



A GUIDE FOR CANADIANS

Your Privacy Rights

Canada's Personal
Information Protection and
Electronic Documents Act



privacy



A Word from the Privacy Commissioner of Canada

The right to privacy is fundamental to any democratic society. If we have to worry – every time we open a bank account, use the Internet, make a purchase in a store or fill out a form – about who will see our personal information and how it will be used, we have lost a basic freedom.



George Radwanski
Privacy Commissioner of Canada

Protecting our privacy helps protect our independence, our ability to control our own lives, and our freedom to make our own decisions. Having control of our personal information is key to our privacy: the more others know about the details of our lives, the greater their opportunity to influence, interfere with or judge the choices we make.

Advances in information technology and data management offer the promise of a new and prosperous knowledge-based economy. But this technology also poses a serious threat to our privacy. New communications and information systems allow organizations to gather, match, share and transmit growing quantities of information about us with unprecedented speed and efficiency.

Finding a balance between the legitimate need of organizations to collect information about us and the necessity to protect our privacy is a major challenge. Canada's Parliament responded to this challenge by passing a new law that applies to the private sector called the Personal Information Protection and Electronic Documents Act, which came into effect January 1, 2001.

My Office has prepared this brochure to answer some of the common questions Canadians may have about the new law and how to exercise their right to privacy.

A handwritten signature in black ink, appearing to be 'G. Radwanski', written in a cursive style.

George Radwanski
Privacy Commissioner of Canada

What is the Personal Information Protection and Electronic Documents Act?

Part 1 of the *Personal Information Protection and Electronic Documents Act* sets down the ground rules for how organizations may collect, use or disclose information about you in the course of commercial activities. The law gives you the right to see and ask for corrections to information an organization may have collected about you. If you think an organization covered by the Act is not living up to its responsibilities under the law, you have the right to lodge an official complaint.

What is personal information?

“Personal information” under the Act means information about an “identifiable individual”.

For example, “personal information” includes your

- name, age, weight, height
- medical records
- income, purchases and spending habits
- race, ethnic origin and colour
- blood type, DNA code, fingerprints
- marital status and religion
- education
- home address and phone number

“Personal information” does **not** include the name, job title, business address or office telephone number of an employee of an organization that is covered by the new law.

How does the Act protect my personal information?

Your ability to control your personal information is key to your right to privacy.

The Act gives you control over your personal information by requiring organizations to obtain your consent to collect, use or disclose information about you. The Act confers certain rights on individuals, and imposes specific obligations on organizations.

The law gives you the right to:

- know why an organization collects, uses or discloses your personal information;*
- expect an organization to collect, use or disclose your personal information reasonably and appropriately, and not use the information for any purpose other than that to which you have consented;*
- know who in the organization is responsible for protecting your personal information;
- expect an organization to protect your personal information by taking appropriate security measures;
- expect the personal information an organization holds about you to be accurate, complete and up-to-date;
- obtain access to your personal information and ask for corrections;*
- complain about how an organization handles your personal information.



The law requires organizations to:

- obtain your consent when they collect, use or disclose your personal information;*
- supply you with a product or a service even if you refuse consent for the collection, use or disclosure of your personal information unless the information is essential to the transaction;*
- collect information by fair and lawful means;
- have personal information policies that are clear, understandable and readily available.

An organization should destroy, erase or make anonymous personal information about you that it no longer needs in order to fulfil the purpose for which it was collected.

*There are exceptions to these principles. For example: an organization may not need to obtain your consent if collecting the information clearly benefits you and your consent cannot be obtained in a timely way; or if the information is needed by a law enforcement agency for an investigation, and getting consent might compromise the information's accuracy.

How can I see the personal information an organization has about me?

- Send a written request to the organization holding your personal information. You must provide enough detail to allow the organization to identify the information you want; for example, include dates, account numbers, and the names or positions of people you may have dealt with at the organization.
- Organizations must provide the information requested within a reasonable time and at minimal or no cost.

... over for more information

How can I correct errors or omissions in my personal information?

- Write to the organization that has personal information about you and explain the correction you are requesting and why. Supply copies of any documents that support your request, if you have them.
- If the organization refuses to correct your personal information, you may require it to attach a statement of your disagreement to the file. This statement must be passed on to any other organization that may have access to the information.

