

Consumer Reporting Act

CHAPTER 93 OF THE REVISED STATUTES, 1989

as amended by

1999, c. 4, ss. 10-16; 2010, c. 47; 2014, c. 39, ss. 4, 5



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CHAPTER 93 OF THE REVISED STATUTES, 1989
 amended 1999, c. 4, ss. 10-16; 2010, c. 47; 2014, c. 39, ss. 4, 5

**An Act to Control the Storage and Supply
 of Personal Information by
 Consumer Reporting Agencies**

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(The table of contents is not part of the statute)

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Short title

1 This Act may be cited as the *Consumer Reporting Act*. R.S., c. 93, s. 1.

Interpretation and application

2 (1) In this Act,

- (a) “consumer” means a natural person;
- (b) “consumer report” means a written, oral or other communication by a consumer reporting agency of information as that word is defined in this Section pertaining to a consumer for consideration in connection with a purpose set out in clause (c) of subsection (1) of Section 9;
- (c) “consumer reporting agency” means a person who for gain or profit furnishes consumer reports;
- (d) “Director” means the Director of Consumer Reporting Agencies;
- (e) “file” when used as a noun, means all of the information pertaining to a consumer that is recorded or retained by a consumer reporting agency, regardless of the manner or form in which the information is stored;
- (f) “information” means information respecting a consumer’s identity, residence, dependents, marital status, employment, borrowing and repayment history, income, assets and liabilities, credit worthiness, education, character, reputation, health, physical or personal characteristics or mode of living;
- (g) “Minister” means the Minister of Consumer Affairs;
- (h) “person” means a natural person, an association of natural persons, a partnership, co-operative or a corporation, and their heirs, executors, administrators, successors and assigns;
- (i) “user” means a person who prepares a consumer report for his own use or causes a consumer reporting agency to prepare a consumer report for his use.

(2) This Act applies notwithstanding any agreement or waiver to the contrary. R.S., c. 93, s. 2; 2014, c. 39, s. 4.

ADMINISTRATION**Director of Consumer Reporting Agencies**

2A (1) The Minister shall appoint a Director of Consumer Reporting Agencies who has the functions and duties set out in this Act and the regulations and such other functions and duties pursuant to this Act and the regulations as the Minister may determine.

(2) The Minister may, in the absence or incapacity of the Director or when the office of the Director is vacant, authorize another person to act in the Director’s stead.

(3) The Minister may appoint one or more deputy directors as required to assist the Director in the performance of the Director's duties.

(4) A deputy director may perform any of the duties and exercise any of the powers of the Director as directed by the Director.

(5) A person appointed or authorized to act pursuant to this Section must be employed pursuant to the *Civil Service Act* and that Act applies to that person. 2014, c. 39, s. 5.

REGISTRATION

Contents of Register

3 The Director shall keep a register, to be called the Consumer Reporting Agencies Register, in which he shall enter the name of every consumer reporting agency which holds a permit under this Act, the name under which the business is carried on, the address or the addresses, if more than one, at or from which the business is carried on and such other matters as are prescribed by the regulations. R.S., c. 93, s. 3; 1999, c. 4, s. 10.

Registration required

4 No person shall conduct or act as a consumer reporting agency unless he holds a valid permit under this Act. R.S., c. 93, s. 4; 1999, c. 4, s. 11.

Registration

5 (1) An applicant is entitled to a permit or renewal of a permit by the Director except where

(a) having regard to his financial position, the applicant cannot reasonably be expected to be financially responsible in the conduct of his business;

(b) the past conduct of the applicant affords reasonable grounds for belief that he will not carry on business in accordance with law and with integrity and honesty;

(c) the applicant is a corporation and

(i) having regard to its financial position, it cannot reasonably be expected to be financially responsible in the conduct of its business, or

(ii) the past conduct of its officers or directors affords reasonable grounds for belief that its business will not be carried on in accordance with law and with integrity and honesty; or

(d) the applicant is carrying on activities that are, or will be, if the applicant is issued a permit, in contravention of this Act or the regulations.

(2) A registration is subject to such terms and conditions to give effect to the purposes of this Act as are consented to by the applicant or prescribed by the regulations.

(3) A permit is not transferable. R.S., c. 93, s. 5; 1999, c. 4, s. 12.

Refusal of permit or renewal

6 (1) The Director may refuse to issue a permit to an applicant where, in the Director's opinion, the applicant is disentitled to a permit under Section 5.

(2) The Director may refuse to renew or may suspend or revoke a permit for any reason that would disentitle the permit holder to a permit under Section 5 if the permit holder were an applicant or if the permit holder is in breach of a term or condition of the permit. 1999, c. 4, s. 13.

