Explanation of the Act to modernize legislative provisions as regards the protection of personal information (Act 25)

RDN
Regional Development Network
Réseau de Développement Régional

GROUPE MISSION

Law 25

Today's presentation will explore the implications of Quebec's Law 25 for your vital English-speaking non-profit organizations across the province.

We'll discuss:

- what the law entails
- your obligations as an organization
- and steps you can take to ensure compliance.

RDN
Regional Development Network
Réseau de Développement Régional

GROUPE MISSION

Introduction to Law 25

- Law 25, also known as An Act Respecting the Protection of Personal Information (A2P)
- Came into effect in stages between September 2022 and September 2024
- Strengthens privacy protections for Quebec residents (Quebecers)
- Applies to ALL organizations that collect, use or disclose personal information

RDN
Regional Development Network
Réseau de Développement Régional

GROUPE MISSION

Why Does Law 25 Matter to English-Speaking Non-Profits?

- You collect personal information to serve your communities
- Employee information, volunteer contact details, program participant data
- Law 25 ensures responsible handling of this sensitive information

RDN
Regional Development Network
Réseau de Développement Régional

GROUPE MISSION

What is considered personal information?

- Any information that can be used to identify an individual
- Includes name, address, phone number, email address, IP address
- Also includes financial information, health data, and biometric information

RDN
Regional Development Network
Réseau de Développement Régional

GROUPE MISSION

Key obligations of Law 25

Appointment of a person in charge of the protection of personal information

- The person with the highest authority in the organization will be responsible for ensuring compliance and implementation of the Act. This person will be known as the person in charge of the protection of personal information.
- However, this function may be delegated in writing, in whole or in part, to any person.

RDN
Regional Development Network
Réseau de Développement Régional

GROUPE MISSION

Key obligations of Law 25

Appointment of a person in charge of the protection of personal information

- The title and contact information of the person in charge shall be published on the company's website or, if the company does not have a website, made accessible by any other appropriate means.
- Be transparent: Have a publicly available privacy policy that outlines your data handling practices.

RDN
Regional Development Network
Réseau de Développement Régional

GROUPE MISSION

Key obligations of Law 25

Notification and recording of privacy incidents

- A record of any confidentiality incidents shall also be kept. This record shall be made available to the CAI
- As examples, these different situations could, among others, be qualified as confidentiality incidents:
  - a) unauthorized access to personal information;
  - b) the unauthorized use of personal information;
  - c) the unauthorized disclosure of personal information; or
  - d) loss of personal information or any other breach of the protection of personal information

RDN
Regional Development Network
Réseau de Développement Régional

GROUPE MISSION

Key obligations of Law 25

Notification and recording of privacy incidents

- In addition, organizations will be required to notify CAI **AND** affected individuals of any privacy incident if it involves personal information in their possession **AND** presents a risk of serious harm. For example, serious harm could be reputational damage, credit report damage, identity theft, etc.

RDN
Regional Development Network
Réseau de Développement Régional

GROUPE MISSION

Key obligations of Law 25

Adopt or update policies and practices governing the protection of personal information

- Businesses are required to establish and implement policies and practices to guide their protection of personal information. These policies should be proportionate to the nature and importance of the company's activities. They should be written in plain language.

RDN
Regional Development Network
Réseau de Développement Régional

GROUPE MISSION

Key obligations of Law 25

Provide a framework for the retention, destruction and anonymization of personal information

- The policies and practices shall include rules to govern the retention and destruction of personal information
- Information about these rules shall be set out in clear and simple terms and published on the organization's website (or otherwise made available).

RDN
Regional Development Network
Réseau de Développement Régional

GROUPE MISSION

Key obligations of Law 25

Have a complaints process in place

- A process for handling privacy complaints shall be included in the policies and practices.
- This process shall be set out in clear and simple terms and published on the organization's website (or otherwise made available).

RDN
Regional Development Network
Réseau de Développement Régional

GROUPE MISSION

Key obligations of Law 25

Publication of information regarding policies and procedures on the website

- Information about the company's policies, procedures and practices relating to the protection of personal information shall be posted on its website. If they do not have a website, companies shall make this information available through any other appropriate means.
- This ensures that companies are transparent about the policies and procedures they have adopted.

