

Privacy Compliance Solutions

**Are you fully compliant with PIPEDA and PIPA?
Does your current Privacy Regime address the expectations of PIPEDA
and PIPA?**

Personal Information Protection and Electronic Documents Act (PIPEDA) The Personal Information Protection Act (PIPA)

Canada's new *Privacy Act* required on **January 1, 2004** that all commercial businesses that gather personal information about customers (such as name, address, phone number, identification document information, etc.) to put in place a **Privacy Compliance Regime**. *PIPEDA* applies to both traditional, paper-based business as well as on-line commercial activities. Alberta and British Columbia have embarked upon almost identical legislation courses on January 1, 2004 as well, and these courses are substantially similar to the federal law. *PIPA* applies to personal information in the custody or control of private sector organizations as it relates to commercial transactions or activities.

The *Personal Information Protection and Electronic Documents Act (PIPEDA)*, formerly referred to as *Bill C-6*, is essentially about balance. On one hand, it respects an individual's right to privacy while on the other, it recognizes the need for organizations to collect, use, and disclose personal information. This law as its name suggests, encompasses two primary objectives: (a) to establish rules that govern the collection, use and disclosure of personal information by private sector organizations; and (b) to acknowledge the validity and legality of electronic documents.

The *Personal Information Protection Act (PIPA)*, formerly referred to as *Bill 44 in Alberta* and as *Bill 38 in British Columbia*, is also about balance. It respects and recognizes both the right of individuals to protect their personal information and the need of organizations to collect, use or disclose personal information for purposes that a reasonable person would consider appropriate in the circumstances.

Regardless of whether you are governed by PIPEDA or PIPA, your Compliance Regime must include such things as:

- Appointment of an individual or individuals who will oversee the organization's privacy policy and ensure that the organization complies with the law;
- A set of policies and procedures covering how the personal information is gathered, used, stored, protected, and why it is needed. This includes personal information that you transfer to a contractor/third party for processing or collection on your behalf;
- Possibly having to revise forms, brochures, web sites to comply with and inform customers about your privacy policy and information practices;
- Policy that outlines how a customer can get access to their personal information, make changes to it when they want, and have it removed from your files if they are allowed by law to do so;

Failure to comply with the PIPEDA or PIPA principles can result in penalties for non-compliance with the Act such as a fine up to \$10,000 on summary conviction or up to \$100,000 for an indictable offence.

- Training your employees with respect to your privacy policy and its application; and
- Developing an effective complaints handling process so that you can: (a) address complaints quickly and effectively; (b) identify and address any systemic or ongoing compliance problems; (c) increase consumer confidence in your organization's privacy regime; and, (d) avoid investigation by the Privacy Commissioner.

Your regime is place, are you confident that it meets the PIPEDA and/or PIPA expectations?

ABCsolutions has developed a comprehensive process for assisting organizations to put in place their required *Privacy Compliance Regime*. This service line has enabled us to develop a thorough understanding of what compliance elements must go into and be maintained by the organization. For example, developing a privacy policy statement modeled after the ten privacy principles is the key obligation in PIPEDA/PIPA compliance. Furthermore, compliance requires the development of sound privacy information management practices that reflect the six steps in an organization's *lifecycle of information flow* (e.g., collection, use, disclosure, retention, security, and disposal).

Our experience with designing these compliance regimes has assisted us in developing the capacity to review a privacy regime to assess if it meets the expectations of the PIPEDA/PIPA. Our '**PIPEDA / PIPA Check-up Tool**' has been designed to: (a) review your existing privacy regime; (b) identify compliance and gaps; (c) suggest enhancements; and (d) provide you with a summary of our findings in a cost-efficient, timely manner.

If you are interested in discussing this further, contact us:

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