

# The Privacy Act Guidelines for British Columbia

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## Provincial Legislation is Your *Minimum* Requirement

The provincial *Personal Information Protection Act* (PIPA) came into effect January 1, 2004. All businesses are subject to these guidelines, which regulate the collection, use, storage and disclosure of personal information collected on individuals. Businesses who fail to comply with the legislation are subject to review by an Information and Privacy Commissioner who can issue binding orders that are made public. In limited circumstances a business could be subject to fines of up to \$100,000 and possibly legal action for loss or injury. The rules within the legislation are the *minimum* requirement of businesses.

The federal *Personal Information Protection and Electronic Documents Act* (PIPEDA) also came into effect January 1, 2004 and meets requirements allowing Canadian firms to do business internationally. PIPEDA applies to all businesses doing business in a province/territory that does not have its own privacy legislation. Currently, only British Columbia, Alberta and Quebec have their own privacy legislation. (See "Federal Legislation" on page 2.)

The following is a brief outline of how the provincial privacy legislation affects your business. The requirements of the Act apply to all personal information held by a business regardless of when this info was collected. However, personal information on file prior to January 1, 2004 does not require additional consent as long as it is only used or disclosed for the purpose for which it was originally collected.

## What is Personal Information?

Personal information means information about an identifiable individual and includes but is not limited to:

- name, age, weight, height;
- home address and phone number;
- race, ethnic origin, sexual orientation;
- medical information;
- income, purchases, spending habits;
- blood type, DNA code, fingerprints;
- marital status and religion;
- education; and,
- employment information.

Personal information does **NOT** include the name, job title, business address, telephone number or other contact information of an individual at a place of business.

## What the Act Covers

**Accountability:** The Act requires an organization to have a documented Privacy Policy that can be made available to the public upon request. The organization must also have a designated Privacy Officer within the business who is knowledgeable about the legislation, able to address customers' concerns and train any staff collecting, using or disclosing personal information.

**Identification of Purposes:** Individuals must be informed of the purpose for the collection and how the information might be used or disclosed to outside organizations.

**Consent:** There are three types of consent that can be used: Express Consent/Permission (Opt in); Opt out and; Implied Consent. Opt out consent cannot be used for sensitive information.

**Limiting Collection:** Gather only the information that is necessary for the identified purposes.

**Limit Use, Disclosure & Retention:** Collected personal information must only be used for the purposes for which consent was given. Keep the information only as long as is necessary.

**Accuracy:** Information should be accurate. Processes/procedures must be put in place for persons to identify and rectify inaccuracies in their personal information.

**Safeguards:** Ensure that personal information is secure: locked file cabinets, electronic firewalls and limited staff access.

**Openness:** Privacy policies and practices should be available in a public document or on a Web site.

**Individual Access:** Ability to inform individuals how their information was collected, used and disclosed, including a list detailing with whom their information has been shared. Individuals have a right of access to their own personal information except under limited circumstances. They also have the right to know how their information has been used and who it has been disclosed to.

**Provide Recourse:** Privacy policies should describe complaint resolution procedures.

**Employee Information:** Personal employee information is also covered by the Act. For current employees and recruits, consent is not required to collect, use and disclose personal employee information, as long as the information is necessary to initiate, maintain

or terminate the employment relationship. However, an employee must be notified of the collection, use or disclosure before it occurs, except in specified situations.

## What the Act Doesn't Cover

- A federally-regulated organization already covered by the federal *Personal Information Protection and Electronic Documents Act* (banks, airlines, telecommunications, inter-provincial transportation and radio and television broadcasting companies).
- The collection, use or disclosure of personal information solely for journalistic, artistic or literary purposes.
- An individual's own collection, use or disclosure of personal information for personal or domestic purposes (family or home activities).
- Information covered by the Freedom of Information and Protection of Privacy Act.

## Compliance Tips

- Obtain consent when collecting personal information from a customer. Consent can be obtained in person, by phone, by mail, by fax or via the Internet.
- Make sure clients fully understand how their information will be used and under what circumstances it will be disclosed.
- Define your reasons for collecting data as clearly and narrowly as possible.
- Limit who has access to personal information.
- Protect personal information against loss or theft: store it in a locked cabinet, use a program with limited access by other employees, use passwords on files, use an encryption program for electronic data.
- Inform customers, clients and employees that you have policies and practices for the management of personal information. Ensure these policies are readily available and are easy to understand.
- Develop a customer complaint procedure and investigate all received complaints.
- Only retain personal information as long as you need it and ensure that all information that is no longer required is destroyed in a secure manner.
- Appoint a Privacy Officer.

## Types of Consent

**Express (Opt in):** Consent may be written or verbal. Notice must provide a clear description of what information is to be collected and how it is to be used and who it will be disclosed to. (e.g. A customer signs a form allowing you to collect and use their personal information.)

**Opt out:** An individual must indicate they wish to opt-out of consent and be given a clear and easy way to understand. (e.g. They may check a box to indicate they don't wish to be included on a mailing list.)

**Implied consent:** Consent is implied when an individual volunteers information and it is reasonable to assume that is appropriate for the situation (e.g. For client follow up, a customer volunteers their phone number and address when making a purchase. Reason for collection must be obvious.)

## Federal Legislation

While the provincial *PIPA* legislation presides over those doing business within the province, companies doing business in other provinces/territories may fall under the jurisdiction of the federal *Personal Information Protection and Electronic Documents Act (PIPEDA)*. Therefore, it is important for those businesses to also be familiar with *PIPEDA*.

- For more information on the federal legislation, please refer to CFIB's National Privacy handout, at [www.cfib.ca/legis/national/Privacy.asp](http://www.cfib.ca/legis/national/Privacy.asp)
- or the web site for the Office of the Privacy Commissioner of Canada at [www.privcom.gc.ca](http://www.privcom.gc.ca).

## Where to Get More Information

To access the official documents or to receive more detailed information on BC's privacy legislation, please consult the British Columbia provincial website at [http://www.msers.gov.bc.ca/foi\\_pop/](http://www.msers.gov.bc.ca/foi_pop/) or phone 250 356-1851. For toll-free access, call Enquiry BC at 604 660-2421 or 1 800 663-1376 and ask to be transferred to 250 356-1851.

Or contact your local CFIB Member Services Counsellor:

**Vancouver:** 604 684-5325 or [msbc@cfib.ca](mailto:msbc@cfib.ca)

**All other areas:** 1 866 684-5325

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