

PROTECTING YOUR CUSTOMER'S PRIVACY

Did you know the Privacy Act changed on 12 March 2014 by:

- replacing the National Privacy Principles with the Australian Privacy Principles;
- changing the credit reporting requirements;
- introducing a Privacy (Credit Reporting) Code;
- introducing significant financial penalties for civil offences; and
- criminal offences.

WHY SHOULD YOU BE INTERESTED?

If your business has a turnover of \$3 million or more you must comply with the Australian Privacy Principles.

If you are business with a turnover of \$3 million or more and:

- you supply goods or services to customers and provide your customers with credit by allowing 7 days or more to pay your invoice; and/or
- hire, lease or rent goods beyond 7 days without a deposit of at least the value of the goods,

then you are a credit provider and must comply with:

- Part IIIA of the credit reporting requirements of the Privacy Act;
- the Privacy Regulations; and
- Privacy (Credit Reporting) Code.

Exemptions apply for real estate agents, general insurers and an employer of an individual but seek advice if you believe you fall within an exemption category.

Apart from complying with the law, the other reason you should be taking these changes very seriously are the civil and criminal penalties. The civil penalties carry significant fines. For example. from 1 July 2014, a fine at the lower end of the scale may start from \$147,610 and at the higher end of the scale may be just over \$1.476 million. The fines are only marginally lower prior to 1 July.

Simple, Cost Effective Solutions are Available

The legislation is complicated but compliance does not have to be difficult. JIP Legal has both the knowledge and cost effective solutions to assist you in meeting your compliance obligations.

For more information on the practical effect of those changes and the implications for your business, please call Jennifer Irwin from JIP Legal on 0412 911 358 or send me an email: jennifer@jjplegal.com.au

THE CHANGES - Privacy Act - Australian Privacy Principles

Privacy policies need to be amended to cover the important changes brought in by the Australian Privacy Principles. The key changes affect:

- how you collect personal information, why you collect it and how it is collected;
- transparency and consent;
- disclosure of personal information overseas;
- disclosure to third parties;
- complaint procedures and how to get information corrected;
- right to deal with your business anonymously or by pseudonym; and
- direct marketing.

Credit Providers - Credit Reporting - Compliance

Credit providers need to implement practices, procedures and systems dealing with its functions as a credit provider that:

- ensure compliance with Part IIIA and the Credit Reporting Code; and
- enable it to deal with enquiries and complaints about its compliance with Part IIIA and the Credit Reporting Code.

If you provide credit to your customers, you need to be aware of the following:

- if you rely on a credit reporting bodies to provide a credit report, you must satisfy certain pre-conditions and compliance requirements to use the credit reports and to provide a customer's information to a credit reporting body;
- there are preconditions to collect, hold, use or disclose credit related information:
 - you require a credit reporting policy;
 - you require a credit compliance plan;
 - you need a credit reporting collection notice - this means reviewing your method of obtaining customer consent to collecting personal information and obtaining and using the credit report as the consent requirements have changed;
 - you must be a member of a recognised external dispute resolution scheme;
- you may only use the information in credit reports for a permitted use. Permitted uses are defined under the legislation;
- there is enhanced privacy protection procedures for customers to access, correct and complain and these procedures must be followed;
- security of credit information needs to be addressed;
- new audit procedures have been introduced;
- there are strict liability provisions, significant financial penalties and criminal offences for breaches.

Credit Reporting Bodies

Credit reporting bodies must have agreements with credit providers requiring the credit providers comply with Part IIIA, the Privacy Regulations and the Credit Reporting Code and ensuring regular audits of the credit provider's business occur. This raises other issues for the credit provider's business, such as allowing access to its confidential information.