

Collection and Debt Management Agencies Act

CHAPTER 77 OF THE REVISED STATUTES, 1989

as amended by

2012, c. 40, ss. 2-37; 2014, c. 34, s. 2; 2014, c. 39, s. 2;
2018, c. 43, s. 1



© 2021 Her Majesty the Queen in right of the Province of Nova Scotia
Published by Authority of the Speaker of the House of Assembly
Halifax

This page is intentionally blank.

CHAPTER 77 OF THE REVISED STATUTES, 1989
amended 2012, c. 40, ss. 2-37; 2014, c. 34, s. 2; 2014, c. 39, s. 2;
2018, c. 43, s. 1

**An Act Respecting Collection and
Debt Management Agencies**

title amended 2012, c. 40, s. 2.

Table of Contents

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

	Section
Short title.....	1
Interpretation.....	2
Act does not apply.....	3
Act prevails.....	3A
Registrar.....	4
Prohibition.....	5
Prohibition - falsely representing self.....	5A
Application for collection agency licence.....	6
Application for debt management agency licence.....	6A
Address for service.....	7
Agency represented by collector.....	8
Deemed agent.....	9
Notice of termination of representation.....	10
No action against debtor by unlicensed agency, collector or agent.....	10A
Transfer prohibited.....	11
New application.....	12
Restrictions on licence.....	13
Expiry of licence.....	14
Suspension or cancellation.....	15
Further information.....	16
Appeal.....	17
Further application.....	18
Records and books of account.....	19
Agency acts as trustee.....	19A
Use of money in trust.....	19B
Prohibitions - collection agencies and collectors.....	20
Prohibitions - debt management agencies and agents.....	20A
Investigation.....	21
Services of unlicensed agent or collector.....	22
False or misleading statements.....	22A
Cancellation of agreement.....	22B
Offence.....	23
Penalty.....	24
Evidence of carrying on activities.....	25
Certificate of Registrar.....	26
Limitation period.....	27
Debtor may recover certain money paid.....	27A
Regulations.....	28
Regulations Act.....	29

Short title

1 This Act may be cited as the *Collection and Debt Management Agencies Act*. R.S., c. 77, s. 1; 2012, c. 40, s. 3.

Interpretation

2 In this Act,

(a) “collection agency” means a person, other than a collector, who deals with a debtor for the purpose of obtaining or arranging for payment of money owing to another person, or who holds out to the public that it provides such a service or any person who sells or offers to sell forms or letters represented to be a collection system or scheme, but does not include a debt management agency;

(b) “collector” means an individual employed, appointed or authorized by a collection agency to solicit business or collect debts for the agency or to deal with or trace debtors for the agency;

(ba) “debt management agency” means a person, other than a debt management agent, who carries on the activities of offering or undertaking to act for a debtor in the Province in arrangements or negotiations with the debtor’s creditors or receiving money from a debtor for distribution to the debtor’s creditors in consideration of a fee, commission or other remuneration that is payable by the debtor;

(bb) “debt management agent” means an individual employed, appointed or authorized by a debt management agency to act for or deal with debtors;

(c) “licence” means a valid and subsisting licence granted under this Act;

(d) “Minister” means the Minister of Service Nova Scotia and Internal Services;

(e) “Registrar” means the person appointed as Registrar for the purposes of this Act. R.S., c. 77, s. 2; 2012, c. 40, s. 4; 2014, c. 34, s. 2; O.I.C. 2019-149.

Act does not apply

3 This Act does not apply to

(a) any barrister or firm of barristers of the Supreme Court of Nova Scotia; or

(b) any other person or class of persons exempted by the regulations. 2012, c. 40, s. 5.

Act prevails

3A (1) This Act prevails over any agreement to the contrary, whether verbal or written, express or implied.

(2) Any waiver or release by a person of the rights, benefits, protections or remedies under this Act and any agreement that in any way limits or abrogates or in effect limits or abrogates any such right, benefit, protection or remedy is void. 2012, c. 40, s. 6.

Registrar

4 (1) The Minister shall appoint a Registrar 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 Registrar or when the office of the Registrar is vacant, authorize another person to act in the Registrar's stead.

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

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

(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. 2.

