

2015 Dialogue

A Publication of the

Ontario Electrical League

Canada's new anti-spam legislation – Is your organization compliant?



By: Lisa M. Bolton, Sherrard Kuzz LLP

Canada's anti-spam legislation (CASL) establishes new rules governing the sending of an electronic message for a commercial purpose (CEM).

"If you have not already done so, take steps to assess your organization's electronic messaging practices and immediately develop and implement a compliance plan."

– Lisa Bolton, Sherrard Kuzz LLP

As you may be aware, CASL took effect on July 1, 2014 and applies to both individuals and organizations. Any CEM, such as an email or other electronic message containing advertisements, information about products or services, or business opportunities or events, now requires consent from the recipient before sending the message. There are circumstances where exceptions apply or implied

consent may be already established, however obtaining express consent presents a challenge for most organizations. This is because a request for consent, usually by email, is considered a

CEM, which requires prior consent before it can be sent.

CASL also imposes content requirements for a CEM. A CEM must include contact information about the sender and provide the recipient with a way to unsubscribe.

Non-compliance with CASL may lead to significant enforcement penalties against an individual or organization. If you have not already done so, take steps to assess your organization's electronic messaging practices and immediately develop and implement a compliance plan. ©

Lisa M. Bolton is a lawyer with Sherrard Kuzz LLP, one of Canada's leading employment and labour law firms, representing employers. Lisa can be reached at 416.603.0700 (Main), 416.420.0738 (24 hour) or by visiting www.sherrardkuzz.com. The information contained in this article is provided for general information purposes only and does not constitute legal or other professional advice. Reading this article does not create a lawyer-client relationship. Readers are advised to seek specific legal advice from Sherrard Kuzz LLP (or other legal counsel) in relation to any decision or course of action contemplated.

Privacy in your organization



By Katherine E. Ford, Sherrard Kuzz LLP

On January 1, 2001, the federal government enacted the *Personal Information Protection and Electronic Documents Act* ("PIPEDA").

The act regulates the collection, use and disclosure of personal information in the course of a commercial activity by any organization (an intentionally broad term). Federally regulated, private sector organizations were required

"Significantly, PIPEDA does not apply to employee personal information, unless an organization is federally regulated or uses the personal information for a commercial purpose."

– Katherine E. Ford

to have complied by January 1, 2001. Ontario regulated, private sector organizations had a compliance date of January 1, 2004.

Personal information includes any information that is about an identifiable individual. Examples include age, home phone number, birth date, social insurance number, income, medical records, disciplinary records, credit records and opinions,

and evaluations or comments relating to a specific individual. Significantly, PIPEDA does not apply to employee personal information, unless an organization is federally regulated (i.e. banks, airlines, telecommunications, etc.) or uses the personal

information for a commercial purpose.

The amount of work required to achieve and maintain compliance depends on an organization's size, complexity of operations and existing practices. We generally recommend a five-step plan:

1. Develop a privacy team.
2. Perform an audit on your organization's existing practices.
3. Analyze the gaps between PIPEDA's requirements and your existing practices.
4. Implement an action plan to fill gaps and bring your organization into compliance.
5. Monitor and assess your organization's ongoing compliance. ©

Katherine Ford is a lawyer with Sherrard Kuzz LLP, one of Canada's leading employment and labour law firms, representing management. Katherine can be reached at 416.603.0700 (Main), 416.420.0738 (24 Hour) or by visiting www.sherrardkuzz.com. The information contained in this article is provided for general information purposes only and does not constitute legal or other professional advice. Reading this article does not create a lawyer-client relationship. Readers are advised to seek specific legal advice from Sherrard Kuzz LLP (or other legal counsel) in relation to any decision or course of action contemplated.