Cancellation of registration

7 (1) The Director may cancel a permit upon the request in writing of the permit holder in the prescribed form surrendering the permit holder's permit.

(2) Where, within the time prescribed or, if no time is prescribed, before expiry of the permit holder's permit, a permit holder has applied for renewal of the permit and paid the prescribed fee, the permit holder's permit is deemed to continue until

- (a) the renewal is granted; or
- (b) the renewal is refused.

(3) A person aggrieved by a decision of the Director may appeal therefrom to a judge of the Trial Division of the Supreme Court, and the judge may confirm, vary or set aside the decision. R.S., c. 93, s. 7; 1999, c. 4, s. 14.

New application when circumstances change

8 A further application for a permit may be made upon new or other evidence or where it is clear that material circumstances have changed. R.S., c. 93, s. 8; 1999, c. 4, s. 15.

REGULATION OF CONSUMER REPORTING AGENCIES

Confidentiality

9 (1) No consumer reporting agency and no officer or employee thereof shall knowingly furnish any information from the files of the consumer reporting agency except in a consumer report given

- (a) in response to the order of a court having jurisdiction to issue such an order;

(b) in accordance with the written instructions of the consumer to whom the information relates; or

(c) to a person who it has reason to believe

(i) intends to use the information in connection with the extension of credit to or the collection of a debt of the consumer to whom the information pertains,

(ii) intends to use the information in connection with the entering into or renewal of a tenancy agreement by the consumer,

(iii) intends to use the information for employment purposes,

(iv) intends to use the information in connection with the underwriting of insurance involving the consumer,

(v) intends to use the information to determine the consumer's eligibility for any matter under a statute or regulation where the information is relevant to the requirement prescribed by law,

(vi) otherwise has a direct business need for the information in connection with a business transaction involving the consumer.

(2) No person shall knowingly obtain any information from the files of a consumer reporting agency respecting a consumer except for the purposes referred to in subsection (1).

(3) Notwithstanding subsections (1) and (2), a consumer reporting agency may furnish identifying information respecting any consumer, limited to his name, address, former addresses, places of employment, or former places of employment, to any department of the Province or of Canada or any province thereof, notwithstanding that such information is not to be used for a purpose mentioned in clause (c) of subsection (1).

(3A) Notwithstanding subsections (1) and (2), where the Minister, or a person designated by the Minister, requests a consumer reporting agency to provide identifying information respecting a consumer, including the consumer's name, address and former addresses, places and former places of employment and social insurance number, for the purpose of collecting a debt or fine owing by the consumer to Her Majesty in right of the Province,

(a) the consumer reporting agency shall provide the information to the Minister or the Minister's designate, as the case may be; and

(b) the provision of the information is not a consumer report.

(4) A consumer reporting agency shall not sell, lease or transfer title to its files or any of them except to another consumer reporting agency registered under this Act. R.S., c. 93, s. 9; 2010, c. 47, s. 1.

Reporting

10 (1) Every consumer reporting agency shall adopt all procedures reasonable for ensuring the greatest possible accuracy and fairness in the contents of its consumer reports.

(2) A consumer reporting agency shall not report

(a) any information that is not stored in a form capable of being produced under Section 12;

(b) any information that is not extracted from information appearing in files stored or collected in a repository located in Canada.

(3) A consumer reporting agency shall not include in a consumer report

(a) any information unless the name and address of the source of the information is recorded or retained in its files or can be readily ascertained by the consumer;

(b) any information concerning the consumer unless it has made reasonable efforts to verify the information and unless it has recorded in its files the efforts taken to verify the information;

(c) information regarding any actions, judgments, accounts or debts that are on their face statute barred unless it is accompanied by evidence appearing in the file that recovery is not statute barred;

(d) information as to any judgment against the consumer unless mention is made of the name and, where available, the address of the judgment creditor as given at the date of entry of the judgment and the amount or, where the judgment is known to have been assigned, where available, the name and address of the assignee and the amount or, in the case where a judgment has been fully paid or satisfied as appears from the records on file at the office of the clerk of the court or the prothonotary of the court and six years has expired since the date of the satisfaction of the judgment, information concerning the judgment unless the consumer has had more than one judgment recorded against him;

(e) information as to the bankruptcy of a consumer after six years from the date of the discharge of the consumer unless he has been bankrupt more than once;

(f) information regarding any criminal or summary conviction charges against the consumer where the charges have been

dismissed, set aside, withdrawn or in respect of which a stay of proceedings has been entered;

(g) information as to convictions for crimes or summary offences after seven years from the date of conviction or, where the conviction resulted in imprisonment, from the date of the termination of the sentence, provided information as to convictions for crimes shall not be reported if at any time it is learned that after a conviction a full pardon has been granted;

(h) any information given orally unless the content of the oral report is noted in writing in the file; or

(i) any other information prescribed by the regulations.
R.S., c. 93, s. 10.