Prohibition

5 (1) Except as may be otherwise permitted under this Act or the regulations, no person or individual shall carry on the activities of

(a) a collection agency unless the person holds a collection agency licence;

(b) a debt management agency unless the person holds a debt management agency licence;

(c) a collector unless the individual holds a collector's licence; or

(d) a debt management agent unless the individual holds a debt management agent's licence.

(2) No person may hold both a collection agency licence and a debt management agency licence.

(3) No individual may hold both a collector's licence and a debt management agent's licence.

(4) A collection agency shall not carry on the activities of a collection agency in a name other than the name shown on its licence nor invite the public to deal at a place other than that authorized by its licence.

(5) A debt management agency shall not carry on the activities of a debt management agency in a name other than the name shown on its licence nor invite the public to deal at a place other than that authorized by its licence.

(6) A collection agency or debt management agency shall direct a debtor to

(a) make payments at or otherwise communicate through the place authorized by its licence; or

(b) deal directly with the creditor of the debt.

(7) No collection agency shall conduct collection agency activity except at the place authorized by the licence and unless the activity is entered on the systems of the collection agency.

(8) No debt management agency shall conduct debt management agency activity except at the place authorized by the licence and unless the activity is entered on the systems of the debt management agency. 2012, c. 40, s. 8.

Prohibition - falsely representing self

5A (1) No person shall represent itself as carrying on the activities of

- (a) a collection agency unless the person holds a collection agency licence; or
- (b) a debt management agency unless the person holds a debt management agency licence.

(2) No individual shall represent himself or herself as carrying on the activities of

- (a) a collector unless the individual holds a collector's licence; or
- (b) a debt management agent unless the individual holds a debt management agent's licence. 2012, c. 40, s. 9.

Application for collection agency licence

6 (1) Every application for a licence shall be made to the Registrar upon a form provided by the Registrar and shall be accompanied by the fee prescribed in the regulations.

(2) Every applicant or person acting on behalf of an applicant may be required by the Registrar to verify by affidavit or otherwise the statements made by him in the application.

(3) An applicant for a collection agency licence shall deliver to the Registrar as part of the application

- (a) one copy of each form of agreement that the collection agency uses or proposes to use when entering into agreement with persons for whom the collection agency acts;
- (b) one copy of each form or form letter that the collection agency uses or proposes to use in making demands for the collection of debts; and
- (c) a bond or other form of security as prescribed by the regulations.

(4) The agreement referred to in subsection (3) shall set out particulars of the fees charged or proposed to be charged by the collection agency. R.S., c. 77, s. 6; 2012, c. 40, s. 10.

Application for debt management agency licence

6A (1) An applicant for a debt management agency licence shall deliver to the Registrar as part of the application

(a) one copy of each form of agreement that the debt management agency uses or proposes to use when entering into an agreement with a debtor, unless the form or content of the agreement is as prescribed by the regulations; and

(b) a bond or other form of security as prescribed by the regulations.

(2) The agreement referred to in clause (1)(a) must

(a) contain cancellation rights as prescribed by the regulations; and

(b) set out particulars of the fees charged or proposed to be charged by the debt management agency. 2012, c. 40, s. 11.

Address for service

7 (1) Every applicant for a licence shall state in the application an address for service in the Province, and any notice under this Act or the regulations shall for all purposes be sufficiently served if delivered or sent by registered mail to that address or to the address for service stated or shown in a notice given pursuant to subsection (2).

(2) Every licensee shall notify the Registrar in writing of any change in the licensee's address for service. R.S., c. 77, s. 7; 2012, c. 40, s. 12.

Agency represented by collector

8 (1) Every application for a licence as a collector shall be accompanied by a statement in writing given by a licensed collection agency that the applicant, if granted a licence, is authorized to act as a collector representing that collection agency.

(2) A licence issued to a collector shall indicate thereon the name of the collection agency who furnished the statement required under subsection (1) and on whose behalf the collector is authorized to act as a collector.

(3) Every application for a debt management agent's licence shall be accompanied by a statement in writing given by a licensed debt management agency that the applicant, if granted a licence, is authorized to act as a debt management agent representing that debt management agency.

(4) A licence issued to a debt management agent shall indicate thereon the name of the debt management agency that furnished the statement required under subsection (3) and on whose behalf the debt management agent is authorized to act as a debt management agent. R.S., c. 77, s. 8; 2012, c. 40, s. 13.

