

BILL NO. 76

(as passed)



*2nd Session, 58th General Assembly
Nova Scotia
50 Elizabeth II, 2001*

Government Bill

Consumer Protection Act (amended)

CHAPTER 40 OF THE ACTS OF 2001

The Honourable Angus MacIsaac
Minister of Service Nova Scotia
and Municipal Relations

[First Reading](#): November 2, 2001 (LINK TO BILL AS INTRODUCED)

Second Reading: November 6, 2001

[Third Reading](#): November 15, 2001

Royal Assent: November 22, 2001



An Act Amend Chapter 92

of the Revised Statutes, 1989, the Consumer Protection Act

Be it enacted by the Governor and Assembly as follows:

1 Chapter 92 of the Revised Statutes, 1989, the *Consumer Protection Act*, is amended by adding immediately after Section 21U the following Sections:

21V In Sections 21V to 21AF,

- (a) "consumer" means an individual who receives or has the right to receive goods or services from a supplier as a result of a purchase, lease or other arrangement;
- (b) "consumer transaction" means the supply of goods or services by a supplier to a consumer as a result of a purchase, lease or other arrangement;
- (c) "internet" means the decentralized global network connecting networks of computers and similar devices to each other for the electronic exchange of information using standardized communication protocols;
- (d) "internet sales contract" means a consumer transaction formed by text-based internet communications;
- (e) "services" means any services offered or provided primarily for personal, family or household purposes;
- (f) "supplier" means a person who, in the course of the person's business, provides goods or services to consumers.

21W Sections 21X to 21AF do not apply to

- (a) goods and services that are immediately downloaded or accessed using the internet; or
- (b) classes of goods and services that are excluded under the regulations.

21X Before entering into an internet sales contract with a consumer, a supplier shall disclose the information prescribed by the regulations.

21Y A supplier shall provide the consumer with an express opportunity to accept or decline the internet sales contract and to correct errors immediately before entering into it.

21Z (1) A supplier shall provide a consumer who enters into an internet sales contract with a copy of the contract in writing or electronic form within fifteen days after the contract is entered into.

(2) A copy of the internet sales contract shall include the requirements prescribed by the regulations.

(3) For the purposes of subsection (1), a supplier is considered to have provided a consumer with a copy of the internet sales contract if the copy is sent or otherwise provided in accordance with the regulations.

21AA A consumer may cancel an internet sales contract under the circumstances described in the regulations.

21AB (1) A cancellation of an internet sales contract under Section 21AA operates to cancel the contract as if the contract had never existed.

(2) A cancellation of an internet sales contract under Section 21AA also operates to cancel

- (a) any related consumer transaction;

- (b) any guarantee given in respect of consideration payable under the contract; and
- (c) any security given by a consumer or a guarantor in respect of consideration payable under the contract, as if the contract had never existed.

(3) Where credit is extended or arranged by the supplier, the credit contract is conditional on the internet sales contract whether or not the credit contract is a part of or attached to the internet sales contract and, where the internet sales contract is cancelled, that cancellation has the effect of cancelling the credit contract as if the internet sales contract had never existed.

21AC (1) Where an internet sales contract is cancelled under Section 21AA, a supplier shall, within fifteen days from the date of cancellation, refund to a consumer all consideration paid by the consumer under the contract and any related consumer transaction, whether paid to the supplier or another person.

(2) Where goods are delivered to a consumer under an internet sales contract that is cancelled under Section 21AA, the consumer shall, within fifteen days from the date of cancellation or delivery of the goods, whichever is later, return the goods to the supplier unused and in the same condition in which they were delivered.

(3) A consumer may return the goods under subsection (2) by any method that provides the consumer with confirmation of delivery to the supplier.

(4) The supplier shall accept a return of goods by a consumer under subsection (2).

(5) The supplier is responsible for the reasonable cost of returning goods under subsection (2).

(6) Goods that are returned by the consumer under subsection (2) otherwise than by personal delivery are deemed for the purposes of that subsection to have been returned when sent by the consumer to the supplier.

(7) Any breach of the consumer's obligations under this Section is actionable by the supplier as a breach of statutory duty.

21AD A supplier may make an application to the Supreme Court claiming that it would be inequitable for an internet sales contract to be cancelled under Section 21AA and the Court may, upon the application, make any order it considers appropriate.

21AE Where a consumer has cancelled an internet sales contract under Section 21AA and the supplier has not refunded all of the consideration within the fifteen-day period referred to in Section 21AC, the consumer may recover the consideration from the supplier as an action in debt.

21AF (1) A consumer who has charged to a credit card account all or any part of the consideration payable under an internet sales contract or related consumer transaction may request the credit card issuer to cancel or reverse the credit card charge and any associated interest or other charges if the consumer has cancelled the contract under Section 21AA and the supplier has not refunded all of the consideration within the fifteen-day period referred to in Section 21AC.

(2) A request under subsection (1) shall be in writing or electronic form and shall

(a) contain the requirements prescribed by the regulations; and

(b) be made within any time period prescribed by the regulations.

(3) The credit card issuer may, upon receiving a request under subsection (1), require that the consumer verify the content of the request by affidavit or declaration.

(4) The credit card issuer shall

- (a) acknowledge the consumer's request within thirty days of receiving it; and
 - (b) where the request satisfies subsections (2) and (3), cancel or reverse the credit card charge and any associated interest or other charges within two complete billing cycles of the credit card issuer or ninety days, whichever first occurs.
- (5) A request under subsection (1) may be given to the credit card issuer by any means, including, but not limited to, personal service, registered mail, courier, facsimile and electronic mail.
- (6) Where the request is given other than by personal service, the request is deemed to be given when sent.

2 Chapter 92 is further amended by adding immediately after Section 33 the following Section:

34 (1) The Governor in Council may make regulations

- (a) respecting classes of goods and services to which Sections 21X to 21AF do not apply;
 - (b) prescribing information to be disclosed by a supplier before entering into an internet sales contract with a consumer;
 - (c) respecting the manner in which information may be disclosed to a consumer by a supplier before an internet sales contract is entered into;
 - (d) prescribing the requirements to be included in a copy of an internet sales contract;
 - (e) respecting the sending or provision of copies of internet sales contracts;
 - (f) respecting circumstances in which a consumer may cancel an internet sales contract;
 - (g) respecting the manner in which a consumer may notify a supplier of cancellation of an internet sales contract;
 - (h) respecting applications made pursuant to Section 21AD;
 - (i) prescribing requirements for a request by a consumer to a credit card issuer made under subsection (1) of Section 21AF;
 - (j) respecting time periods in which a request by a consumer to a credit card issuer may be made under subsection (1) of Section 21AF;
 - (k) defining any word or expression used but not defined in Sections 21V to 21AF;
- (l) considered necessary or advisable to carry out effectively the intent and purpose of Sections 21V to 21AF.
- (2) The exercise by the Governor in Council of the authority contained in subsection (1) is regulations within the meaning of the *Regulations Act*.

3 This Act comes into force on such day as the Governor in Council orders and declares by proclamation.

