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Employment Laws and Expected Privacy Reforms

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Employee Records Exemption



Brief Recap – Employee Records Exemption

- A non-public sector organisation is exempt from the operation of the Privacy Act for acts or practices directly related to its employment relationship with an individual, and records of personal information relating to the employment of the individual
- The exemption also extends to the NDB scheme: that is, any data breach involving personal information of employees in an employee record that is likely to result in serious harm is not subject to the scheme's reporting requirements

Brief Recap – Employee Records Exemption Cont.

- Why was the exemption included?
 - On the basis that the ‘handling of employee records is a matter better dealt with under workplace relations legislation’ which, at that time, was primarily governed by state and territory legislation.
- However, as of today, workplace relations legislation imposes minimal regulation in respect of employee records

Discussion Paper

Discussion Paper

Three options
identified

1. Removing the exemption
2. Modifying the exemption to allow better protection of private sector employee records while retaining the flexibility that employers need to administer the employment relationship
3. Enhancing protections in workplace relations legislation



Government's Response

Government's Response to the Privacy Act Review



The Government agrees in-principle that further consultation should be undertaken with employer and employee representatives on how enhanced privacy protections for private sector employees may be implemented in legislation





What Should Employers be Doing Now?

Key Points to Consider

On-boarding	<p>What information do you collect from employees / prospective employees?</p> <p>Why?</p>
Storage	<p>Where do you store employee information?</p> <p>Is it centralised or across a range of depositories?</p> <p>How do you control access to that information?</p>
Retention	<p>For how long do you retain employee information?</p> <p>Does that differ depending on the type of information?</p>
Off-boarding	<p>When an employee exits the organisation or changes roles internally, are checks conducted to ensure that their access to relevant information, or others' access to their employee records, has been terminated?</p>

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