Deemed agent

9 (1) A collector who is the holder of a licence is deemed to be authorized by the collection agency specified in the licence to act for or on behalf of that collection agency.

(2) A debt management agent who is the holder of a licence is deemed to be authorized by the debt management agency specified in the licence to act for or on behalf of that debt management agency. R.S., c. 77, s. 9; 2012, c. 40, s. 14.

Notice of termination of representation

10 (1) Where a collector ceases to represent a collection agency, the collection agency shall forthwith give notice in writing to the Registrar that the collector has ceased to represent the collection agency and the receipt of such notice by the Registrar shall operate as a termination of the licence of the collector.

(2) A collection agency which fails to give the notice mentioned in subsection (1) within five days after the collector has ceased to represent it is guilty of an offence.

(3) Where a debt management agent ceases to represent a debt management agency, the debt management agency shall forthwith give notice in writing to the Registrar that the debt management agent has ceased to represent the debt management agency and the receipt of such notice by the Registrar shall operate as a termination of the licence of the debt management agent.

(4) A debt management agency that fails to give the notice required by subsection (3) within five days after the debt management agent has ceased to represent it is guilty of an offence. R.S., c. 77, s. 10; 2012, c. 40, s. 15.

No action against debtor by unlicensed agency, collector or agent

10A (1) No action may be brought by a collection agency, debt management agency, collector or debt management agent against a debtor for the enforcement of an agreement unless the collection agency, debt management agency, collector or debt management agent was licensed under this Act at the time that the debtor entered into the agreement.

(2) Subsection (1) does not apply if the collection agency, debt management agency, collector or debt management agent is exempted pursuant to Section 3. 2012, c. 40, s. 16.

Transfer prohibited

11 (1) The transfer of the licence of a collector from one collection agency to another is prohibited.

(2) The transfer of a licence of a debt management agent from one debt management agency to another is prohibited. R.S., c. 77, s. 11; 2012, c. 40, s. 17.

New application

12 (1) Where a collector whose licence is terminated is appointed by another collection agency or is re-appointed by the collection agency for whom the collection agent was previously authorized to act, the collector shall make a new application to the Registrar for a licence.

(2) Where a debt management agent whose licence is terminated is appointed by another debt management agency or is re-appointed by the debt management agency for whom the debt management agent was previously author-

ized to act, the debt management agent shall make a new application to the Registrar for a licence. R.S., c. 77, s. 12; 2012, c. 40, s. 18.

Restrictions on licence

13 (1) The Registrar may

(a) grant a licence; or

(b) where a licence is already granted, by notice to the licensee, make the licence subject to such terms, conditions and restrictions as are prescribed by the Governor in Council.

(2) Every licensee shall comply with the terms, conditions and restrictions to which the licensee's licence is subject. R.S., c. 77, s. 13; 2012, c. 40, s. 19.

Expiry of licence

14 Unless previously terminated or cancelled, every licence expires at midnight on the thirtieth day of April of each year. R.S., c. 77, s. 14.

Suspension or cancellation

15 (1) The Registrar may suspend or cancel a licence where the Registrar is satisfied that the licensee

(a) has violated any provision of this Act or the regulations or has failed to comply with any of the terms, conditions or restrictions to which the licensee's licence is subject;

(b) has made a material mis-statement in the application for the licensee's licence or in any of the information or material submitted by the licensee to the Registrar pursuant to Section 6 or 6A;

(c) is guilty of misrepresentation, fraud, or dishonesty, false or misleading advertising; or

(d) has demonstrated incompetency, unfitness or untrustworthiness to carry on the activities in respect of which the licensee's licence was granted.

(2) Where a bond or other form of security filed under this Act is terminated, the licence of the collection agency or debt management agency is automatically suspended and remains suspended until the collection agency or debt management agency files with the Registrar a new bond or other form of security in the amount and form required.

(3) Where the licence of a collection agency is suspended or cancelled, the licences of all collectors of the collection agency are automatically terminated.

(4) Where the licence of a debt management agency is suspended or cancelled, the licences of all debt management agents of the debt management agency are automatically terminated. R.S., c. 77, s. 15; 2012, c. 40, s. 20.