What if I believe my privacy rights are being abused?

The Act gives you the right to make a complaint if:

- you run into any difficulties obtaining your personal information, if an organization refuses to correct information you consider inaccurate or incomplete, or if you suspect your personal information has been improperly collected, used or disclosed;
- you believe an organization is not following any provision of the law.



Where do I complain?

- Contact the Office of the Privacy Commissioner of Canada during business hours by calling 1 800 282-1376 if you need more information and advice on how you should proceed.
- We encourage you to try to settle the matter directly with the organization about which you are complaining by contacting the person responsible for handling privacy issues within the organization.
- If you are not satisfied with the organization's response, you may contact the organization's industry association, ombudsman or complaint office, if there is one. For example, the Canadian Marketing Association and the Canadian Banking Ombudsman handle customers' complaints about their member companies.
- If you are not satisfied with the way the organization or industry association handles the matter, contact the Privacy Commissioner of Canada. There is no fee for making a complaint to Privacy Commissioner.

What is the role of the Privacy Commissioner of Canada?

- The Privacy Commissioner is an ombudsman who attempts to resolve disputes through negotiation.
- The Commissioner has the power to investigate your complaint.
- The Commissioner may also initiate his own investigation or review how an organization handles personal information.
- The Commissioner can recommend that the organization release your personal information to you or correct inaccuracies.
- The Commissioner can recommend that organizations change their personal information practices.
- The Commissioner will report the findings of the investigation to you and the organization.

What if the organization ignores the recommendations of the Privacy Commissioner?

- The Privacy Commissioner has the power to make public any information about the personal information practices of an organization. Few businesses would like to be publicly identified as violating the privacy rights of individuals.
- The Privacy Commissioner may also take the complaint to the Federal Court of Canada on your behalf if he supports you but has been unable to resolve the dispute.
- Once you have received the Privacy Commissioner's report, you may, under certain circumstances, take your complaint to the Federal Court of Canada yourself.
- The Court can order an organization to correct any practices that do not comply with the law, and to publish notices of how it has or will correct its practices.
- The Court can also award damages to the complainant including damages for humiliation suffered.

What is NOT COVERED by the Personal Information Protection and Electronic Documents Act?

- Any federal government organization already covered by the *Privacy Act*.
- Provincial or territorial governments, and their agents.
- Any organization that collects, uses or discloses personal information solely for journalistic, artistic or literary purposes.
- An individual's collection, use or disclosure of personal information for personal purposes, such as genealogical research shared with other family members.



When does the Act come into force?

The Act takes effect in three stages spread over three years.

January 1, 2001

At this stage, the Act applies to personal information about customers or employees (except “personal health information”) that is collected, used or disclosed by “federal works, undertakings or businesses” in the course of commercial activities.

(Federal works, undertakings and businesses include organizations such as the banks, telephone companies, cable television and broadcasting companies, firms engaged in interprovincial transportation, and air carriers.)

The Act also applies to personal information that is shared or disclosed for profit or any kind of benefit across the borders of Canada or a province, where the information itself is the subject of the transaction.

The Act also covers all businesses and organizations engaged in commercial activity in Yukon, the Northwest Territories and Nunavut.

January 1, 2002

The Act will cover any “personal health information” collected by those organizations mentioned in the first stage. Personal health information is information about an individual’s mental or physical health, including details about any tests, examinations and health services provided.

January 1, 2004

The Act will cover the collection, use or disclosure of personal information in the course of any commercial activity within a province, including provincially regulated enterprises such as retail stores. The federal government may exempt organizations and/or activities in provinces that have their own privacy laws that are substantially similar to the federal law.

The Act will apply to all personal information in all interprovincial and international transactions by all organizations in the course of their commercial activities.

FOR MORE INFORMATION

If you have any questions about how a private sector organization handles your personal information or wish to make a complaint under the new law, please contact our office.

The Office of the Privacy Commissioner of Canada

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Please note that this brochure summarizes the law.

As such, it has no legal status. To obtain the full text of the law, consult our Web site or contact the Office of the Privacy Commissioner of Canada.

Cette publication est disponible également en français.

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