

Quick help guide on upcoming anti-spam legislation and your parish

First off: Don't Panic!

As you may know, the Government of Canada recently finalized regulations for the Canadian Anti-Spam Legislation (CASL), which goes into effect July 1, 2014.

While the rules and regulations (let alone the penalties) may seem overwhelming, there are some simple steps you can do to make sure your parish is in compliance with CASL.

The vast majority of emails you send—by the nature of their content—are exempt from the Act. For those that are not exempt there are provisions of the Act that allow you to freely email active and recent members of your parish, other parishes, your diocese and the national office.

For those emails that are covered under the Act, a few simple steps put in place now can ensure you are in compliance.

CASL also severely limits the use of rented email lists. If you rent lists for communication purposes you need to ensure these lists are compliant with the Act.

What is a Commercial Electronic Message (CEM)?

What isn't? Do I even send out CEMs?

From the Act, a Commercial Electronic Message, or CEM is:

“An electronic message that, having regard to its content, or its links, or the contact information provided, would reasonably be determined to have as a purpose encouraging participation in a commercial activity.”

Under the Act, commercial activity is defined to include any commercial activity whether for or not for profit. In the cases of a parish, such activities such as sales of tickets, hall rentals, fundraising sales, etc. would be considered commercial under the act.

The message itself does not have to be primarily for the purpose of commercial activity. As long as one of its purposes is for commercial activity, it is covered under the Act. For example, if your newsletter has an ad for or even a link to the sale of tickets, it is covered under the Act.

There is an important exemption in sending CEMs. If your email is *primarily* about fundraising, it is exempt from the Act. Note the word *primarily*. If your email is mostly about other matters but includes some “commercial content” it can be considered a CEM.

Messages sent to members of your parish that are CEMs are generally allowed under a provision of the Act called “implied consent”.

As well, messages that otherwise would be considered CEMs but are excluded in the Act include messages a) sent within family or personal relationships; b) that make an inquiry or application; c) that are organization-to-organization in nature where there is a relationship (for example, between Parishes and Dioceses); d) responding to inquiries, or complaints; e) primarily fundraising in nature; or f) other specific examples (legal obligation, etc.)

Finally, consent is not required to send CEMs in a number of circumstances. Most importantly, these include a) providing a commercial confirmation, quote or estimate—say for a hall rental; or b) following up on a referral.

If you do not send CEMs, and have no plan to, you can stop reading now. But if you do, or plan to in the future, read on to see how you can do it properly.

OK, so we do (or are planning to) send CEMs. How do I make sure those messages are compliant?

The two items you need to ensure you have control of in sending CEM are **consent** and **unsubscribe**.

Consent, as mentioned above, can be *implicit* but it can also be *explicit*. Implicit is based on the nature of your relationship with the sender, for example a parishioner or a volunteer. Implicit consent exists as long as they are a member or a volunteer, *or two years after they stopped being a member/volunteer*.

Explicit consent is where the receiver has indicated positively that they wish to receive information from you, and lasts indefinitely unless consent is withdrawn.

Depending on your situation, you may consider working within a framework of implied consent, or work to get express consent.

For example, if you synchronize your parish lists with your email lists; you could show that you have implied consent to send emails. But you would have to remember to remove emails from those who have left your Parish.

If instead you built into your process a system to gain express consent, you would not have to worry about removing people from your lists unless they request.

As you can see, a bit of work upfront can make your life easier in the future. Some practical details on gaining express consent can be found in the appendix below.

An important note on express consents received before July 1, 2014. Requests for consent made before this date do not need to comply with the specific form and content requirement, and are “grandfathered in”. For example, PIPEDA (Personal Information Protection and Electronic Documents Act) compliant consent to contact records, or other recorded consents, are adequate, if recorded and obtained before July 1, 2014.

As well, all existing *and* past implied consent relationships have a three-year window from July 1, 2014 to be reset under CASL. In these three years you can either a) confirm the existing implied consent relationship; b) gain express consent; or c) remove the receivers from your email list.