Further information

16 The Registrar may at any time require further information or material to be submitted by an applicant for a licence or by a licensee within a specified time and may require verification by affidavit or otherwise of any information or material so submitted or previously submitted. R.S., c. 77, s. 16.

Appeal

17 (1) A person who is dissatisfied with a decision of the Registrar under this Act may, within thirty days from the date of the decision, appeal to a judge of the Supreme Court of Nova Scotia who may upon hearing the appeal, which shall be heard in accordance with the *Summary Proceedings Act*, by order do any one or more of the following things:

- (a) dismiss the appeal;
- (b) allow the appeal;
- (c) allow the appeal subject to terms and conditions;
- (d) vary the decision appealed against;
- (e) refer the matter back to the Registrar for further consideration and decision;
- (f) award costs of the appeal;
- (g) make such other order as to the judge seems just.

(2) The appeal shall be by notice of appeal and a copy thereof shall be served upon the Registrar not less than ten days before the day on which the motion is returnable.

(3) On the hearing of an appeal any evidence taken before the Registrar and certified by the Registrar may, with leave of the judge hearing the appeal, be read and shall have the like force and effect as if the witness were there examined and any party affected by the appeal may call witnesses and adduce evidence whether or not the witnesses were called or the evidence adduced at the hearing before the Registrar either as to the credibility of witnesses or as to any other fact material to the inquiry.

(4) An appeal shall lie to the Nova Scotia Court of Appeal from a decision of the Supreme Court of Nova Scotia upon any question of law but such appeal can only be taken by leave of a judge of the Nova Scotia Court of Appeal given upon a petition presented to the judge within thirty days after the rendering of the decision and upon such terms as the said judge may determine, and notice of such petition shall be given to the Registrar at least two clear days before the presentation of such petition.

(5) Where leave to appeal has been granted the appeal shall be brought by notice served on the Registrar within ten days after the leave to appeal has been granted, and the notice shall contain the names of the parties, the date of the decision appealed from and such other particulars as the judge granting leave to appeal may require. R.S., c. 77, s. 17; 2012, c. 40, s. 21.

Further application

18 A further application for a licence may be made upon new or other evidence being produced where it is clear that material circumstances have changed. R.S., c. 77, s. 18.

Records and books of account

19 (1) Every collection agency and debt management agency shall keep proper records and books of account showing money received and money paid out, including a receipt book, cash book, client ledger, debtor ledger and journal or equivalent electronic accounting records satisfactory to the Registrar.

(2) In accordance with the regulations, every collection agency and debt management agency shall acknowledge, by means of receipt, any payments, agreements or transactions made by or on behalf of debtors. 2012, c. 40, s. 22.

Agency acts as trustee

19A (1) A collection agency is the trustee of any money collected on behalf of another person.

(2) A debt management agency is the trustee of any money received from a debtor for distribution to the debtor's creditors.

(3) Every collection agency and debt management agency shall maintain a trust account in a bank in the Province and shall deposit into the trust account all of the money collected on behalf of another person or received from a debtor for distribution to the debtor's creditors, without making any deduction, within three days of collecting or receiving the money.

(4) Notwithstanding subsection (3), the Registrar may

(a) authorize a collection agency or debt management agency to maintain its trust account in a financial institution of a class approved by the Registrar, which is located outside the Province; and

(b) prescribe the time within which the money referred to in subsection (3) must be deposited into the trust account. 2012, c. 40, s. 23.

Use of money in trust

19B (1) No collection agency or debt management agency may deposit any money into the trust account it maintains pursuant to Section 19A except money collected or received from a debtor.

(2) No collection agency or debt management agency may withdraw money from a trust account it maintains pursuant to Section 19A except for the purpose of

(a) paying a creditor money received on behalf of that creditor;

(b) paying the fees, commissions and disbursements to which the collection agency or debt management agency is entitled;

(c) returning money collected from a debtor by a debt management agency if the debt management program is rejected by the creditor or cancelled;

(d) correcting an error caused by money being deposited to the trust account by mistake; or

(e) making a disposition, in accordance with the regulations, of money that is unclaimed or cannot be returned to a debtor.

(3) A collection agency or debt management agency that pays creditors from money withdrawn from its trust account shall do so in the manner prescribed by the regulations and must provide the creditor with a statement containing such information as prescribed by the regulations. 2012, c. 40, s. 23.

