



Amendments of Various Provisions in PIPEDA

On June 18, 2015 the Governor General gave the Royal Assent to Bill S-4, the *Digital Privacy Act*, which amends various provisions in PIPEDA.

MRIA participated in the Parliamentary consultations that took place as part of the Bill's review. While we supported a number of proposals, such as the new mandatory breach notification requirements, we also objected to a key change to PIPEDA, which now allows private organizations in certain circumstances to share the personal information of their clients with other private organizations without requiring consent, a court order or a warrant.

Despite the objections and proposed amendments put forward by several other stakeholders including the Federal Privacy Commissioner, the Canadian Bar Association and various academics, the Bill sailed through Parliament with only one minor amendment made at the Senate stage and none when it was before the House of Commons.

Most changes to PIPEDA take effect immediately (as per the list below). However, the most significant new provision dealing with the breach reporting and notification requirements will only come into force once the Government develops and adopts supporting regulations. Once in effect, PIPEDA will require that organizations report to both the Privacy Commissioner and the individual in question where it is reasonable to believe that a breach creates a "real risk of significant harm" to that individual.

MRIA will continue to monitor developments related to PIPEDA, including the consultation process that will accompany the publication of the draft supporting regulations.

Amendments to PIPEDA Now in Effect

- *Compliance Agreements*: The Privacy Commissioner now has the power to enter into compliance agreements with organizations he believes have committed or is about to commit a contravention of PIPEDA. These agreements can be enforced by the Federal Court.
- *Valid Consent*: Bill S-4 added clauses to clarify that an individual's consent is only valid if it is "reasonable to expect that an individual... would understand the nature, purpose and consequences of the collection, use or disclosure of the personal information to which they are consenting."
- *Business Contact Information*: PIPEDA now clarifies that the Act does not apply to "business contact information" if the purpose of communicating with an individual is in relation to their employment, business or profession. This includes the individual's name, title, work address, telephone number, fax number and email address.
- *Business Transactions*: The amended Act now facilitates the transfer of personal information between organizations when it is necessary to complete various business transactions such as mergers, acquisitions and the extension of loans and other financing arrangements.
- *Employee Information*: This new provision applies to federally regulated sectors such as banking, telecommunications, transportation, etc. PIPEDA now gives more allowances and

flexibility when it comes to the personal information of employees within those sectors to establish, manage or terminate their employment relationships.

- *Use of information without consent or court order/warrant:* As stated above, PIPEDA now facilitates the disclosure of personal information between private organizations for the purpose of:
 - 1) identifying an injured, ill or deceased individual and communicating with their next of kin,
 - 2) preventing, detecting or suppressing fraud, or
 - 3) protecting victims of financial abuse.
- *Insurance Claims:* PIPEDA now permit organizations, for certain purposes, to collect, use and disclose, without the knowledge or consent of an individual, personal information contained in witness statements related to insurance claims.

For more information on Bill S-4 and related governance news, please visit <http://mria-arim.ca/about-mria/advocacy/bill-s-4>