DENTONS

New Consent Requirements

Québec's Act respecting the protection of personal information in the private sector (ARPPIPS)

Exceptions to Consent

Collection from third persons (s. 6)

- Authorized by law
- Serious & legitimate reason and either: best interests and timely or necessary to ensure accuracy

Use (s. 12)

- Consistent purpose
 (s. 12(1)) (excluding prospecting)
- Benefit person (s. 12(2))
- Necessary to
 - Prevent/detect fraud
 - Assess/improve protection and security (s 12(3))
- Necessary to provide or deliver product/service requested(s. 12(4))
- Necessary for study, research, statistics and de-identified (s. 12(5))

Communication (s. 18)

- Outsourcing
- Commercial transactions emergencies. [...]

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Any person who provides Personal Information in accordance with s. 8 consents to its use and communication for the purposes for which it was collected.

*No assessment of Validity Criteria required.

- Use or communication for primary purposes
- · Applies to direct collection only
- Applies to sensitive and non-sensitive personal information; to automated & non-auto collection

Presumption of Consent (s.8.3)

Section 8 Disclosures:

- Purpose of collection
- Means of collection
- · Rights of access & rectification
- Right to withdraw consent to communication or use at any time
- · If applicable:
 - Name of 3rd party for whom personal information is being collected;
 - Name or categories of 3rd parties to whom it is necessary to communicate the personal information for purposes.
 - Communication outside QC

Validity Criteria

Must use for use or communication for secondary purposes; collection from a 3rd party

- · Clear
- Free
- Informed
- · Specific

Valid Consent (s. 14)

- In clear and simple language (assist, if required)
- Presented separately (when in writing)
- Restricted in time only to achieve the purposes for collection
- · Requested for each purpose

Implied Consent (Consent Guidelines, s. 1.3, 1.4 &1.6)

Definition: deduced from silence, inactivity, or from separate, unrelated action. Criteria:

Grow | Protect | Operate | Finance

- · Can't pertain to sensitive PI;
- · Other suggested criteria:
- Shouldn't conflict with reasonable expectation of individuals in that context:
- Only use where no risk of serious harm from intended use or disclosure.

Express Consent (ss. 12, 13)

Definition: active and positive gesture. Express consent required for:

- <u>Use</u> of sensitive personal information for secondary purposes within organization (ss. 12).
- <u>Communication</u> of sensitive personal information for secondary purposes (unless consent or otherwise authorized by Act) (ss. 13)
- · Biometrics for ID (s. 44 IT Act)

'This document is intended for informational purposes only. This is not legal advice, and does not create a lawyer-client relationship. The document provides a simplified overview of Quebec's consent requirements, please consult Quebec's Act respecting the protection of personal information in the private sector, for the full text.