



# Is your business PIPEDA compliant?

Although most Mississauga-based businesses have taken measures to comply with the Personal Information Protection and Electronic Documents Act (PIPEDA), many, albeit unknowingly, continue to operate in contravention of this federal legislation.

**T**he purpose of this legislation is to balance a client's right to the privacy of their personal information with the need for organizations to collect, use, or disclose personal information for legitimate business purposes. Because PIPEDA was designed to help protect a client's privacy, it achieves this goal by setting out limits on, and rules for, the collection, use, and disclosure of personal information collected in the course of commercial activities.

While this is certainly true, PIPEDA can undoubtedly also be said to have had the unfortunate effect of complicating and slowing down otherwise simple business transactions. Many businesses, for example, incorrectly believe that their client must, at every turn, consent to the disclosure of their personal information pursuant to requests made by businesses for such information. As one can imagine, this greatly slows down the flow of business.

In most instances, this need for repeated consent could be avoided if the disclosing business in question were to have devised a proactive personal information collection method (i.e. obtaining a "blanket" consent from the client early on). Having such a method in place would deem it unnecessary for a business to continually request consent for a client's limited personal information. This being said, each business is unique,



## ATTENTION BUSINESS OWNERS

If you have surplus capital in a privately held company, you're already paying tax on the growth of that capital, possibly at the highest corporate rate. Take the money out as a dividend and you'll pay tax again, this time on the entire amount.

How can you avoid this double taxation? Plan to pass on the surplus capital to your heirs as a tax-free dividend.

**Tax-deferred growth and tax-free distributions**

A corporate-owned permanent insurance policy can be structured so that the cash value grows tax-deferred. Upon death, the net death benefit\* can be paid to the corporation's capital dividend account and distributed tax-free to your heirs as the shareholders. The bottom line -- you save tax today and leave more for your heirs down the road.

If you have surplus corporate capital intended for your heirs, you'll want to learn more about this highly effective strategy. For more information, please call:



**Wayne Gibson**  
Investment Advisor  
905-897-5224  
wayne.gibson@nbpcd.com  
www.waynegibson.ca

**BMO Nesbitt Burns**

All insurance products are offered through BMO Nesbitt Burns Financial Services Inc. by licensed life insurance agents, and, in Quebec, by financial security advisors. Life insurance sales are made by Estate and Insurance Advisors.  
\* BMO (TM) has registered "nbpcd" as a registered trademark of Bank of Montreal, a registered member of the BMO Nesbitt Burns Corporation Limited, a registered member of the BMO Nesbitt Burns Corporation Limited, a registered member of the BMO Nesbitt Burns Corporation Limited.  
\* Net death benefit equals insurance policy's death benefit plus cash value less the admitted cost basis of the corporation's interest in the policy.

having different client interests at stake, and it is therefore important that each business take the time to consider whether limited or blanket personal information collection consent is required for their ongoing operations.

Whatever the merits or detractions of the legislation may be, it remains the case that as of January 1, 2004, all Canadian businesses are now required to comply with PIPEDA's ten privacy principles. We are told that the aim of these principles is to inform the development of a business' privacy policy explaining how the business manages its information flow lifecycle. In a nutshell, a business must create a privacy policy statement, which determines, amongst other things:

- i) how it collects personal information (collection);
- ii) what use is made of personal information (use);
- iii) who gets to see the personal information (disclosure);
- iv) how long personal information is kept (retention);
- v) where personal information is kept (security); and
- vi) how personal information is disposed of (disposal).

While it is certainly the case that PIPEDA does not regulate all personal information collected by a business, exceptions

are few and far between, some notable ones being a client's name, job title, business address, and business telephone number. As a result, it is difficult to imagine a business that would be exempt from PIPEDA's reach.

If a business fails to comply with PIPEDA, it risks being investigated by the Privacy Commissioner, who has the power to impose costly penalties in the event of certain instances of non-compliance. Moreover, such failure potentially exposes a business to litigation arising from an aggrieved client in Federal Court in which damages could be awarded to such client.

In the face of our ever growing reliance on electronic commerce, and the speed at which information changes hands between businesses, it is hard to fathom PIPEDA being repealed. Given such permanence, Mississauga business owners ought to look at compliance as an opportunity to improve client relations and save money by bringing about efficiencies in the business' information flow lifecycle.

Malcolm MacPherson is a lawyer at RZCD Law Firm LLP.

**Legal Disclaimer:** The above noted material is not intended, and should not be construed, as legal advice or opinion nor is it intended to be endorsed as lawful practice. Organizations concerned about the applicability of privacy legislation to their activities are advised to seek legal advice based on their particular circumstances.



Dawn M. Bennett  
 B.A.(Hons.), B.Comm.(Hons.), LL.B.  
 Member of the Bar of Ontario  
 and the Bar of England and Wales

**IMMIGRATION LAW**

Business/Investor/Independent - Work Permits  
 Student Visas - Visitor Visa Extensions  
 Sponsorship - Citizenship

**CIVIL LITIGATION**

**FAMILY LAW**  
 Divorce - Separation Agreements  
 Custody - Access - Child Support - Spousal Support  
 Child Protection - Travel Consent Forms

77 City Centre Drive  
 7th Floor  
 Mississauga, Ontario  
 L5B 1M5

Tel: 905-848-6100  
 Fax: 905-896-1111  
 dbennett@rzcldlaw.com

**#1 in Group Benefits For Firms with 1-50 People**

AT WORK FOR SMALL BUSINESS SINCE 1970  
 Chambers of Commerce Group Insurance Plan\*

CANADA'S LEADING PLAN

For information, please contact  
 Roman Kozanczyn  
**905.828.2853**  
 roman@execu-comp.com

**Telinks Canada Ltd.**

Total Voice and Data Enterprise Solution Supplier of Unused and Refurbished Telecommunication Equipment

**Our Services Include:**

- Telephone Systems and Sets (Norstar and Avaya)
- Background Music/Hold-Pro
- Voice and Data Cabling
- Cordless Phones & Headsets
- Voice Mail Systems
- We purchase used and surplus telephone equipment

Telinks Canada Ltd. 3585 Laird road, Unit 13, Mississauga L5L 5Z8  
 Tel: 905.608.8774 Fax: 905.608.8764 Email: rais@tele-links.com  
 Avaya Business Partner - Plantronics Authorized Dealer.