RDN
Regional Development Network
Réseau de Développement Régional

GROUPE MISSION

Key obligations of Law 25

Conducting Privacy Impact Assessments (PIAs) for certain personal information processing

- For any new information system acquisition, development or redesign project or electronic service delivery project that involves the collection, use, disclosure, retention or destruction of personal information, organizations will be required to conduct a PIA.
- The PIA will need to be proportionate to the sensitivity of the information affected by the project, the purpose for which it is to be used, its amount, distribution and medium.

RDN
Regional Development Network
Réseau de Développement Régional

GROUPE MISSION

Key obligations of Law 25

Conducting Privacy Impact Assessments (PIAs) for certain personal information processing

- All of these elements should be considered in the PIA. The person in charge of the protection of personal information within the organization should be consulted at the outset of the project. This person will be able to suggest privacy safeguards to be implemented for the project in question.

RDN
Regional Development Network
Réseau de Développement Régional

GROUPE MISSION

Key obligations of Law 25

Change of consent parameters

- Consent is always required to collect, hold, use or disclose personal information.
- Consent must be manifest, free, informed and given for specific purposes.
- However, the requirement for consent will be strengthened by requiring that it be sought for each of these purposes, in clear and simple terms, and separately from any other information provided to the individual.

RDN
Regional Development Network
Réseau de Développement Régional

GROUPE MISSION

Key obligations of Law 25

Change of consent parameters

- In addition, when an organization wishes to use or disclose sensitive personal information, consent must be expressly given.
- This involves an action by the individual to confirm consent, such as checking a box. Personal information is considered sensitive when it has a reasonable expectation of privacy, such as a social insurance number or medical information.

RDN
Regional Development Network
Réseau de Développement Régional

GROUPE MISSION

Key obligations of Law 25

Destruction and anonymization of personal information

- Once the company has fulfilled the purposes for which it collected personal information from an individual, it will now have two choices. The first is to destroy the personal information. The second is to anonymize the personal information.
- However, anonymization must be done with a view to using the anonymized information for a serious and legitimate purpose. Therefore, this choice will not be made without good reason.

RDN
Regional Development Network
Réseau de Développement Régional

GROUPE MISSION

Key obligations of Law 25

Destruction and anonymization of personal information

- It is important to specify that for personal information to be considered de-identified within the meaning of the Act, it must no longer allow a natural person to be identified directly or indirectly, and this, in an irreversible manner.
- This de-identification must be carried out in accordance with generally recognized best practices and according to criteria to be determined by regulation.

RDN
Regional Development Network
Réseau de Développement Régional

GROUPE MISSION

Key obligations of Law 25

Transfer of personal information outside Quebec

- Before disclosing personal information outside of Quebec, businesses will be required to conduct a PIA (Privacy Impact Assessment) which will take into consideration the following:
  1) the sensitivity of personal information;
  2) the purpose of their use;
  3) the safeguards associated with the personal information being disclosed;
  4) the legal regime applicable to the location where the personal information is disclosed, specifically the privacy principles that apply

RDN
Regional Development Network
Réseau de Développement Régional

GROUPE MISSION

Key obligations of Law 25

Transfer of personal information outside Quebec

- Once these elements have been assessed, personal information may be disclosed if the assessment demonstrates that the information would benefit from protection that is adequate based on generally accepted privacy principles.
- The disclosure will also be subject to a written agreement outlining the findings of the PIA and, if necessary, the terms and conditions agreed upon to mitigate the risks identified in the PIA.

RDN
Regional Development Network
Réseau de Développement Régional

GROUPE MISSION

Key obligations of Law 25

Transfer of personal information outside Quebec

- These obligations will also apply where an enterprise wishes to delegate the task of collecting, using, communicating or retaining personal information on its behalf to a person or organization outside Quebec.

RDN
Regional Development Network
Réseau de Développement Régional

GROUPE MISSION

Key obligations of Law 25

Implementation of the right to de-index

- The right to de-index allows an individual to request that an organization stop the dissemination of one or more of his or her personal information or de-index any hyperlink attached to his or her name that provides access to that information.
- This request can be made when the release of the information in question contravenes the law or a court order.

