

## Publisher's Note

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## The Law of Privacy in Canada

“The Law of Privacy in Canada” is a comprehensive and thorough treatment of the regulation of the collection and use of personal information in Canada. It is the only publication that includes everything lawyers and business professionals need to know about privacy from privacy protection to tackling issues such as public surveillance to the *Personal Information Protection and Electronics Documents Act* (PIPEDA). While the work focuses primarily on the domestic regulatory scene, the factors that have made privacy such a salient topic have also mandated the inclusion of similar developments in the regulation of the collection and use of personal information in the European Union and in the United States. Important areas of coverage include Technology and Privacy; Challenges and Solutions; Privacy Protection Under the Criminal Law; Privacy Protection in the Civil Context; Workplace Privacy; Health Privacy; Public Sector Regulation; Private Sector Regulation; and International Privacy Issues.

This release features substantial updates to Chapter 4 (Regulation and Protection of Personal Information in the Canadian Private Sector).

### Highlights

- **Regulation and Protection of Personal Information in the Canadian Private Sector — British Columbia — Purpose and Application** — British Columbia’s *Personal Information Protection Act* does not apply in circumstances where the collection, use or disclosure of information is for

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journalistic, artistic, or literary purposes and for no other purpose. The Federal Court found that an activity qualifies as journalism where its purpose meets the three following criteria: (1) to inform the community on issues the community values; (2) it involves an element of original production; and (3) it involves a “self-conscious discipline calculated to provide an accurate and fair description of fact, opinion and debate at place within a situation.”: *T. (A.) v. Globe24h.com*, 2017 FC 114, 2017 CarswellNat 184..

- **Regulation and Protection of Personal Information in the Canadian Private Sector — Alberta — Role of Commissioner — Breach Notification** — The Commissioner has outlined a two-pronged test for determining the existence of a real risk of significant harm and therefore whether affected individuals must be notified. First, “there must be some harm — some damage or detriment or injury — that could be caused to individuals as a result of the incident; moreover, that harm must be ‘significant’ — it must be important, meaningful, and with non-trivial consequences or effects.” Second, there must be a “real risk” that the harm will result. This does not require certainty, “but the likelihood that it will result must be more than mere speculation or conjecture.”
- **Regulation and Protection of Personal Information in the Canadian Private Sector — Alberta — Role of Commissioner — Breach Notification** — Accidental disclosure includes incidents where personal information is inadvertently exposed to unauthorized individuals, including leaving physical records in an unsecure area, storing digital records on an unsecure server, and failing to remove records from computer equipment or filing cabinets before disposing of or selling. For example, in one case a company discovered that access permission settings on shared file drives were lost after migrating data to a new server, exposing sensitive personal information of 450 individuals to internal employees for a period of over two years: *Trailer Wizards Ltd., Re*, 2017 CarswellAlta 2260 (I.P.C.).