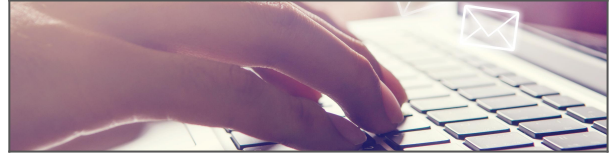


CASL - Private Right of Action Suspended

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The final two stages of Canada's Anti-Spam Legislation ("CASL") were set to come into effect on July 1, 2017 - the end of the transitional period (July 1, 2014 - July 1, 2017) and the coming into force of the private right of action. The Government of Canada has now postponed the coming into force of the private right of action through an Order in Council.



Private Right of Action

The original July 1, 2017 deadline was set to allow individuals and businesses affected by contraventions of CASL the ability to seek monetary remedy in a court proceeding. In the case of a breach of the commercial electronic message provisions, the liability was to be \$200 for each breach not exceeding \$1,000,000 for each day on which the breach occurred. CASL does not expressly include class actions but it was anticipated that the private right of action would create the possibility for groups to pursue class actions for CASL violations.

This has now been put on hold, as the Government of Canada in its Order in Council claims there is a need to "promote legal certainty for numerous stakeholders claiming to experience difficulties in interpreting several provisions of CASL while being exposed to litigation risk".

The Government of Canada has requested a parliamentary committee to conduct a legislative review. The Minister of Innovation, Science and Economic Development, the Honourable Navdeep Bains, disclosed that the Government supports a balanced approach to privacy legislation. Minister Bains said consumers should be adequately protected from spam, while at the same time, allowing businesses, charities and non-profit groups reasonable ways to communicate electronically with consumers. There is concern that the current provisions impose heavy costs for businesses, charities and non-profit groups to ensure compliance and unnecessarily limit commerce.

While the Order in Council has delayed the coming into force of the private right of action provisions, CASL is still in force. Businesses, charities and non-profit groups must ensure compliance with the provisions that are currently in force.

For more information on this delay and how you can ensure your organization complies with

CASL, contact Catherine Hamilton or Ali Hyde.

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