What should be my plan?

Before July 1, 2014, you should do the following items to ensure your parish is onside with CASL:

- 1) Determine if you send CEMs, or will in the future
- 2) If so, then identify who is on your email lists, how they got there, and what consent you have to email them.
- 3) Determine how you will be compliant. Will you rely on exceptions and implied consent, or use explicit consent.
- 4) If you will use exceptions / implied consent, ensure your record keeping is up-to-date.
- 5) If you will use express consent, check to see if your existing list could be seen as given explicit consent. If not, work to get explicit consent before July 1, 2014
- 6) Develop plan and templates to gain explicit consent after July 1, 2014.
- 7) Develop templates for emails, website, etc. for unsubscribing.
- 8) Ensure all those who send emails on behalf of your parish know the rules and expectations.

Where can I find out more?

There are a number of resources available if you want to find out more.

- **Note on upcoming Canadian Anti-spam legislation**
Produced by The Anglican Church of Canada, this document delves more deeply into the nitty-gritty of CASL
- CRTC FAQs on CASL: <http://www.crtc.gc.ca/eng/casl-lcap.htm>

- CRTC Regulations: <http://www.crtc.gc.ca/eng/archive/2012/2012-183.htm>
- Industry Canada (IC) FAQ:
http://fightspam.gc.ca/eic/site/030.nsf/eng/h_00050.html
- IC Regulations: <http://fightspam.gc.ca/eic/site/030.nsf/eng/00273.html>
- Ontario Bar Association, update on CASL:
<http://www.oba.org/Sections/Charity-and-Not-for-Profit-Law/Articles/Articles-2014/February-2014/CASL-Update-for-Charities-and-Other-Not-for-Profit>
- Ecclesiastical Province of Ontario document on CASL:
<http://province-ontario.anglican.ca/Anti-Spam%20Legislation.pdf>

It is important when dealing with email communication to remember it is more than just the rules and regulations; there are also a number of best practices you should follow to make sure your emails are being received and read. There are a number of resources online for how best to communicate online, but the following is a good primer on the subject:

- <http://blog.elexio.com/blog/bid/381936/5-Email-Marketing-Mistakes-Your-Church-Should-Avoid>

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Appendix: How do I gain express consent?

Express consent needs to be gathered correctly to ensure compliance with the Act.

The request must include:

- What types of messages you will be sending? For example, newsletters and notices of Parish events.
- Name of the organization requesting consent.
- Contact information of the organization requesting consent (street address and at least one of: telephone number, email address, web address)
- That the receiver can withdraw consent at any time.
- Any check-box indicating consent must be left unchecked by default—the receiver must act to check.

This can be done online or in paper. An example of how this could work is to include a note on your newcomer form used in your parish.

Parish of St. James Anytown, Sask (306) 555-5454	
<i>[Introductory text about the life of your parish ...]</i>	
Name(s):	_____
Children's names/ages	_____
Address:	_____

Email address:	_____
<input type="checkbox"/> I consent to receive emails from the Parish of St. James on a regular basis on topics surrounding life at the Parish of St. James. Consent can be withdrawn at any time by emailing secretary@stjamesanywhereparish.ca , or by contacting the Parish Secretary at the address above.	

If you have a form online, it needs the same type of information, along with an explicit opt-in via checkbox, such as this:

Thank you for your interest in our newsletter! Please confirm your interest in receiving the following emails. Remember, you can unsubscribe from any or all of our emails at any time by [visiting our website](#) or emailing emailconsent@parish.ca.

Name:

Email:

Weekly Parish Emails

Parish of St. James, Anytown, SK (306) 555-5454 www.stjamesanytown.ca

As well, any email you send that could be considered a CEM needs certain information contained in it. This includes:

- Identification on who is sending the email, including street address.
- Unsubscribe method

This message is sent by *John Smith* on behalf of the *Parish of St. James, Anytown*.

If you wish to stop receiving these emails, please reply with "Unsubscribe" in the body of your email or [clicking here](#).

John Smith
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(306) 555-5454