meet the requirements of another piece of legislation. Consequently, Statistics Canada by virtue of section 13 of the *Statistics Act* can still obtain administrative files containing personal information held by other federal government departments, such as the income tax files. A number of

provinces have adopted privacy legislation in the past few years, and this same provision exists in all the provincial acts. Statistics Canada can continue to obtain administrative files containing personal information from vital statistics registrars for example, or from ministries of health and education and use them for research and statistical purposes.

Of the two acts, it is the *Privacy Act* that has had the most impact on Statistics Canada's activities. Because of the Agency's information dissemination role, its operations are in congruence with the basic thrust of the *Access to Information Act* which requires that government information be made available to the public. While the confidentiality provisions of the *Statistics Act* harmonize very well with the requirements of the *Privacy Act* to protect personal information from unauthorized disclosure, data collection is inherently an invasive activity. Statistics Canada has implemented a number of policies and practices to take into account the privacy issues that inevitably arise when requesting personal information in its many surveys. To encourage the public to willingly cooperate with Statistics Canada's data requests in a climate of trust, the following measures have also been put in place:

- Except for censuses and the Labour Force Survey, more sensitive questions are asked only in voluntary surveys;
- **A Policy on Informing Survey Respondents** was developed which requires that all survey respondents be informed, among other things, a) of the purpose to be served by the information they provide b) whether response to the survey is mandatory or voluntary c) of the uses to which it will be put, d) of data-sharing agreements and e) of record linkages between the information they provide to other sources of information such as tax records;
- All record linkage applications are subjected to a rigorous multi-level review. In accordance with Statistics Canada's **Record Linkage Policy**, all record linkages undertaken by the Agency must meet a number of criteria which include: a) serving only statistical or research purposes, b) not producing results harmful to the individuals involved, and c) producing information that will contribute to explicit and substantial public benefit.

Questions on any aspect of the *Statistics Act*, the *Access to Information Act* or the *Privacy Act* or questions on the policies mentioned in this paper should be addressed to staff of the Data Access and Control Services Division.