Prohibitions - collection agencies and collectors

20 (1) No collection agency or collector shall

(a) collect or attempt to collect for a creditor money in excess of the amount owing by the debtor to the creditor;

(b) collect or attempt to collect money for a creditor without first satisfying itself that the money is owing by the debtor to the creditor;

(ba) collect or attempt to collect a debt without the written authority of the creditor;

(bb) collect or attempt to collect money from a person who is not liable for the debt;

(c) make any charge against a person for whom it acts in addition to those contained in the agreement with that person;

(d) send any communication or make any call, for the purpose of demanding a debt, for which the collection agency or collector elects to make the charges payable by the recipient;

(e) continue to communicate with or continue to collect or attempt to collect money from

(i) a person, if that person has informed the collection agency or collector that he or she is not the person sought by the collection agency or collector, unless the collection agency or collector first takes all reasonable precautions to ensure that that person is the person sought by the collection agency or collector,

(ii) a debtor, if the debtor has notified the collection agency or collector in writing to communicate only with the debtor's legal adviser and an address for the legal adviser has been provided, or

(iii) a debtor, if the debtor has notified the creditor and the collection agency by registered mail that the debt is in dispute and requests that the creditor take the matter to court;

(f) communicate verbally with a debtor unless, at least five days in advance of the first verbal contact with the debtor, the

collection agency sends the debtor written notice and, where the debtor claims that the debtor did not receive the notice, the collection agency shall send the written notice to the debtor at an address provided by the debtor;

(g) use any form or form of letter to collect or attempt to collect money from a debtor unless a copy of the form or form of letter is filed with the Registrar;

(h) use, without lawful authority, any summons, notice, or demand or other document expressed in language of the general style or purport of any form used in any court, or printed or written or in the general appearance or format of any such form;

(i) in any way threaten, abuse or intimidate a debtor, any member of the debtor's family or household, any relative, neighbour, friend or acquaintance of the debtor, the debtor's employer or any person who has guaranteed to pay the debt of the debtor either orally or in writing to induce a person to pay a debt;

(j) make telephone calls or personal calls or written communications of such nature or with such frequency as to constitute harassment of the debtor, any member of the debtor's family or household, any relative, neighbour, friend or acquaintance of the debtor, the debtor's employer or any person who has guaranteed to pay the debt of the debtor;

(k) unless requested by the person being contacted, contact by telephone, personal call or electronic means or otherwise attempt to contact a person in relation to the collection of a debt

(i) on a Sunday or any other day designated by the regulations,

(ii) on any day other than a day referred to in sub-clause (i) except between the hours of eight o'clock in the morning and nine o'clock in the evening,

(iii) on any day that falls during a consecutive seven-day period in which the collection agency or collector acting on behalf of the same creditor has contacted the person three times, or

(iv) at such other times as may be prescribed by the regulations;

(l) give any person, directly or indirectly, by implication or otherwise, any false or misleading information, including, but not limited to, references to the police, a law firm, prison, credit history, court proceedings, lien or garnishment;

(la) indicate to the debtor or any other person contacted for the purpose of collecting a debt that the collection agency or collector is a legal collector, litigation specialist, part of a law firm or the legal department of a business, including a legal department of the collection agency itself or of the creditor of the debt;

(m) give, or threaten to give, by implication, inference or statement, directly or indirectly, to the person who employs a debtor or any member of the debtor's family or household information that

may adversely affect the employment or employment opportunities of the debtor or any member of the debtor's family or household;

(ma) publish or threaten to publish, either in print or through electronic means, a debtor's failure to pay;

(n) make a demand by telephone, by personal call or by writing for payment of an account without indicating the name of the creditor with whom the account was incurred, the balance of the account and the identity and authority of the person making the demand;

(na) where using an automated call system, fail to provide a contact number for the debtor to call when leaving a message;

(o) communicate or attempt to communicate with any member of a debtor's family or household or any relative, neighbour, friend or acquaintance of a debtor, unless

(i) the person being contacted has guaranteed to pay the debt of the debtor, and the contact is in respect of that guarantee,

(ii) the collection agency or collector does not have the debtor's home address or personal telephone number and the contact is for the sole purpose of obtaining the debtor's home address or personal telephone number, or

