

What is The Personal Information Protection and Identity Theft Prevention Act (PIPITPA) ?

PIPITPA is the upcoming Manitoba Privacy Legislation which will be overseen by the Manitoba Ombudsman. This legislation sets rules for the collection, use and disclosure of personal information. PIPITPA will apply to “every organization and in respect of all personal information.”

PIPITPA (Manitoba Bill 211) was passed and received Royal Assent in September 2013. The new act is not in force yet, but is awaiting proclamation. Once this act is proclaimed Manitoba will join British Columbia, Alberta and Quebec as the 4th Province with it's own privacy legislation.

What is Personal Information?

Personal Information is broadly defined in PIPITPA as “information about an identifiable individual.”
Examples of personal information:

- Age
- Ethnic Origin
- Opinions
- Loan Records
- Name
- Income
- Disciplinary Actions
- Credit Records
- ID Numbers
- Blood Type
- Employee Files
- Medical Records

Who must comply with PIPEDA?

The Act will apply to “every organization and in respect of all personal information.” There are exceptions outlined in the act such as personal information used for “personal or domestic purposes”, the individual has been dead for 20 years or the personal information is contained in a record that is at least 100 years old. See Part 2 of the act for a full list of exceptions.

The Act in Brief:

“The Purpose of this Act is to govern the collection, use and disclosure of personal information by organizations in a manner that recognizes both the right of an individual to have his or her personal information protected and the need of organizations to collect, use or disclose personal information for purposes that are reasonable.” Part 2, Section 3 of PIPITPA.

Your Responsibilities under the Act

In Part 3 of PIPITPA there are 5 main divisions of responsibilities as out lined below:

- Compliance & Policies
- Consent
- Collection of Personal Information
- Use of Personal Information
- Disclosure of Personal Information

<p>On the next page we highlight some of the responsibilities in PIPITPA related to your document retention and shredding.</p>

Part 3 Division 1 - Compliance and Policies

5 (3) Designate an individual responsible for compliance

- One, or more, individual(s) must be designated with the responsibility of ensuring your organization is compliant with the act.

6 Policies and Practices.

- Organizations are required to develop (and follow) policies and practices to meet the obligations that PIPITPA outlines.
- Organizations are going to be required to make their policies available upon request.

Part 4 Division 2 - Care of Personal Information

34 (1) Protection of Information

- This is the part of the Act talking about how you need to protect the personal information while you are storing it and while you dispose of it. This section reads as follows:

“An organization must protect personal information that is in its custody or under its control by making reasonable security arrangements against risks such as unauthorized access, collection, use, disclosure, copying, modification, disposal or destruction.”

- The Act provides an Interpretation of Destruction of Records as follows:

In this Act, a record is destroyed when it is physically obliterated in a manner that

(a) renders it

(i) illegible, in the case of a written record,

(ii) unrecognizable, in the case of photograph, or

(iii) useless or ineffective, in the case of a record that is recorded or stored in another manner; and

(b) makes it impractical to reconstruct the record or any part of it.

34 (2) Notice if control of information lost

- This part of the act is what is called “Breach Notification.” The Manitoba legislation is unique in that an organization is required to notify an individual directly (as opposed to a regulator) if his or her personal information is stolen, lost or accessed in an unauthorized manner. This section reads as follows:

“An organization must, as soon as reasonably practicable and in the prescribed manner, notify an individual if personal information about the individual that is in its custody or under its control is stolen, lost or accessed in an unauthorized manner.”

Part 6 - General Provisions - Penalties & Reasonable Action

41(2) Penalties

- The Act outlines penalties for committing an offence under the act. The penalties are as follows:

For an Individual—not more than \$10,000

Other than an Individual—not more than \$100,000

41(3) No offence if action reasonable

- The organization/individual will not be guilty of an offence under this act “if it is established to the satisfaction of the court that the organization or individual, as the case may be, acted reasonably in the circumstances that gave rise to the offence.”

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