Consent and notice

11 (1) No person shall procure or cause to be prepared a consumer report respecting a consumer

(a) without the express written consent of the consumer;
or

(b) unless he notifies the consumer in writing that a consumer report has been or will be requested and advises him not later than ten days after the report has been requested of the name and address of the consumer reporting agency.

(2) The notice and consent referred to in this Section may be contained in an application for credit, insurance, employment or tenancy if it is clearly set forth in type not less than ten point in size above the signature of the consumer.

(3) Where a user of information contained in a consumer report denies a benefit in whole or in part to a consumer, or increases the cost of the benefit to a consumer, the user shall advise the consumer in writing immediately

(a) that a benefit has been denied him in whole or in part or increased in cost;

(b) of his right to have disclosed to him all information pertaining to him in the files of the consumer reporting agency from whom the report was obtained;

(c) of the name and address of the consumer reporting agency;

(d) of the source and nature of information obtained elsewhere than from a consumer reporting agency. R.S., c. 93, s. 11.

Disclosure

12 (1) Every consumer reporting agency shall, at the written request of a consumer and during normal business hours, clearly and accurately disclose to the consumer, without charge,

(a) the nature and substance of all information in its files pertaining to the consumer at the time of the request;

(b) the sources of its information unless they can be readily ascertained by the consumer;

(c) the names of the recipients of any consumer report pertaining to the consumer that it has furnished within the preceding twelve months;

(d) copies of any written report made pertaining to the consumer to any other person or, where the report was oral, particulars of the content of such oral report,

and shall inform the consumer of his right to protest any information contained in the file under Sections 13 and 14 and the manner in which a protest may be made.

(2) A consumer reporting agency may withhold from the disclosures required by subsection (1) any medical information obtained from the consumer's own physician and which the physician has specifically requested in writing be withheld from the consumer in his own best interest.

(3) The disclosures required under this Section shall be made to the consumer

(a) in person if he appears in person and furnishes proper identification;

(b) by telephone if he has made a written request, with sufficient identification, for telephone disclosure and the toll charge, if any, for the telephone call is prepaid by or charged directly to the consumer.

(4) Every consumer reporting agency shall provide trained personnel to explain to the consumer any information furnished to him under this Section.

(5) The consumer shall be permitted to be accompanied by one other person of his choosing to whom the consumer reporting agency may be required by the consumer to disclose his file.

(6) The consumer reporting agency shall permit the consumer to whom information is disclosed under this Section to make an abstract thereof.

(7) A consumer reporting agency shall require reasonable identification of the consumer and a person accompanying him before making disclosures under this Section.

(8) A consumer reporting agency shall not require a consumer to give any undertaking or waive or release any right or chose in action as a condition precedent to his access to his file under this Section. R.S., c. 93, s. 12.

Protests

13 (1) Where a consumer disputes the accuracy of any information relating to him in the files of a consumer reporting agency he may file a statement of protest with the consumer reporting agency or the user or both.

(2) Where a statement of protest is filed in accordance with subsection (1), the consumer reporting agency or the user shall immediately

(a) attempt to verify the information and, where the information cannot be verified, expunge the information from the consumer's file; or

(b) where the veracity of the information is sustained, record the protest in the consumer's file,

and report the action taken

(c) to the consumer; and

(d) to any person to whom it furnished a consumer report within the preceding sixty days.

(3) Where a consumer report is made by a consumer reporting agency to a user in the Province and the office of the consumer reporting agency is not located in the Province, the user is responsible for complying with subsection (2).

(4) Where a consumer reporting agency makes a report to a user whose office is located outside the Province, the consumer reporting agency is responsible for complying with subsection (2).

(5) Where a consumer is dissatisfied by the action taken by the consumer reporting agency or the user under this Section he may appeal to the Director who shall investigate the matter. R.S., c. 93, s. 13.

ENFORCEMENT

Changes in information

14 (1) The Director may order a consumer reporting agency to amend or delete any information, or by order restrict or prohibit the use of any information, that in his opinion is inaccurate or incomplete or that does not comply with the provisions of this Act or the regulations.

(2) The Director may order a consumer reporting agency to furnish notification to any person who has received a consumer report of any amendments, deletions, restrictions or prohibitions imposed by the Director.