(iii) the debtor has requested that the collection agency discuss the debt with that person;

(oa) communicate or attempt to communicate with a debtor's employer, unless

(i) the employer has guaranteed to pay the debt of the debtor and the contact is in respect of that guarantee,

(ii) the contact is solely for the purpose of confirming the debtor's employment status, business title or business address and occurs only once, or

(iii) the contact is authorized in writing by the debtor;

(ob) directly or indirectly communicate to a debtor an intention to proceed with any legal action for which

(i) the collection agency or collector does not have the written authority of the creditor, or

(ii) there is no lawful authority;

(p) commence or continue an action for the recovery of a debt in the name of the collection agency or collector as plaintiff unless such debt has been assigned to the collection agency or collector, as the case may be, in good faith by instrument in writing for valuable consideration and notice of such assignment has been given to the debtor; or

(q) commence a legal proceeding where there has been an assignment with respect to the collection of a debt or recommend to a creditor that a proceeding be commenced, unless the collection

agency first gives notice to the debtor that the collection agency or collector intends to commence the proceeding or recommend that a proceeding be commenced.

(2) Notwithstanding any agreement to the contrary between a debtor and a creditor, any charges made or incurred by a collection agency or made or incurred by a creditor in employing a collection agency to collect the debt shall be deemed not to be a part of the amount owing by the debtor and shall not be recoverable by the creditor or by the collection agency acting on behalf of the creditor. R.S., c. 77, s. 20; 2012, c. 40, s. 24.

Prohibitions - debt management agencies and agents

20A (1) No debt management agent shall collect or attempt to collect a debt without providing in all contacts and correspondence with the debtors and creditors

(a) the agent's name as shown on the debt management agent's licence; and

(b) the name of the debt management agency as shown on the debt management agency licence.

(2) No debt management agency or debt management agent shall

(a) collect from a debtor any amount greater than that prescribed by the regulations pursuant to subsection (6) for acting for the debtor in making arrangements or negotiating with the debtor's creditors on behalf of the debtor or receiving money from the debtor for distribution to the debtor's creditors;

(b) make any arrangement with a debtor to accept a sum of money that is less than the amount of the balance due and owing to a creditor as final settlement without the prior express consent of the creditor;

(c) fail to provide any person for whom the debt management agency or debt management agent acts with a written report on the status of that person's account in accordance with the regulations;

(d) give any person, directly or indirectly, by implication or otherwise, any false or misleading information, including, but not limited to, references to the police, a law firm, prison, credit history, court proceedings, lien or garnishment;

(e) charge a fee for a dishonoured cheque unless provision for the fee was included in the agreement with the debtor;

(f) charge or receive any fee in the form of a promissory note or other negotiable instrument other than a cheque or bank draft;

(g) lend money or provide credit to a debtor for whom the debt management agency or agent is acting or offering to act;

(h) offer, pay or give any gift, bonus, premium, reward or other compensation to a debtor for entering into an agreement;

(i) directly or indirectly collect any fee for referring, advising, procuring, arranging for or assisting a debtor in obtaining any extension of credit from a lender, creditor or service provider;

(j) make a claim for breach of contract against a debtor who cancels an agreement;

(k) fail to inform a debtor within thirty days after a creditor has notified the debt management agency that the creditor has decided not to participate in or has withdrawn from a debt management program;

(l) communicate information about a debt or the existence of a debt with any person except the debtor, a guarantor of the debt, the debtor's representative or the creditor of the debt; or

(m) enter into an agreement with a debtor without first providing such information as may be prescribed by the regulations.

(3) No debt management agency may charge any fee, commission or disbursement for its services except in accordance with this Act and the regulations.

(4) No debt management agency may collect or retain from a debtor any fee, commission or disbursement for its services unless before providing the service it has

(a) entered into a written agreement signed by the debt management agency and the debtor to provide the service; and

(b) delivered a copy of the agreement required under clause (a) to the debtor.

(5) The content or form of the agreement referred to in clause (4)(a) may be prescribed by the regulations.

(6) No debt management agency shall charge a debtor any fee, commission or disbursements unless the fee, commission or disbursement has been determined in accordance with the regulations and does not exceed the maximum amount prescribed by the regulations. 2012, c. 40, s. 25.

