

Anti-Spam Law to Come Into Force in One Month

Charities and non-profit organizations should be aware that key portions of Canada's anti-spam legislation, will come into force beginning July 1, 2014. This includes the "anti-spam" provisions in the Act that deal with commercial electronic messages. Any organizations that have not yet considered the impact of this legislation should do so as soon as possible.

It is important to understand that the legislation is not limited to the for-profit sector. Charities (including churches) and NPOs that send messages that constitute "commercial electronic messages" (CEM) may be subject to the consent requirements in the legislation. Once the legislation is in force, organizations will be prohibited from sending CEMs unless they have received express or implied consent from the recipient, or unless an exemption applies. The potential penalties for violating these requirements are very significant.

Registered charities (but not NPOs) benefit from a broad exemption from the consent requirements for CEMs that are sent with a primary purpose of fundraising. Consent to send CEMs is also implied where the recipient has been a volunteer, donor or member of the organization at any time in the previous two years. However, these exemptions and implied consent may not cover all communications or potential recipients, and it may be necessary to request express consent to send future CEMs.

To the extent that an organization must request consent from recipients, it is important to understand that once the legislation is in force, it will no longer be possible to request consent via email or other electronic communication. This is because, under CASL, an electronic message requesting consent to send CEMs is itself considered a CEM. It is therefore important that organizations take the opportunity now, before the legislation is in force, to assess whether they must request consent and to send these requests to their contacts.

DISCLAIMER

The Canadian Baptists of Ontario and Quebec are not responsible for the legal advice to local churches through this document. Local churches should seek assistance and advice from their local advisers when specific issues arise. This guide is provided to you as a service; it should be used to increase knowledge within your local church.