

Human Resources Legislative Update

Federal Government Releases Final Anti-Spam (CASL) Regulations

Date: December 4, 2013

On December 4, 2013, the federal government published [final *Electronic Commerce Protection Regulations*](#) (“final ECP Regulations”) under [Canada’s Anti-spam Legislation](#) (“CASL”). [As previously reported](#), CASL enacts comprehensive anti-spam legislation relating to the sending of commercial electronic messages (“CEMs”). Earlier proposed regulations under CASL had been released for consultation in July, 2011, and again on January 5, 2013 with the publication of [draft ECP Regulations](#).

Among other things, the final ECP Regulations:

- define “family relationship” and “personal relationship” for the purposes of paragraph 6(5)(a) of the CASL. The final ECP Regulations include a more limited definition of “family relationship” than was included in the previous draft ECP Regulations;
- specify limited exemptions from the operation of section 6 of the CASL, including, among other things, those CEMs that are sent within a business, sent in response to a request, inquiry, complaint or which have otherwise been solicited by the person to whom the message is sent, or sent to satisfy a legal or juridical obligation. The final ECP Regulations include additional exemptions from the operation of section 6 of CASL, including, among other things, CEMs that are sent by or on behalf of a registered charity or political party for fundraising purposes;
- ensure that the first CEM sent through third party referrals where there is an existing business relationship does not fall within the prohibition found in paragraph 6(1)(a) of the CASL;
- establish conditions for use of consent;
- specify certain computer programs for the purposes of subparagraph 10(8)(a)(vi) of the CASL (express consent to install a computer program as prescribed); and
- further define membership, club, association and voluntary organizations for the purposes of paragraph 10(13)(c) of the CASL.