

CANADIAN BULLETIN

REF: AD-15-011

DATE 2015-11-03

RECIPIENT All Stakeholders writing business in Canada

SUBJECT **Bill S-4, The *Digital Privacy Act***

<i>Purpose:</i>	To inform stakeholders of Bill S-4, The <i>Digital Privacy Act</i>
<i>Affects:</i>	All stakeholders writing business in Canada
<i>Line of Business:</i>	All
<i>Jurisdiction :</i>	All
<i>Effective:</i>	In force with the exception of breach notification regulations

What you need to know?

Bill S-4, the *Digital Privacy Act*, came into force on June 18, 2015. This Bill makes major amendments to the *Personal Information Protection and Electronic Documents Act* (PIPEDA).

What's changed?

Bill S-4 outlines requirements for the collection, use and disclosure of personal information relative to PIPEDA.

The new legislation may be viewed [here](#). Some key changes include:

- Clarification that an individual's consent is only valid if it is reasonable to expect the individual would understand the nature, purpose and consequences of the collection, use or disclosure of their personal information.
- Organizations may collect personal information from an individual without the subject's knowledge or consent on the following reasonable grounds:
 - Detecting or suppressing fraud
 - Investigating or preventing financial abuse
 - For communication with the next to kin or authorized representative of an injured, ill or deceased individual
 - Investigating a breach of an agreement or a contravention of the laws of Canada or a foreign jurisdiction
 - Witness statement necessary to assess, process or settle insurance claims
 - Information produced in the course of employment and the disclosure is consistent with the purpose it was produced for

- Confidentiality - The Privacy Commissioner is not to disclose any information:
 - As a result of the performance or exercise of his/her duties
 - Contained in a breach notification report or in a record of a breach

Some exceptions for disclosure by the Privacy Commissioner are:

- When it is in the public interest to do so
- In order to conduct an investigation or Audit
- In the course of legal proceedings
- To a government institution relative to a breach notification report, if the Commissioner has reasonable grounds to believe that the information could be useful in the investigation of a contravention of Federal or provincial laws

In accordance with this law, the Notice Concerning Personal Information LSW1543B will be amended and posted shortly on the Lloyd's Wording Repository (LWR).

What does this mean to you?

In light of this new Act, it is a good time for your company to review your privacy policies and ensure that they are fully compliant. In addition, it is strongly recommended that you include the Notice Concerning Personal Information in policies, as best practice.

Also, please note the breach notification regulations will come into force at a date to be fixed by the Governor in Council. Once in force, breach notification requirements are as follows:

- Obligation to notify individuals in cases of breaches, and report to the Office of the Privacy Commissioner of Canada, if it is "*reasonable in the circumstances to believe that the breach creates a real risk of significant harm to an individual*"
- When notifying an individual of a breach, you must also notify any other organization or government institution that may be able to reduce the risk or mitigate the harm from the breach
- You will be required to keep and maintain records of every breach of security safeguards involving personal information under your control

Should organizations attempt to conceal or deliberately fail to notify individuals and the Privacy Commissioner of data breaches, they could face fines of up to \$100,000 for indictable offences, or up to \$10,000 for offences punishable on summary conviction.

For further information, please contact info@lloyds.ca.

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