

TABLE OF CONTENTS

<i>About the Authors</i>	iii
<i>What's New in the 2025 Edition</i>	v
Introduction.....	1
Chapter 1: Overview, Legislative Goals and Objectives	
Introduction: Definitions of Privacy	7
Part I: The Origins of the New Privacy Legislation	8
1. The Change Created by the Internet	8
2. The Origins and Evolution of PIPEDA.....	9
3. Canada's Anti-Spam Legislation	13
4. Private Sector Privacy Legislation in Canada's Provinces	14
Part II: The Mechanics of the Application of PIPEDA	16
1. When Did the Various Provisions of the Act Come into Effect?.....	16
2. Amendments to PIPEDA	17
3. What Kinds of Activities Are Covered?.....	17
4. What Kinds of Activities Are Not Covered?	19
5. What Is Personal Information?	20
6. Restrictions on the Collection, Use and Disclosure of Personal Information	22
Part III: Practical Advice	24
1. Accountability: Implementing a Privacy Policy	24
2. Identifying the Purposes	25
3. Consent	26
4. Limiting the Collection of Information	34
5. Limiting Use, Disclosure and Retention of Information .	36
6. Accuracy	38
7. Safeguards.....	38
8. Openness	39
9. Individual Access.....	40
10. Designation of a Compliance Team	41

PIPEDA Quick Reference 2025 Edition

Part IV: The Effect of PIPEDA on the Employer-Employee Relationship.....	41
Part V: The Practical Complaints Process and Penalties That Could Be Imposed.....	42
<i>Appendix: Sample Privacy Policy</i>	50

Chapter 2: Data Breach

Part I: Breach Reporting and Notification Requirements....	59
Part II: Equifax and Other Recent Data Breach Decisions...	62
Part III: Privacy Torts.....	69
Conclusion.....	71

Chapter 3: Outsourcing, International Transfers of Personal Information and the Sale of a Business

Part I: Outsourcing.....	74
Part II: CIBC Outsourcing Decision & TD Canada Trust Outsourcing Decision.....	77
Part III: Equifax Decision and Consultation regarding Transfers for Processing.....	81
Part IV: International Transfers of Personal Information....	82
Part V: Collection of Personal Information from Other Organizations.....	88
Part VI: Mergers, Acquisitions and Asset Purchases.....	91
<i>Appendix: Checklist of Considerations When Outsourcing or Transferring Personal Information Across Borders</i>	95

Chapter 4: Healthcare Sector Impact

Introduction.....	97
Part I: Is Personal Health Information or Medical Information Treated Any Differently from Other Personal Information under PIPEDA?.....	97
Part II: Are Healthcare Organizations Engaged in “Commercial Activities”?.....	98
Part III: The Relationship Between PIPEDA and Provincial Privacy Legislation.....	101
Part IV: Collection, Use and Disclosure of Personal Health Information by Healthcare Providers.....	103

Table of Contents

1. Health Research.....	105
2. Genetic Testing	107
3. Disclosure to Comply with a Subpoena, Warrant or Court Order or Rules of Court Related to the Production of Records in the Litigation Context	108
4. Statutory Reporting Obligations	109
5. The Sale of Information Regarding Physicians’ Prescribing Patterns.....	110
6. Use of Prescription Information for Marketing to Patients.....	111
7. Protecting Privacy During a Pandemic	112
8. AI and the Future of Healthcare.....	113
Conclusion.....	115
<i>Appendix: Privacy Program Implementation Checklist (Health Care Institution)</i>	<i>117</i>
1. Privacy Audit: Identify Collection, Uses and Disclosures of Information within the Organization	117
2. Identify Privacy Officer & Privacy Team	117
3. Prepare the Privacy Policy.....	118
4. Training of Staff & Publication of the Privacy Policy ...	118
5. Security of Privacy Information	119
6. Complaint Process	119
7. Access to Information Process.....	120
8. Maintaining Current Knowledge	120
Chapter 5: The Application of PIPEDA to the Education Sector	
Part I: Educational Institutions Subject to PIPEDA.....	121
Part II: Meaning of “Commercial Activities”	124
Part III: Consent Exemptions for Statistical, Scholarly or Research Purposes	126
Part IV: Consent Exemptions for Fundraising	129
Part V: Educational Institution Employee Information	130
Part VI: Student Records.....	131
1. Access to Records	131
Conclusion.....	132

