**The *Personal Information Protection and Electronic Documents Act***

The *Personal Information Protection and Electronic Documents Act[[1]](#footnote-1)* (*“PIPEDA*” or the “Act”) is the federal statute that governs the collection and use of personal information by businesses. The Act applies to organizations collecting, using or disclosing information in the course of commercial activities, and information collected about employees of federally regulated businesses. For commercial purposes, the Act applies to private enterprises across Canada except in provinces with “substantially similar legislation” which includes Quebec, British Columbia, and Alberta. In these provinces, *PIPEDA* still applies to federal sectors such as banking, aviation, and telecommunications.

The Act defines personal information as “information about an identifiable individual” [[2]](#footnote-2) and includes:

* your name, race, ethnic origin, religion, marital status, educational level
* e-mail address and messages, IP address
* age, height, weight, medical records, blood type, DNA code, fingerprints, voiceprint
* income, purchases, spending habits, banking information, credit/debit card data, loan or credit reports, tax returns
* Social Insurance Number (SIN) or other identification numbers[[3]](#footnote-3).

*PIPEDA* requires organizations to collect, use and disclose personal information only for stated and reasonable purposes, by fair and lawful means, with the individual’s consent. The information collected must be essential to the business transaction and the individual maintains the right see the information and confirm its accuracy.

The Act sets out 10 “Fair Information Principles”, which reflect the basic privacy obligations under the Act. They are:

1. Accountability – Organizations should appoint someone to be responsible for privacy issues. They should make information about their privacy policies and procedures available to customers.
2. Identifying purposes – Organizations must identify the reasons for collecting your personal information before or at the time of collection.
3. Consent – Organizations should clearly inform you of the purposes for the collection, use or disclosure of personal information.
4. Limiting collection – Organizations should limit the amount and type of the information gathered to what is necessary.
5. Limiting use, disclosure and retention – Organizations should use or disclose your personal information only for the purpose for which it was collected, unless you consent. They should keep your personal information only as long as necessary.
6. Accuracy – Organizations should keep your personal information as accurate, complete and up to date as necessary.
7. Safeguards – Organizations need to protect your personal information against loss or theft by using appropriate security safeguards.
8. Openness – An organization’s privacy policies and practices must be understandable and easily available.
9. Individual access – Generally speaking, you have a right to access the personal information that an organization holds about you.
10. Recourse (challenging compliance) – Organizations must develop simple and easily accessible complaint procedures. When you contact an organization about a privacy concern, you should be informed about avenues of recourse.[[4]](#footnote-4)

Complaints under the Act go to the Privacy Commissioner of Canada, whose role is to investigate and resolve complaints against an organization. The Commissioner is not empowered to issue fines or award damages for contravention of the Act. The reports issued after these investigations can be found online at canlii.org under “Privacy Commissioner of Canada” in the Federal section of the database. Under certain circumstances, complaints can be elevated from the Privacy Commissioner to the Federal Court where the Commissioner’s report fails to address the concerns raised in an individual’s complaint.

***PIPEDA* and consumers**

As a consumer, *PIPEDA* protects your right to privacy with respect to information gathered by a business. This is particularly important as e-commerce continues to gain popularity. As mentioned above, *PIPEDA* provides the individual with a number of rights respecting the collection, use and disclosure of personal information. On the other hand, the Act imposes obligations on organizations who are collecting and using the individual’s personal information. The Act seeks to put the power in the hands of the consumers.

Information that an organization might collect about a consumer include credit card data, contact information, and IP address.

***PIPEDA* and employees**

If you are an employee of a federally-regulated organization (for example, a bank, a telecommunications company, an airline, the Government of Canada, or a Crown Corporation), information collected by your employer is subject to *PIPEDA*. If you are an employee of a provincially-regulated organization (ie. private enterprise in an industry regulated by provincial laws), *PIPEDA* does not apply and your employer is covered by any applicable provincial legislation.

Information that an organization might collect with respect to its employees include their SIN, date of birth, home address, and banking information for direct deposit payments.

**Privacy legislation in Ontario**

Ontario has not enacted legislation that is substantially similar to *PIPEDA* but does have a number of laws that relate to privacy. The *Personal Health Information Protection Act[[5]](#footnote-5)* governs personal health information held by health information custodians in the province. The *Freedom of Information and Protection of Privacy Act[[6]](#footnote-6)* provides a right of access to records in the custody or control of certain institutions including universities and agencies under provincial government bodies. Similarly, the *Municipal Freedom of Information and Protection of Privacy Act[[7]](#footnote-7)* extends similar rights with respect to information controlled by designated municipal institutions.

1. *PIPEDA*, SC 2000, c 5. [↑](#footnote-ref-1)
2. *PIPEDA*, s. 2. [↑](#footnote-ref-2)
3. Office of the Privacy Commissioner of Canada, “A Guide for Individuals Protecting Your Privacy: An Overview of the Office of the Privacy Commissioner of Canada and Federal Privacy Legislation” [↑](#footnote-ref-3)
4. Office of the Privacy Commissioner of Canada, “A Guide for Individuals Protecting Your Privacy: An Overview of the Office of the Privacy Commissioner of Canada and Federal Privacy Legislation”. [↑](#footnote-ref-4)
5. *Personal Health Information Protection Act, 2004,* SO 2004, c 3, Sch A. [↑](#footnote-ref-5)
6. *Freedom of Information and Protection of Privacy Act*, RSO 1990, c F.31. [↑](#footnote-ref-6)
7. *Municipal Freedom of Information and Protection of Privacy Act*, RSO 1990, c M. 56. [↑](#footnote-ref-7)