

November 18, 2021

Natalia Kusendova, MPP, Committee Chair
Tanzima Khan, Committee Clerk
Standing Committee on Social Policy
99 Wellesley Street West
Room 1405, Whitney Block
Queen's Park, Toronto, ON, M7A 1A2
Sent via email to: comm-socialpolicy@ola.org and submitted online through
<https://www.ola.org/en/apply-committees>

COVID Policy and Programs Branch
COVID Agri-Food Secretariat
Ministry of Agriculture, Food and Rural Affairs
1 Stone Road West
Guelph, ON, N1G 4Y2
Submitted online through the Regulatory Registry

Dear Committee Chair and Members; and OMAFRA Policy Officials,

Re: Standing Committee's consideration of Schedule 4 of Bill 27, Working for Workers Act, 2021; and

Regulatory Registry # 21-OMAFRA019 (Proposed Amendments to the *Ministry of Agriculture, Food and Rural Affairs Act*)

The Ontario Federation of Agriculture (OFA) is the largest general farm organization in Ontario, proudly representing more than 38,000 farm family members across the province. OFA has a strong voice for our members and the agri-food industry on issues, legislation and regulations governed by all levels of government. We are passionate and dedicated to ensuring the agri-food sector and our rural communities are included, consulted and considered in any new and changing legislation that impacts the sustainability and growth of our farm businesses.

Ontario's diverse and innovative agri-food sector is a powerhouse for the province – growing and producing more than 200 farm and food products, fuelling our rural communities and driving the provincial economy by generating more than 860,000 jobs and contributing over \$47 billion to Ontario's annual GDP. We are the leading agricultural advocate for Ontario farmers, their businesses and their communities.

OFA appreciates the opportunity to provide comment on Bill 27's schedule 4 and the related proposal posted to the Regulatory Registry as # 21-OMAFRA019. Schedule 4 outlines changes to the *Ministry of Agriculture, Food and Rural Affairs Act* (MAFRAA) to add section 4.1 to govern the collection, use and disclosure of information. MAFRAA's new section 4.1 would authorize the Minister to collect information, including personal information, for the purposes set out in the

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section. This section also sets out limits with respect to the collection, use and disclosure of personal information.

OFA recommends revisions to Bill 27's proposed MAFRAA's information governance provisions to strengthen the privacy protections regarding the collection, use and disclosure of information.

It is the case with many farmers, as with some other business owners, that their personal information is the same as their information for their business. Therefore, any release of this business information consequently results in release of their personal information. In these cases, we believe the business information should be afforded the same protections and privacy considerations provided to personal information.

OFA recommends defining "personal information" more broadly in MAFRAA's new subsection 4.1(1) to include not only "personal information within the meaning of section 38 of the *Freedom of Information and Protection of Privacy Act*" but also business information when the business and personal information are the same information, or when the business information could be used to obtain the personal information of the business owner(s) or employee(s).

Although MAFRAA's new section 4.1 would set out limits with respect to the collection, use and disclosure of personal information, it is important to note that OMAFRA is subject to the *Freedom of Information and Protection of Privacy Act* (FIPPA). FIPPA's subsection 67(1) states that FIPPA "prevails over a confidentiality provision in any other Act unless subsection (2) or the other Act specifically provides otherwise."

The question is whether FIPPA would impose restrictions on the applicability of the provisions in MAFRAA's new section 4.1. Could OMAFRA rely on MAFRAA's subsections 4.1(3) and (4) when responding to a Freedom of Information request?

OFA supports the wording of MAFRAA's subsections 4.1(3) and (4):

Limits, personal information

(3) The Minister shall not collect, use or disclose personal information if other information will serve the purpose of the collection, use or disclosure.

Same

(4) The Minister shall not collect, use or disclose more personal information than is reasonably necessary to serve the purpose of the collection, use or disclosure.

The wording of MAFRAA's subsections 4.1(3) and (4) is similar to wording that already exists in FIPPA in subsections 49.3 (1) and (2):

General rules re personal information

49.3 (1) A member of a multi-sector data integration unit or a ministry data integration unit shall not collect personal information under this Part or use or disclose that information if other information will serve the purpose of the collection, use or disclosure.

Extent of information

(2) A member of a multi-sector data integration unit or a ministry data integration unit shall not collect, use or disclose more personal information under this Part than is reasonably necessary to meet the purpose of the collection, use or disclosure.


However, FIPPA limits the applicability of these provisions to FIPPA's Part III.1 (Data Integration). Given FIPPA has not extended the applicability of these provisions more broadly, it is debatable whether MAFRAA would be able to do so if FIPPA were to continue to prevail over MAFRAA. **Therefore, OFA recommends that FIPPA's subsection 67(2) be amended to add MAFRAA's section 4.1 to the list of confidentiality provisions that prevail over FIPPA, and/or that MAFRAA's section 4.1 specifically state that it prevails over FIPPA.**

In addition to MAFRAA's subsections 4.1(3) and (4), OFA recommends adding an additional subsection to MAFRAA's Section 4.1, that would further strengthen privacy protections. Based on wording contained in FIPPA's subsection 49.4(1)4. and subsection 49.4(2)4., **OFA recommends MAFRAA's section 4.1 stipulate that personal information only be collected if the following condition has been met:**

- **The minister, or a person designated by the minister, has determined, after considering the privacy interests of individuals and the manner in which their personal information will be protected, that there is a public interest in collecting the personal information.**

OFA appreciates the opportunity to provide our comments aimed at ensuring the protection of the information of our farmers and their employees.

Sincerely,



Peggy Brekveld
President

cc: Honourable Lisa M. Thompson, Minister of Agriculture, Food & Rural Affairs
Honourable Ross Romano, Minister of Government and Consumer Services
OFA Board of Directors