PIPEDA Quick Reference 2025 Edition

Appendix: PIPEDA Compliance Checklist for Educational Institutions 133

Chapter 6: Information Technology Issues

Introduction..... 135

Part I: General Information Technology Issues 138

 1. Obtaining Consent Electronically 138

 2. The Need for Compliance..... 141

Part II: Specific Information Technologies Issues 142

 1. Internet-Based Marketing 143

 A. E-mail addresses..... 143

 B. Cookies 143

 C. Spyware..... 144

 2. Social Networking Sites..... 144

 3. Data Mining..... 149

 4. Radio Frequency Identification Device (RFID) 150

 5. Deep Packet Inspection 151

 6. Imaging Technology..... 152

 7. Payload Data Collection 152

 8. Outsourcing..... 153

 A. Applications Service Provider Arrangements..... 155

 B. Disaster Recovery..... 155

 9. Biometrics 156

 10. Live Video Streaming..... 160

 11. Disclosure of Online Information to Police During an Investigation 160

 12. Internet of Things..... 162

 13. Remote Access Technology..... 164

 14. Right to Erasure or Right to De-Indexing 164

Part III: Practical Tips on Compliance..... 166

Conclusion..... 168

Chapter 7: PIPEDA and the Employment Relationship

Part I: Application of PIPEDA to Federally Regulated Employers 172

Table of Contents

1. Surveillance	172
2. Security Checks	181
3. Medical Information	182
4. Labour Arbitrator’s Jurisdiction	184
Part II: Other Potential Applications of PIPEDA	184
Conclusion	185

Chapter 8: Artificial Intelligence

Introduction	187
Part I: Application of PIPEDA to Artificial Intelligence	188
1. Training Data and the Improper Collection, Use or Disclosure of Personal Information	188
2. Emerging “No Go Zones”	190
3. The Problem of Explainability	191
4. Effective Safeguards	192
Part II: Federal Private-Sector Privacy Regulation of AI	193
1. OPC’s Regulatory framework for AI	193
2. Bill C-27: The Consumer Privacy Protection Act and the AIDA	194
A. The Consumer Privacy Protection Act	194
B. Artificial Intelligence and Data Act (“AIDA”)	195
3. OPC Guidance	196
Conclusion	197

Chapter 9: Looking Ahead

Part I: Bill C-26 – <i>An Act respecting cyber security, amending the Telecommunications Act and making consequential amendments to other Acts</i>	199
Part II: Bill C-27 – <i>The Digital Charter Implementation Act, 2022</i>	200
Conclusion	201

PIPEDA Quick Reference 2025 Edition

**PERSONAL INFORMATION PROTECTION AND
ELECTRONIC DOCUMENTS ACT**

SHORT TITLE

1 Short title 203

**PART 1 — PROTECTION OF PERSONAL INFORMATION IN THE
PRIVATE SECTOR**

Interpretation

2 Definitions 203

Purpose

3 Purpose 207

Application

4 Application 207

4.01 Business Contact Information 208

4.1 Certificate under *Canada Evidence Act* 208

**DIVISION 1 — PROTECTION OF PERSONAL
INFORMATION**

5 Compliance with obligations 209

6 Effect of designation of individual 210

6.1 Valid consent 210

7 Collection without knowledge or consent 210

7.1 Definitions 217

7.2 Prospective business transaction 218

7.3 Employment relationship 220

7.4 Use without consent 220

8 Written request 220

9 When access prohibited 222

10 Sensory disability 225

**DIVISION 1.1 — BREACHES OF SECURITY
SAFEGUARDS**

10.1 Report to Commissioner 226

10.2 Notification to organizations 227

Table of Contents

10.3	Records.....	228
DIVISION 2 — REMEDIES		
Filing of Complaints		
11	Contravention.....	228
Investigations of Complaints		
12	Examination of complaint by Commissioner	229
12.1	Powers of Commissioner	230
Discontinuance of Investigation		
12.2	Reasons	231
Commissioner’s Report		
13	Contents	232
Hearing by Court		
14	Application	233
15	Commissioner may apply or appear	233
16	Remedies	234
17	Summary hearings	234
Compliance Agreements		
17.1	Compliance agreement	234
17.2	Agreement complied with.....	235
DIVISION 3 — AUDITS		
18	To ensure compliance	236
19	Report of findings and recommendations	237
DIVISION 4 — GENERAL		
20	Confidentiality	237
21	Not competent witness	239
22	Protection of Commissioner	240
23	Consultations with provinces	240
23.1	Disclosure of information to foreign state.....	242
24	Promoting the purposes of the Part.....	243
25	Annual report	244

PIPEDA Quick Reference 2025 Edition

26	Regulations	244
27	Whistleblowing	245
27.1	Prohibition	245
28	Offence and punishment	246
29	Review of Part by parliamentary committee	246
DIVISION 5 — TRANSITIONAL PROVISIONS		
30	Application	247
PART 2 — ELECTRONIC DOCUMENTS		
Interpretation		
31	Definitions	247
Purpose		
32	Purpose	248
Electronic Alternatives		
33	Collection storage, etc.	249
34	Electronic payment	249
35	Electronic version of statutory form	249
36	Documents as evidence or proof	250
37	Retention of documents	250
38	Notarial act	251
39	Seals	251
40	Requirements to provide documents or information	251
41	Writing requirements	251
42	Original documents	252
43	Signatures	252
44	Statements made under oath	252
45	Statements declaring truth, etc.	253
46	Witnessed signatures	253
47	Copies	253
Regulations and Orders		
48	Regulations	254
49	Amendment of schedules	254
50	Regulations	255

