



Risk Solutions

Federal mandatory data breach notification laws come into force November 1, 2018

What you need to know

Effective November 1, 2018, The Digital Privacy Act (Bill S-4) amends the Personal Information Protection and Electronic Documents Act (PIPEDA), making it mandatory for all organizations to report data breaches to affected individuals and the Office of the Privacy Commissioner of Canada. [Prescribed regulations](#) accompany the legislation and outline requirements for data breach notification and record-keeping.

Does this legislation apply to small organizations?

Businesses and organizations (including non-profits), of all sizes hold personally identifying information of individuals, such as employees, customers, members and vendors. Accordingly, the law does not discriminate between large and small companies.

Don't data breaches only happen in large companies?

A study conducted by Zogby Analytics in 2017 showed that 29% of small organizations had experienced at least one data breach. Small companies are prime targets for data thieves, because their security systems are perceived as less sophisticated than those of larger companies.

What is Personally Identifying Information?

"Personally Identifying Information" means information, including health information, that could be used to commit fraud or other illegal activity involving the credit, access to health care or identity of an affected individual.

Examples include:

- Email address
- Credit / debit account number
- Driver's license information
- Social Insurance Number
- Medical and healthcare information
- Other sensitive personal information

Why would an organization report a data breach if bad publicity may cause reputational damage?

It's true that a data breach looks bad. But what's worse for a business is trying to cover up what happened, and customers finding out afterwards. Consumers have the power to inflict serious damage to a brand, through social media for example, at the very hint of deception or non-disclosure. The mainstream media feeds on these types of stories. It is also an offence to contravene the requirements of the Act.

What types of data breaches can happen to small businesses?

- Burglars break into an insurance broker's office and steal laptops and employee records
- A computer hacker steals hundreds of customer credit card records from an online retail website
- The theft of a laptop from an accountant's office exposes the tax records of hundreds of clients
- Rental applications with names, contact details and Social Insurance Numbers are stolen from a property manager's computer system
- A nursing home is hacked and loses critical patient information and personal information of family members

How much could a data breach cost an organization?

Data breaches can be costly. A 2017 study by Ponemon Institute detailed average expenses of a data breach to a Canadian organization, **per affected individual**:

Direct cost: \$108

- Actual expenses incurred, such as hiring legal and I.T. consultants, notifying and providing services to affected individuals.

Indirect cost: \$147

- Costs related to the amount of time, effort and other organizational resources spent to resolve the breach.

An organization can also experience reputational loss and customer churn as the result of a breach.

Can insurance cover these costs?

Yes. BI&I's Data Compromise insurance can be added to TechAdvantage® and All Systems Go Plus® equipment breakdown policies, and covers:

- Forensic I.T. to determine the extent of the breach and who it affected
- Legal review for notifying those affected by the breach
- Notification services to affected individuals and the Privacy Commissioner

- Services to affected individuals, including:
 - Fraud alert for affected individuals, and
 - Identity restoration case management for identity theft victims
- Public relations services to respond to the potential impact of the breach on business relationships

Are risk management tools or resources available to the policyholder?

Yes. eRiskHub® is a web portal for policyholders to access exclusive data breach mitigation and risk management tools. This helpful website helps businesses understand information exposures, establish a response plan, manage the costs and minimize the effects of a data breach. It includes the latest news, a self-assessment guide, webinars, and step-by-step suggestions on what actions to take when data is breached. Details on how to access eRiskHub® are shown in the policy declarations.

What should a policyholder do if they suspect a data breach has occurred?

If a suspected data breach has occurred, a policyholder with Data Compromise coverage should contact their broker, to alert BI&I's claims department. BI&I's data breach specialists will then assist the insured.



For more information, or to add Data Compromise coverage, please contact your BI&I Business Development Representative.

For all coverages, terms, conditions and exclusions, please refer to actual insurance policy.

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