RDN
Regional Development Network
Réseau de Développement Régional

GROUPE MISSION

Key obligations of Law 25

Implementation of the right to de-index

- The person may also request it when all these conditions are met:
  1) the dissemination of the information causes him/her serious harm in relation to his/her right to respect for his/her reputation or privacy;
  2) the harm clearly outweighs the public interest in accessing the information or the interest of any person in expressing themselves freely; and

RDN
Regional Development Network
Réseau de Développement Régional

GROUPE MISSION

Key obligations of Law 25

Implementation of the right to de-index

- The person may also request it when all these conditions are met:
  3) actions for cessation of dissemination, reindexing, or deindexing requested do not exceed the measures necessary for the harm to cease.

RDN
Regional Development Network
Réseau de Développement Régional

GROUPE MISSION

Key obligations of Law 25

Implementation of the right to de-index

- To validate whether all conditions are met, the company will consider the following elements:
  1) if the person concerned is a public figure;
  2) if the information concerns the person as a minor;
  3) whether the information is current and accurate;
  4) the sensitivity of the intelligence;

RDN
Regional Development Network
Réseau de Développement Régional

GROUPE MISSION

Key obligations of Law 25

Implementation of the right to de-index

5) the context of intelligence dissemination;
6) the time elapsed between the release of the information and the request of the person concerned; and
7) if the information relates to criminal or penal proceedings, obtaining a pardon or applying a restriction on access to court records

RDN
Regional Development Network
Réseau de Développement Régional

GROUPE MISSION

Key obligations of Law 25

Implementation of the right to de-index

- Where such a request is granted, the person in charge of the protection of personal information will be required to certify, in a written response, that the personal information in question is no longer being disseminated, that the hyperlink is being de-indexed or re-indexed

RDN
Regional Development Network
Réseau de Développement Régional

GROUPE MISSION

Key obligations of Law 25

Implement measures to facilitate the right to data portability

- The right to data portability allows an individual to obtain a copy of his or her personal information held by an organization in an understandable format. In some cases, this right also allows an individual to request the transfer of his or her personal information from one organization to another. One of the main purposes of this right is to allow individuals to have more control over their personal information.

RDN
Regional Development Network
Réseau de Développement Régional

GROUPE MISSION

Key obligations of Law 25

Implement measures to facilitate the right to data portability

- The Act provides that an enterprise that holds personal information about an individual shall, upon request, confirm the existence of the information and disclose it to the individual, while allowing the individual to obtain a copy of the information. This applies to computerized personal information.

RDN
Regional Development Network
Réseau de Développement Régional

GROUPE MISSION

Key obligations of Law 25

Implement measures to facilitate the right to data portability

- The information shall be made available to the individual, upon request, in a structured, commonly used technological format. Finally, this information must be communicated, always at his request, to any person or organization authorized by law to collect such information.

RDN
Regional Development Network
Réseau de Développement Régional

GROUPE MISSION

Suggested Action Plan

To be completed by September 2022

1) Designate a person in charge of the protection of personal information
2) Create or update policies and practices for the protection of personal information
3) Establish a privacy incident log and notification process
4) Have an inventory of the company's personal information
5) Implement a privacy training program

RDN
Regional Development Network
Réseau de Développement Régional

GROUPE MISSION

Suggested Action Plan

To be completed by September 2023

6) Update policies and practices for the retention, destruction and de-identification of personal information
7) Implement a privacy complaint process to address privacy issues
8) Publish key elements of the privacy governance rules on the company's website
9) Implement a Privacy Impact Assessment (PIA) policy and process for handling personal information

RDN
Regional Development Network
Réseau de Développement Régional

GROUPE MISSION

Suggested Action Plan

To be completed by September 2023

10) Implement a process for obtaining consent to collect, hold, use or disclose personal information
11) Implement a de-indexing process

RDN
Regional Development Network
Réseau de Développement Régional

GROUPE MISSION

Suggested Action Plan

To be completed by September 2024

10) Implement measures to facilitate the right to data portability

RDN
Regional Development Network
Réseau de Développement Régional

GROUPE MISSION

Resources and Support

Cyber Eco Practical Guide

Commission d’accès à l’information du Québec (CAI): Provides guidance and resources on Law 25 compliance

- https://www.cai.gouv.qc.ca/

Barreau du Québec Fact Sheet on Law 25:

- https://www.barreau.qc.ca/media/deknztxe/aide-memoire-loi-25.pdf

RDN
Regional Development Network
Réseau de Développement Régional

GROUPE MISSION