

ALBERTA'S NEW PRIVACY RULES FOR ORGANIZATIONS THAT UTILIZE SERVICE PROVIDERS OUTSIDE CANADA

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Organizations in Alberta that utilize service providers outside Canada to manage personal information should be aware of several recent amendments made to Alberta's *Personal Information Protection Act* ("PIPA"). These amendments came into effect on May 1, 2010. As a result of these amendments, PIPA now requires that all organizations comply with additional notification procedures prior to having a service provider outside Canada collect personal information on their behalf and prior to transferring personal information to such a service provider. In addition, organizations must develop privacy policies and practices regarding the use of personal information by service providers outside Canada acting on the organization's behalf and the organization must have written information about these and all of its privacy policies and practices available upon request.

These amendments will impact many organizations that work with entities outside Canada as the definition of a "service provider" under the PIPA is broad; it includes organizations that provide "directly or indirectly, a service for or on behalf of another organization", be they affiliates, related companies, contractors or subcontractors.



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The PIPA has always required that organizations develop and follow policies and practices to ensure compliance with its provisions. An important change implemented by the recent amendments is that an organization must now have written information about its policies and procedures available upon request.

In addition, for organizations that utilize service providers outside Canada to collect, use, disclose or store personal information, the amendments now make it necessary for the organization's policies and practices to include details regarding:

1. the countries outside Canada in which the collection use or disclosure or storage of personal information is occurring or may occur; and
2. the purpose for which the service provider has been authorized to collect, use or disclose personal information on behalf of the organization.

Organizations that use service providers outside Canada must also comply with new notification provisions. In general, PIPA requires that, when collecting personal information from an individual with the individual's consent, an organization has a positive duty to notify that individual prior to collecting the information of, among other things, the purposes for which the information is to be used.

The amendments establish an additional layer of notification for organizations that use service providers outside Canada, namely, that before or at the time that personal information is collected by the service provider outside Canada or transferred to the service provider outside Canada the individual must be advised of:

1. the way in which the individual may obtain access to written information about the organization's policies and practices with respect to service providers outside Canada; and
2. the name, position name or title of a person who can answer questions about the collection, use, storage and disclosure of personal information by service providers outside Canada for or on behalf of the organization.

Although notification is necessary, an individual does not need to specifically consent to the transfer of his or her personal information to a service provider outside Canada. This means that, if an organization has previously obtained an individual's consent to collect and transfer the individual's personal information, in order to comply with the notice requirements set out in the amendments, the organization can simply notify the individual by way of monthly statement, letter, email or other means that the individual's information may be transferred to a service provider outside Canada and the other information noted above.

As the amendments make it necessary for all organizations to have written information about their personal information policies and practices available upon request, this is an excellent opportunity for organizations to review their privacy compliance

mechanisms to ensure that they have current and comprehensive policies and practices that detail the way in which the organization manages the collection, disclosure, storage and use of personal information.

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