

Privacy Act and Old Age Security Benefits

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The *Privacy Act*, R.S.C. 1985, c.P-21 is the legislation that enables any individual who is either a Canadian citizen or a permanent resident in Canada to request copies of any personal information about themselves that is held by any federal government institution. Obtaining this information can be particularly helpful for persons trying to establish eligibility for Old Age Security benefits (also known as OAS) or the Guaranteed Income Supplement (also known as GIS).

Benefit Eligibility

Generally, persons are eligible to receive at least partial Old Age Security benefits if they meet the following requirements:

- They are 65 years of age or older;
- They are legally resident in Canada at the time the Old Age Security pension is approved, and
- They have resided in Canada for at least ten years after turning 18.

Partial Benefits

If persons have resided in Canada for less than 10 years, they may be eligible to receive partial benefits if they have lived in one of the countries with which Canada has entered into a social security agreement. The list of countries with which Canada has social security agreements can be found at the following link: <http://www.esdc.gc.ca/en/cpp/international/apply.page#country>

Applications for Old Age Security benefits made by individuals who have resided in one of these countries are processed through the International Operations Division of Service Canada.

Exceptions to Eligibility Rules

There are also exceptions to eligibility rules for different categories of persons, such as the individual's present country of residence, and individuals should always check their eligibility for their particular case. If in doubt, individuals should apply for benefits and their eligibility will be determined based upon their particular set of circumstances.

Partial Benefit Calculations

The amount of the partial pension depends on the number of years that the person has resided in Canada after turning 18 and before receiving Old Age Security benefits. Additional years spent in Canada after commencing receipt of the partial pension do not count when determining total residency for pension calculation purposes.

Denial of Benefits

When a person is denied benefits, they must receive a letter of denial which advises the individual on how they can request a reconsideration. This reconsideration must be requested within 90 days of receiving the denial letter. Persons who feel that they have been wrongfully denied benefits should request a reconsideration within the 90-day period. Despite the fact that it can be difficult in some cases to discern the reason for the denial of benefits, the person should still request the reconsideration, even if they require more time to gather the necessary information or evidence.

Accessing Personal Information

To try to determine why the decision to deny benefits was made, individuals should make a *Privacy Act* disclosure request, requesting a copy of their **entire** Old Age Security and Guaranteed Income Supplement file. The access request may be submitted online at the following link: <https://atip-aiprp.apps.gc.ca/atip/>

In the alternative, the Info Source Personal Information Request Form can be mailed in. The form can be found at the following link: <https://www.tbs-sct.gc.ca/tbsf-fsct/350-58-eng.asp>

This form should be dated and signed by the person requesting the information. In Ontario, the forms can be mailed to:

Employment and Social Development Canada
Access to Information and Privacy (ATIP) - Ontario Region
800-4900 Yonge Street
Toronto, ON M2N 6A8

Disclosure must be made within 30 days of the request, unless a letter is provided by Employment and Social Development Canada indicating that more time is required.

The disclosure usually consists of numbered pages corresponding to all of the documents in the file. On occasion, some documents or parts of documents may be redacted (whited out) or removed. The missing document or portion of the document should have an explanatory note associated with it, pointing to a specific section of the legislation which authorizes the removal of the information.

On occasion, a large number of pages may be redacted pursuant to section 22 of the *Privacy Act*, which relates to information that involves law enforcement and investigation. This usually applies to cases where Service Canada is investigating an individual and suspects that the individual had been receiving benefits to which the individual was not entitled.

If you believe you are entitled to this information, you can complain to the Privacy Commissioner of Canada about the refusal.

The disclosed documents will include not only correspondence between Service Canada and the applicant but also the Service Canada worker's work sheets setting out their calculations of what periods of time the individual was accepted as being resident in Canada. It may also contain information obtained from the Canada Revenue Agency.

Conclusion

Reviewing all of the documentation can be very helpful in giving individuals a more precise idea of why Service Canada denied a certain benefit and may be useful in resolving disputes. Once the documentation has been obtained, individuals can then try to obtain further evidence that may address or resolve Service Canada's concerns.