(3) Where the consumer or consumer reporting agency considers himself aggrieved by a decision of the Director under this Section, he may apply to a judge of the Trial Division of the Supreme Court and the judge may confirm, vary or set aside the decision. R.S., c. 93, s. 14.

Agency to notify Director of changes

15 Every consumer reporting agency shall, within five days after the event, notify the Director in writing of

- (a) any change in its address for service;
- (b) any change in the officers in the case of a corporation or of the members in the case of a partnership; and
- (c) in the case of a corporation, any change in the ownership of its shares. R.S., c. 93, s. 15.

Complaints

16 (1) Where the Director receives a complaint in respect of a consumer reporting agency and so requests in writing, the consumer reporting agency shall, where it has received the consumer's consent in writing, furnish the Director with such information respecting the matter complained of as the Director requires.

(2) The request under subsection (1) shall indicate the nature of the inquiry involved.

(3) For the purposes of subsection (1), the Director or any person designated in writing by him may on notice at any reasonable time enter upon the business premises of the consumer reporting agency to make an inspection in relation to the complaint. R.S., c. 93, s. 16.

Investigation ordered by Minister

17 The Minister may by order appoint a person to make an investigation into any matter to which this Act applies as may be specified in the Minister's order and the person appointed shall report the result of his investigation to the Minister, and for the purposes of the investigation the person making it has all the powers, privileges and immunities of a commissioner appointed under the *Public Inquiries Act*. R.S., c. 93, s. 17.

Investigation ordered by Director

18 (1) Where, upon a statement made under oath, the Director believes on reasonable and probable grounds that any person has

- (a) contravened any of the provisions of this Act or the regulations; or
- (b) committed an offence under the *Criminal Code* (Canada) or under the law of any jurisdiction that is relevant to his fitness for registration under this Act,

the Director may by order appoint one or more persons to make an investigation to ascertain whether such a contravention of the Act or regulation or the commission of such an offence has occurred and the person appointed shall report the result of his investigation to the Director.

(2) For purposes relevant to the subject-matter of an investigation under this Section, and notwithstanding Section 9, the person appointed to make the investigation may inquire into and examine the affairs of the person in respect of whom the investigation is being made and may

(a) upon production of his appointment, enter at any reasonable time the business premises of such person and examine books, papers, documents, consumer files and things relevant to the subject-matter of the investigation; and

(b) inquire into negotiations, transactions, loans or borrowings made by or on behalf of or in relation to such person and into property, assets or things owned, acquired or alienated in whole or in part by him or any person acting on his behalf that are relevant to the subject-matter of the investigation,

and for the purposes of the inquiry the person making the investigation has all the powers, privileges and immunities of a commissioner appointed under the *Public Inquiries Act*.

(3) No person shall obstruct a person appointed to make an investigation under this Section or withhold from him or conceal or destroy any books, papers, documents or things relevant to the subject-matter of the investigation.

(4) Where a judge of the county court is satisfied, upon an *ex parte* application by the person making an investigation under this Section, that the investigation has been ordered and that such person has been appointed to make it and that there is reasonable ground for believing there are in any building, dwelling, receptacle or place any books, papers, documents or things relating to the person whose affairs are being investigated and to the subject-matter of the investigation, the judge may, whether or not an inspection has been made or attempted under clause (a) of subsection (2), issue an order authorizing the person making the investigation, together with such police officer or officers as he calls upon to assist him, to enter and search, if necessary by force, such building, dwelling, receptacle or place for such books, papers, documents or things and to examine them, but every such entry and search shall be made between sunrise and sunset unless the judge, by the order, authorizes the person making the investigation to make the search at night.

(5) Any person making an investigation under this Section may, upon giving a receipt therefor, remove any books, papers, documents or things examined under clause (a) of subsection (2) or subsection (4) relating to the person whose affairs are being investigated and to the subject-matter of the investigation for the purpose of making copies of such books, papers or documents, but such copying shall be carried out with reasonable dispatch and the books, papers or docu-

ments in question shall be promptly thereafter returned to the person whose affairs are being investigated.

(6) Any copy made as provided in subsection (5) and certified to be a true copy by the person making the investigation is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original book, paper or document and its contents.

(7) The Minister or Director may appoint any expert to examine books, papers, documents or things examined under clause (a) of subsection (2) or under subsection (4). R.S., c. 93, s. 18; revision corrected 1999.

Exceptions to confidentiality

19 (1) Every person employed in the administration of this Act, including any person making an inquiry, inspection or an investigation under Section 16, 17 or 18 shall preserve secrecy in respect of all matters that come to his knowledge in the course of his duties, employment, inquiry, inspection or investigation and shall not communicate any such matters to any other person except

(a) as may be required in connection with the administration of this Act, and the regulations or any proceedings under this Act or the regulations; or

(b) to his counsel; or

(c) with the consent of the person to whom the information relates.

