



Employment Notes

Employment and Labour Group

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“The purpose of the Bill is to ‘better protect and empower consumers, clarify and streamline rules for business and enable effective investigations by law enforcement and security agencies’.”

FEDERAL GOVERNMENT PROPOSES CHANGES TO PRIVACY LEGISLATION

Elizabeth J. Forster

On September 29, 2011 Bill C-12, An Act to amend the *Personal Information Protection and Electronic Documents Act* (PIPEDA) received first reading.

In its press release the government has stated that the purpose of the Bill is to “better protect and empower consumers, clarify and streamline rules for business and enable effective investigations by law enforcement and security agencies”.

The significant amendments are:

1. PIPEDA will apply in respect of personal information about an applicant for employment with a federal work, undertaking or business.
2. PIPEDA will not apply to business contact information of an individual if it is solely used for the purpose of communication with the individual in relation to their employment, business or profession.
3. The consent required from individuals for the collection, use or disclosure of personal information is now stated to be valid only if it is reasonable to expect that the individual under-

stands the nature, purpose and consequences of the collection, use or disclosure of the personal information.

4. The bases upon which an organization may collect personal information without knowledge or consent have been expanded to include:

- (a) information contained in a witness statement, necessary to assess, process or settle an insurance claim; and
- (b) information produced by an individual in the course of their employment, business or profession consistent with the purposes for which the information was produced.

5. The circumstances under which personal information may be disclosed without the knowledge or consent of the individual have been expanded to include instances where:

- (a) the disclosure is requested for the purpose of communicating with the next of kin or authorized representative of an injured, ill or deceased individual;
- (b) the disclosure is requested for the purpose of performing policing services;
- (c) the disclosure is made on the initiative of

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Elizabeth Forster represents employers, trade unions and employees. She has been involved in hearings before the Ontario Labour Relations Board, grievance arbitrations, collective agreement negotiations, Human Rights cases, and prosecutions under Occupational Health and Safety Act.

Elizabeth's work also includes wrongful dismissal actions, actions for breach of fiduciary duties and other employment and employee issues as well as labour-related actions. She advises clients on employment contracts, employment policies, non-competition and confidentiality agreements and employee pension and benefit-related issues.

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an organization to an investigative body or a government institution or part thereof in cases where:

(i) the disclosure is made to another organization and is necessary to investigate a breach of an agreement or contravention of the Laws of Canada or a Province that has been, is being or is about to be committed;

(ii) the disclosure is made in order to prevent, detect or suppress fraud when it is reasonable to expect that the disclosure with the knowledge or consent of the individual would undermine the ability to prevent, detect or suppress the fraud;

(d) the disclosure is made on the initiative of an organization to a government institution or part thereof to an individual's next of kin or authorized representative where:

(i) the organization has reasonable grounds to believe that the individual has been, is, or may be the victim of financial abuse;

(ii) the disclosure is made solely for purposes relating to preventing or investigating the abuse;

(e) the disclosure is necessary to identify the individual who is injured, ill or deceased, the disclosure is made to a government institution or the individual's next of kin or authorized representative and, if the individual is alive, the organization informs the individual in writing without delay of the disclosure;

(f) the information is contained in a witness statement and the disclosure is necessary to assess, process of settle and insurance claim; or

(g) it is information that was produced by the individual in the course of their employment, business or profession, and the disclosure is consistent with the purposes for which it was produced.

We will keep you updated on this Bill's progress throughout the upcoming months.

If there are any questions about the impact of these proposed changes on your business, please contact us. ■

EXPECT THE BEST

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We welcome your comments. Address changes, mailing instructions or requests for additional copies should be directed to Kylie Aramini at 416 593.7221 ext. 3600 or by email to karamini@blaney.com. Legal questions should be addressed to the specified author.