Investigation

21 (1) The Registrar, or any person authorized by the Registrar in writing, may investigate and inquire into any matter the investigation of which the Registrar deems expedient for the due administration of this Act.

(2) The person making an investigation may at all reasonable times demand the production of and inspect all or any of the books, documents, papers, correspondence and records of the person in respect of whom the investigation is being made, and any person who has the custody, possession or control of any such books, documents, papers, correspondence or records shall produce them and permit the inspection thereof by the person making the investigation.

(3) For the purposes of subsection (1), the Registrar or any person designated in writing by the Registrar may at any reasonable time enter upon the business premises of the collection agency or debt management agency to make an investigation.

(4) For the purpose of subsection (1), a collection agency or debt management agency that maintains records outside the Province may request the permission of the Registrar to produce its records for inspection at a place outside the Province.

(5) Where a collection agency or debt management agency makes a request under subsection (4) and permission is granted by the Registrar, the cost of carrying out the inspection, including all necessary and reasonable travel expenses, must be paid by the collection agency or debt management agency. R.S., c. 77, s. 21; 2012, c. 40, s. 26.

Services of unlicensed agent or collector

22 (1) No person shall knowingly engage or use the services of a collection agency or debt management agency that is not licensed under this Act.

(2) No collection agency shall employ a collector or appoint or authorize a collector to act on its behalf unless the collector is licensed under this Act.

(3) No debt management agency shall employ a debt management agent or appoint or authorize a debt management agency to act on its behalf unless the debt management agent is licensed under this Act. R.S., c. 77, s. 22; 2012, c. 40, s. 27.

False or misleading statements

22A (1) No person licensed under this Act may produce, distribute or publish any false, misleading or deceptive statements in any written, oral or visual advertisement, circular, program or other advertising medium.

(2) Where any person licensed under this Act is making false, misleading or deceptive statements in any written, oral or visual advertisement, circular, program or other advertising medium, the Registrar may order the immediate cessation of such statements. 2012, c. 40, s. 28.

Cancellation of agreement

22B (1) A debtor may cancel an agreement referred to in subsection 20A(4) under the circumstances described in the regulations.

(2) A debt management agency shall not cancel an agreement referred to in subsection 20A(4) except under the circumstances described in the regulations.

(3) Where an agreement is cancelled pursuant to subsection (1) or (2), the debt management agency shall, within fifteen days, return to the debtor any money held in trust for the benefit of the debtor, less any amount paid to a creditor prior to the cancellation of the agreement and any fees permitted by the regulations. 2012, c. 40, s. 28.

Offence

23 A person who

(a) does anything that is prohibited by this Act or the regulations;

- (b) omits to do anything that is required by this Act or the regulations to be done; or
- (c) fails to comply with an order of the Registrar given under this Act,

is guilty of an offence against this Act. R.S., c. 77, s. 23; 2012, c. 40, s. 29.

Penalty

24 (1) A person who is guilty of an offence against this Act or the regulations is liable on summary conviction to a fine of not less than five hundred dollars nor more than twenty-five thousand dollars or to imprisonment for a term not exceeding one year, or to both.

(2) Notwithstanding subsection (1), where the person convicted of an offence under this Act or the regulations is a collection agency or debt management agency, the maximum penalty may be increased to three hundred thousand dollars. R.S., c. 77, s. 24; 2012, c. 40, s. 30.

Evidence of carrying on activities

25 Where in a prosecution for an offence under this Act it is alleged that the accused carried on the activities of a collection agency or debt management agency without being the holder of a licence, evidence of one transaction is *prima facie* evidence that the accused carried on such activity. R.S., c. 77, s. 25; 2012, c. 40, s. 31.

Certificate of Registrar

26 A certificate under the hand of the Registrar stating that

- (a) a collection agency, debt management agency, collector, debt management agent or other person named in the certificate was or was not licensed under this Act;
- (b) a licence was granted to a collection agency, debt management agency, collector or debt management agent; or
- (c) the licence of a collection agency, debt management agency, collector or debt management agent was suspended, cancelled, terminated or reinstated,

is without proof of the office or signature of the Registrar admissible in evidence as *prima facie* proof of the facts stated in the certificate for all purposes in any action, proceeding or prosecution. R.S., c. 77, s. 26; 2012, c. 40, s. 32.

