

**In the case of an Application for Authorization to Disregard Requests from
[the respondent] under Section 43 of the *Freedom of Information and Protection of
Privacy Act* by the Ministry of Agriculture, Fisheries and Food**

I have had the opportunity of reviewing the application of the Ministry of Agriculture, Fisheries and Food under section 43 of the *Freedom of Information and Protection of Privacy Act* (the Act) for authorization to disregard requests made under section 5 of the Act by [the respondent].

Section 43 gives me the power to authorize a public body to disregard requests made under section 5 that, because of their repetitious or systematic nature, unreasonably interfere with the operations of the public body, in this case the Ministry of Agriculture, Fisheries and Food.

Since the purpose of the Act is to make government bodies more accountable to the public by giving the public a right of access to records, authorization to disregard requests must be given sparingly and only in obviously meritorious cases. Granting section 43 requests should be the exception to the rule and not a routine option for public bodies in meeting their obligations under the legislation.

Based on a review of the submissions of the Ministry of Agriculture, Fisheries and Food (the Ministry), its documentation of each access request made by [the respondent], and [the respondent's] response to the Ministry's submissions, the following factors have led me to decide that [the respondent's] access requests are repetitious, systematic, and unreasonably interfere with the operations of the Ministry:

1. During 1996 the Ministry received 68 formal requests for access under the Act, 44 of which were from [the respondent] (65 percent). Ten of these were outstanding on January 16, 1997, the date of the Ministry's application for a section 43 ruling. The Ministry's conservative estimate is that in 1996 it spent more than 400 hours responding to these particular requests. (Submission of the Ministry, para. 2.16) I agree with the Ministry that [the respondent] is making excessive demands on the resources that it has decided that it can devote to implementation of the Act. (Submission of the Ministry, para. 2.16 to 2.18)
2. Since August 1994 [the respondent] has made a total of 62 requests to the Ministry. They deal with [the respondent's] perception of [the respondent's] unfair treatment, harassment, or discrimination by the Ministry. I accept the Ministry's judgment that [the respondent] "clearly appears to be fishing for records in an attempt to confirm [the respondent's] allegations or suspicions of wrongdoing." (Submission of the Ministry, para. 2.07) I further agree that these requests are repetitious in nature. See Order No. 137-1996, December 17, 1996, p. 10.

3. The Ministry has worked extensively with portfolio officers from my Office in mediation with [the respondent]. These have largely proven unsuccessful. [The respondent] has apparently requested reviews or made complaints to my Office on 14 occasions, 7 of the issues which have resulted in Orders by me and 3 of which remain open.
4. After January 16, 1997 mediation efforts of the application for the section 43 ruling involving my Office, [the respondent], and the Ministry failed.
5. On February 7, 1997 [the respondent] requested the Ministry to freeze all e-mail backup tapes and any other form of record pending an investigation [the respondent] has requested into the e-mail system. I have previously issued several Orders on this type of issue, one of them involving [the respondent]. See Order No. 121-1996, September 3, 1996.
6. The evidence submitted by the Ministry that [the respondent] has made systematic requests, including directing requests be submitted under a variety of names.
7. The evidence that [the respondent] is trying to use the Act as a weapon against the Ministry in retaliation for decisions that it has made involving [the respondent]. (Submission of the Ministry, para. 2.10) See Order No. 110-1996, June 5, 1996, pp. 3, 4; Order No. 137-1996, December 17, 1996, pp. 10, 13.
8. I agree with the submission of the Ministry that it should not be required to carry out the tedious, time-consuming, and costly task of responding to [the respondent] under the Act, when it is clear that [the respondent] is habitually and persistently making excessive and irrational requests and demands on the Ministry. (Submission of the Ministry, para. 2.15)
9. I agree with the Ministry's submission that [the respondent] is not using the Act for the purposes for which it was intended and that any further continuation of these actions by [the respondent] places the Act, unequivocally, in great disrepute. (Submission of the Ministry, para. 2.10).
10. In summary, I find that the access requests of [the respondent] are repetitious, systematic, and unreasonably interfere with the operations of the Ministry.

Therefore, I authorize the Ministry to disregard the following with respect to [the respondent]:

- 1. All outstanding requests for records.**
- 2. All future requests for records which relate in any way to past supervisors, co-workers, and the Personnel Branch of the Ministry.**

3. All requests of any kind for a period of one year to end one year after the date of this decision.

Procedural Objection

[The respondent] sought a postponement of this inquiry. I refused to do so after considering [the respondent's] reasons and the objections of the Ministry. Upon request, I expanded on my reasons for this decision in a letter to [the respondent] dated February 18, 1997. [The respondent's] view is that my decision on this matter was not fair and impartial. I disagree.

March 7, 1997

David H. Flaherty
Commissioner