Table of Contents

51	Effect of striking out listed provision	256
----	---	-----

PART 3 — AMENDMENT TO THE CANADA EVIDENCE ACT

52-55	.....	256
56	.....	257
57	.....	259

PART 4 — AMENDMENTS TO THE STATUTORY INSTRUMENTS ACT

58-59	260
-------	-------	-----

PART 5 — AMENDMENTS TO THE STATUTE REVISION ACT

60-61	.....	260
62-64	.....	261

Revision

65	.....	262
66-67	.....	263
68	.....	264
69-70	.....	265
71	.....	266

PART 6 — COMING INTO FORCE

72	Coming into force	268
----	-------------------------	-----

SCHEDULES

Schedule 1 — Principles Set Out in The National Standard of Canada Entitled Model Code for The Protection of Personal Information, CAN/CSA-Q830-96	269
Schedule 2 — Acts of Parliament	281
Schedule 3 — Regulations and Other Instruments	281
Schedule 4 — Organizations	282

PIPEDA Quick Reference 2025 Edition

**2018-64 — BREACH OF SECURITY SAFEGUARDS
REGULATIONS**

INTERPRETATION

1 Definition of “Act” 283

REPORT TO COMMISSIONER

2 Report — content, form and manner 283

NOTIFICATION TO AFFECTED INDIVIDUAL

3 Contents of notification 284

4 Direct notification — form and manner..... 285

5 Indirect notification — circumstances..... 285

RECORD-KEEPING

6 Record-keeping requirements 285

COMING INTO FORCE

7 S.C. 2015, c. 32..... 286

**2004-308 — ELECTRONIC ALTERNATIVES REGULATIONS
FOR THE PURPOSES OF THE FEDERAL REAL PROPERTY
AND FEDERAL IMMOVABLES ACT**

1 Interpretation 287

2 Application 287

3 Electronic Documents..... 288

4 Electronic Signature..... 288

5 Coming Into Force 289

**2008-115 — ELECTRONIC ALTERNATIVES REGULATIONS FOR
THE PURPOSES OF SUBSECTION 254(1) OF THE CANADA
LABOUR CODE**

INTERPRETATION

1 Definitions 290

ELECTRONIC DOCUMENTS

2 Conditions 290

Table of Contents

3	Pay statement considered furnished to the employee.....	291
COMING INTO FORCE		
4	Registration.....	291
2013-221 — ELECTRONIC COMMERCE PROTECTION REGULATIONS		
DEFINITION		
1	Definition of “Act”.....	292
FAMILY RELATIONSHIP AND PERSONAL RELATIONSHIP		
2	Family and personal relationships.....	292
EXCLUDED COMMERCIAL ELECTRONIC MESSAGES		
3	Excluded messages — Section 6 of Act.....	293
4	Excluded messages — Paragraph 6(1)(a) of Act.....	294
CONDITIONS FOR USE OF CONSENT		
5	Person whose identity is unknown.....	295
SPECIFIED COMPUTER PROGRAMS		
6	Specified programs.....	296
MEMBERSHIP, CLUB, ASSOCIATION AND VOLUNTARY ORGANIZATION		
7	Membership.....	297
COMING INTO FORCE		
8	S.C. 2010, c. 23.....	297
2005-399 — HEALTH INFORMATION CUSTODIANS IN THE PROVINCE OF ONTARIO EXEMPTION ORDER		
1	Exemption.....	302
2	Coming Into Force.....	302

PIPEDA Quick Reference 2025 Edition

**2001-8 — ORDER BINDING CERTAIN AGENTS OF HER
MAJESTY FOR THE PURPOSES OF PART 1 OF THE PERSONAL
INFORMATION PROTECTION AND ELECTRONIC DOCUMENTS ACT**

1	Application	303
2	Coming into Force.....	303

**2004-219 — ORGANIZATIONS IN THE PROVINCE OF
ALBERTA EXEMPTION ORDER**

1	Exemption	304
2	Coming Into Force	304

**2004-220 — ORGANIZATIONS IN THE PROVINCE OF BRITISH
COLUMBIA EXEMPTION ORDER**

1	Exemption	305
2	Coming Into Force	305

**2003-374 — ORGANIZATIONS IN THE PROVINCE OF QUEBEC
EXEMPTION ORDER**

1	Exemption	306
2	Coming Into Force	306

**2011-265 — PERSONAL HEALTH INFORMATION CUSTODIANS
IN NEW BRUNSWICK EXEMPTION ORDER**

1	Exemption	307
2	Coming into Force.....	307

**SI/2012-72 — PERSONAL HEALTH INFORMATION
CUSTODIANS IN NEWFOUNDLAND AND
LABRADOR EXEMPTION ORDER**

1	Exemption	308
2	Coming into Force.....	308

**2016-62 — PERSONAL HEALTH INFORMATION
CUSTODIANS IN NOVA SCOTIA EXEMPTION ORDER**

1	Exemption	309
2	Coming into Force.....	309

Table of Contents

**2001-7 — REGULATIONS SPECIFYING PUBLICLY
AVAILABLE INFORMATION**

1 Information 310
2 Coming into Force..... 311

**2005-30 — SECURE ELECTRONIC SIGNATURE
REGULATIONS**

1 Interpretation 312
2 Technology or Process 313
3 314
4 315
5 Presumption..... 315
6 Coming Into Force 315

Index 317