



Consent and Claims Adjustment

Collecting and communicating personal information, and using the consent form

This procedure is designed to ensure that the consent form claims adjusters use when collecting and communicating personal information about the insured-claimant complies with the requirements of the *Act respecting the protection of personal information in the private sector* (henceforth referred to as the Act or ARPPIPS).

The requirements concerning the collection of personal information are found in sections 4 and following of the Act. In particular, section 6 of the Act stipulates that any person collecting personal information relating to another person may collect such information only from the person concerned, unless the latter consents to collection from third persons.

The requirements regarding consent are found in section 14 of the Act: consent to collect, communicate or use personal information must be clear, free and informed and be given for specific purposes. It must be requested for each such purpose, in clear and simple language. If the request for consent is made in writing, it must be presented separately from any other information communicated to the person concerned. If the person concerned so requests, assistance is provided to help him understand the scope of the consent requested. Furthermore, consent is valid only for the time necessary to achieve the purposes for which it was requested.

Finally, professionals must also take into account the mandatory information they must provide when collecting information. This requirement is stipulated under section 8 of the Act and concerns, in particular, the purposes for which the information is collected, how this information will be used, and the rights to access, rectify and withdraw consent to the communication or use of the information collected as provided for under the Act.

Claims adjustment firms must ensure that the consent form they use complies with the ARPPIPS.

The consent form used must contain the elements required under the Act, and provide explanations that enable the insured to understand why the information is collected and how it will be used, in particular:

- the purposes of collecting the information;
- the identity of third persons or enterprises from which the claimant has authorized the collection of personal information;
- the identity of third persons or enterprises to whom the communication of personal information is authorized;
- the use that will be made of collected or communicated information;
- the nature of the information exchanged;
- the rights to access and rectify information held.



The ChAD suggests using this [consent form](#) (to be used, in particular, when adjusting a personal lines insurance claim).

This form was created to:

- facilitate the claims adjuster's work;
- protect all the parties involved;
- inform insureds of their rights;
- help claims adjusters comply with their legal and ethical obligations;
- consolidate and record in a single document all the relevant information on how the consent was obtained and how the information was collected.

Here are **six tips** to help you fill it in:

1. If the insurance contract has more than one named insured, you must also obtain consent from the co-insureds. It is advisable to fill in a separate form for each of the co-insureds.
2. If a third party fills in the form rather than the insured him/herself, make sure that this third party does not obtain any personal information on the insured (for instance, their insurance policy number) via the form itself. In the form's first section, you may, however, specify the date and location of the loss, as well as the claim file number. This would be the case, for instance, if you have the form signed by a neighbour who also suffered damages, or a third party who witnessed certain facts pertaining to the loss.
3. The ARPPIPS stipulates that only **necessary** personal information may be collected. You must never automatically check all the boxes in the "Consent to the collection and communication of personal information" section of the form. This constitutes a breach of both the Act and the *Code of ethics of claims adjusters*. Indeed, it is your responsibility to identify the issues or information required for the purposes of investigating and processing the claim.
4. In the section "Consent to the collection and communication of personal information," if you check "Any other person, enterprise or organization likely to provide the Insurer with information that will help in analysing the claim" (last line in the table), you must indicate who they are in the box provided for this purpose.
5. The second page of the form details the rights of the person concerned, including the right to access the personal information held and, if need be, have the information rectified. This page is important since you have an obligation to communicate this information. Moreover, you must provide the contact information of the person in your firm who is responsible for personal information, and how the rights to access and rectification may be exercised. Finally, it is recommended that you give a copy of the completed, signed form to the person concerned.



6. When a business lines insurance loss occurs, it is possible that situation does not require collecting personal information. You must consider, for example, whether it will be necessary to meet certain individuals (for instance, the insured enterprise's employees, or a third party) and collect information on them. If not, it is not necessary to use the form.

However, the information collected following such a loss is nevertheless information on an insured enterprise, and as such, your ethical obligations with respect to information confidentiality apply, although the ARPPIPS will not apply automatically.

Is written consent mandatory?

While obtaining consent is mandatory, written consent is not. In the event of verbal consent, make sure to note in the client-file all the information given to the insured pursuant to the Act, in particular, the purposes of collecting the personal information, as well as the rights to access or rectification, as provided for in the Act.

What should I do if the insured refuses to give his/her consent?

You must explain to the insured that the claims adjuster must investigate the loss and collect the information required to process the claim. In fact, the insured is obliged to cooperate with the insurer, as stipulated in article 2471 of the Civil Code of Quebec. If the insured refuses, the claims adjuster may not be able to process the claim and follow up on the request for compensation.

► [This fact sheet contains the relevant excerpts](#) of the *Act respecting the protection of personal information in the private sector*.