(2) No person to whom subsection (1) applies shall be required to give testimony in any civil suit or proceeding with regard to information obtained by him in the course of his duties, employment, inquiry, inspection or investigation except in a proceeding under this Act or the regulations. R.S., c. 93, s. 19.

Service of documents

20 (1) Any notice or order required to be given, delivered or served under this Act or the regulations is sufficiently given, delivered or served if delivered personally or sent by registered mail addressed to the person to whom delivery or service is required to be made at his last-known address.

(2) Where service is made by registered mail, the service shall be deemed to be made on the third day after the day of mailing unless the person on whom service is being made establishes that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control, receive the notice or order until a later date. R.S., c. 93, s. 20.

Order to comply with Act

21 (1) Where it appears to the Director that any person does not comply with any provision of this Act, the regulations or an order made under this Act, notwithstanding the imposition of any penalty in respect of such non-com-

pliance and in addition to any other rights he may have, the Director may apply to a judge of the Trial Division of the Supreme Court for an order directing such person to comply with such provision, and upon the application the judge may make such order or such other order as the judge thinks fit.

(2) An appeal lies to the Appeal Division of the Supreme Court from an order made under subsection (1). R.S., c. 93, s. 21.

Supplying of false information prohibited

22 No person shall knowingly supply false or misleading information to another who is engaged in making a consumer report. R.S., c. 93, s. 22.

Offence, penalties and limitation period

23 (1) Every person who

(a) knowingly, furnishes false information in any application under this Act or in any statement or return required to be furnished under this Act or the regulations;

(b) fails to comply with any order, direction or other requirement made under this Act; or

(c) contravenes any provision of this Act or the regulations,

and every director or officer of a corporation who knowingly concurs in such furnishing, failure or contravention, is guilty of an offence and on summary conviction is liable to a fine of not more than two thousand dollars or to imprisonment for a term of not more than one year, or to both.

(2) Where a corporation is convicted of an offence under subsection (1), the maximum penalty that may be imposed upon the corporation is twenty-five thousand dollars and not as provided therein.

(3) No proceeding under clause (a) of subsection (1) shall be commenced more than one year after the facts upon which the proceeding is based first came to the knowledge of the Director.

(4) No proceeding under clause (b) or (c) of subsection (1) shall be commenced more than two years after the time when the subject-matter of the proceeding arose. R.S., c. 93, s. 23.

Prima facie proof of facts

24 (1) A statement as to

(a) the registration or non-registration of any person;

(b) the filing or non-filing of any document or material required or permitted to be filed with the Director;

(c) the time when the facts upon which proceedings are based first came to the knowledge of the Director; or

(d) any other matter pertaining to such registration, non-registration, filing or non-filing,

purporting to be certified by the Director is, without proof of the office or signature of the Director, receivable in evidence as *prima facie* proof of the facts stated therein for all purposes in any action, proceeding or prosecution.

(2) Any document under this Act purporting to be signed by the Minister, or any certified copy thereof, is receivable in evidence in any action, prosecution or other proceeding as *prima facie* proof that the document is signed by the Minister without proof of the office or signature of the Minister. R.S., c. 93, s. 24.

Regulations

25 For the purpose of carrying out the provisions of this Act, the Governor in Council may make regulations

(a) exempting any class of persons from this Act or the regulations or any provision thereof;

(b) governing applications for a permit or the renewal of a permit and prescribing terms and conditions of permits;

(c) requiring the payment of fees on application for a permit or the renewal of a permit, and prescribing the amount of the fees;

(d) requiring consumer reporting agencies that hold a permit under this Act to be bonded in such form and terms and with such collateral security as are prescribed, and providing for the forfeiture of bonds and the disposition of the proceeds;

(e) requiring and governing the books, accounts and records that shall be kept by consumer reporting agencies;

(f) prescribing information that may not be reported by a consumer reporting agency or contained in its files;

(g) prescribing information that must be contained in a consumer report;

(h) requiring consumer reporting agencies to make returns and furnish information to the Director;

(i) prescribing forms for the purposes of this Act and providing for their use;

(j) requiring any information required to be furnished or contained in any form or return to be verified by affidavit;

(k) respecting such other matters as he deems necessary for the carrying out of the intent and purposes of this Act. R.S., c. 93, s. 25; 1999, c. 4, s. 16.

Regulations Act

26 The exercise by the Governor in Council of the authority contained in Section 25 shall be regulations within the meaning of the *Regulations Act*. R.S., c. 93, s. 26.