Limitation period

27 A prosecution for an offence under this Act or the regulations may not be commenced more than three years after the later of

- (a) the date on which the offence was committed; and
- (b) the date on which evidence of the offence first came to the attention of the Registrar. 2018, c. 43, s. 1.

Debtor may recover certain money paid

27A A debtor may recover in any court of competent jurisdiction any money paid contrary to this Act or the regulations. 2012, c. 40, s. 34.

Regulations

28 The Governor in Council may make regulations

(a) governing applications for licences or renewal of licences and prescribing terms and conditions of licences;

(b) requiring the payment of fees on application for licences or renewal of licences and prescribing the amount thereof;

(c) prescribing forms for the purposes of this Act, or requiring forms to be in a form specified by the Registrar, and providing for their use;

(ca) prescribing a standard form of agreement or content of an agreement, including cancellation rights, for the purpose of Section 6A;

(d) requiring and governing the maintenance of trust accounts by collection agencies and debt management agencies and prescribing the money that shall be held in trust and the terms and conditions thereof;

(da) governing deposits into and withdrawals from trust accounts;

(db) governing dispositions of money that is unclaimed or cannot be returned to a debtor for the purpose of clause 19B(2)(e);

(dc) governing the manner in which collection agencies or debt management agencies pay creditors from money withdrawn from trust accounts for the purpose of subsection 19B(3);

(dd) governing the information to be provided to a creditor in a statement pursuant to subsection 19B(3);

(e) requiring and governing the books, accounts and records that shall be kept by collection agencies and debt management agencies and requiring the accounting and remission of money to creditors in such manner and times as are prescribed, including the disposition of money that is unclaimed or cannot be returned to a debtor;

(ea) prescribing the form and contents of records of collection agencies and debt management agencies;

(eb) prescribing the form, content and manner of delivery of receipts;

(f) requiring collection agencies and debt management agencies or any class thereof to deliver a bond or other form of security to the Registrar in such form and terms and with such collateral security as are prescribed by the regulations, and providing for the forfeiture of bonds or other forms of security and the disposition of the proceeds;

(fa) exempting any person or class of person from the application of this Act;

(g) requiring collection agencies and debt management agencies to make returns and furnish information to the Registrar, and respecting the time and manner for providing the information;

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

(ha) prescribing the information that must be disclosed to a debtor by a debt management agency for the purpose of clause 20A(1)(m) before entering into an agreement with the debtor;

(hb) prescribing the form and manner in which information must be disclosed to a debtor by a debt management agency before entering into an agreement with the debtor;

(i) prohibiting the use of any particular method or practice by collection agencies or debt management agencies;

(ia) prescribing days and times when a person may not be contacted in relation to the collection of a debt for the purpose of clause 20(1)(k);

(j) prescribing the procedures and matters that a collection agency, debt management agency, collector or debt management agent must follow to satisfy itself that money demanded of a debtor is owing by the debtor to the creditor;

(ja) respecting advertising by collection agencies, debt management agencies, collectors and debt management agents;

(jb) prescribing the form and contents of the written report on the status of a person's account for the purpose of clause 20A(2)(c);

(jc) respecting the circumstances under which a debtor may cancel an agreement for the purpose of subsection 22B(1);

(jd) respecting the circumstances under which a debt management agency may cancel an agreement for the purpose of subsection 22B(2);

(je) respecting the form and manner in which a debtor may notify a debt management agency of the cancellation of an agreement;

(jf) respecting the form and manner in which a debt management agency shall notify a debtor of the cancellation of an agreement;

(jg) respecting the fees, commissions and disbursements that may be charged by a debt management agency;

(jh) respecting fees permitted pursuant to subsection 22B(3);

(ji) respecting the circumstances in which debt management agency fees, commissions and disbursements apply;

(jj) respecting the methods of calculating debt management agency fees, commissions and disbursements and the maximum amounts that may be charged;

(jk) defining any word or expression used but not defined in this Act;

(k) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S., c. 77, s. 28; 2012, c. 40, s. 35.

Regulations Act

29 The exercise by the Governor in Council of the authority contained in Section 28 is regulations within the meaning of the *Regulations Act*. R.S., c. 77, s. 29; 2012, c. 40, s. 36.