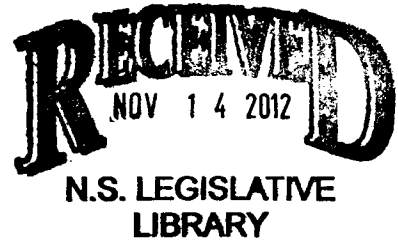


LAW AMENDMENTS COMMITTEE

Red Room, Province House

Tuesday, November 13, 2012

4:00 p.m.



Bill #107 - Collection Agencies Act (amended)

4:00 p.m.

1. Vince Calderhead
2. Claire McNeil, Lawyer
Dalhousie Legal Aid Service

Bill #97 - Fairer Power Rates Act [amendments to the *Public Utilities Act*]
(no representation)

Bill #102 - Education Act (amended)
(no representation)

Bill #105 - Agriculture and Marketing Act (amended)
(no representation)

Bill #109 - Bee Industry Act (amended)
(no representation)

Bill #112 - Municipal Government Act and Halifax Regional Municipality Charter
(no representation)

Bill #114 - Interjurisdictional Support Orders Act (amended)
(no representation)

Bill #115 - Interprovincial Investigative Authority Act [amendments to the *Summary Proceedings Act*]
(no representation)

Nova Scotia Law Amendments Committee

Presentation by Vincent Calderhead, Nova Scotia Legal Aid

Alberta: *Fair Trading Act: "Collection and Debt Repayment Practices Regulation"*

12(1) No collection agency or collector may

(c) if a collection agency,

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

(g) make any personal call or telephone call for the purpose of collecting or attempting to collect a debt on any day except between 7 a.m. and 10 p.m. **in Alberta;** [Note: NS does not specify the time zone]

(j) **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, jail, credit history, court proceedings or a lien or garnishment;**

(p) **communicate information about the debt or the existence of the debt with any person except the debtor, a guarantor of the debt, the debtor's representative or the creditor of the debt unless the debtor has expressly consented to the communication;**

(q) **indicate to the debtor or any other person contacted for the purpose of collecting the debtor's debt that the collection agency or the collector is 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;**

(r) **if a collector, indicate to a debtor that the collector is a legal collector, litigation specialist or the like;**

(x) **pursue a non-judgment debt where the last payment or written acknowledgement by the debtor is more than 6 years previous;**

British Columbia: *Business Practices and Consumer Protection Act*

114 (1) A collector must not communicate or attempt to communicate with a debtor, a member of the debtor's family or household, a relative, neighbour, friend or acquaintance of the debtor, or the debtor's employer in a manner or with a frequency as to constitute harassment.

(2) Without limiting subsection (1), one or more of the following constitutes harassment:

- (a) using threatening, profane, intimidating or coercive language;
- (b) exerting undue, excessive or unreasonable pressure;

116 (1) A collector must not communicate or attempt to communicate with a debtor at the debtor's place of employment unless

>> >>> >>>

(4) A collector must not continue to communicate with a debtor

- (a) except in writing, if the debtor
 - (i) has notified the collector to communicate in writing only, and
 - (ii) has provided a mailing address at which the debtor may be contacted,

118 (1) In this section, "statutory holiday" means a holiday, except Sunday, unless the holiday falls on a Sunday.

(2) Except on the request of the person contacted, a collector must not communicate, either by telephone or in person, with the debtor, a member of the debtor's family or household, or a relative, neighbour, friend or acquaintance of the debtor, or the debtor's employer or guarantor

- (a) on a statutory holiday,
- (c) on any other day, except between the hours of 7 a.m. and 9 p.m. local time for the person contacted.

New Brunswick: *General Regulation-Collections Agencies Act*

(NEW BRUNSWICK REGULATION 84-256 under the Collection Agencies Act (O.C. 84-907)

14(1) Subject to subsection (3), no collection agency, branch office of a collection agency or collector shall

- (b) subject to paragraphs (c) and (d), communicate or attempt to communicate with any person other than the debtor for any purpose in relation to the debt or debtor,

(c) communicate or attempt to communicate with the debtor or any other person at the place of employment of the debtor for any purpose in relation to the debt or debtor, except with the debtor's approval,

(d) except on the request of the person being contacted, make a telephone call to, or a personal call on, a debtor, any member of the debtor's family or household, any relative, neighbour, friend or acquaintance of the debtor, or the debtor's employer or guarantor,

(ii) on a holiday other than a Sunday, or

(iii) on any other day, other than between the hours of 7 a.m. and 9 p.m. local time for the person being contacted,

(l) continue to communicate with a debtor,

(i) other than in writing, if the debtor has provided written notice to the collection agency, branch office of a collection agency or collector to communicate with the debtor in writing only and has provided the collection agency, branch office or collector with an address at which the debtor may be contacted,

(n) request that a debtor waive any rights, benefits or protection provided under this Regulation.

Newfoundland and Labrador: Collections Regulations under the *Collections Act* (O.C. 96-156)

12. (1) In accordance with the following Code of Practice, a collection agency or collector shall not, in an attempt to make collections,

(a) where the debtor is an employee, contact the debtor by telephone, mail or in person at the debtor's place of employment;

(b) contact the employer of the debtor without the debtor's consent;

(e) use coercive language, threaten loss of employment or loss of community ranking;

Quebec: *An Act respecting the collection of certain debts*

3. No person may, for the collection of a debt,

(1) represent that, failing payment, the debtor is liable to arrest or penal proceedings;

Yukon: Consumer Protection Act

72 No person, whether on their own behalf or on behalf of another directly, or through others, shall

(d) verbally or in writing, collect or attempt to collect money or effect or attempt to effect seizure of goods by stating an intention or threat to proceed with any action for which the person does not have lawful authority;

NWT: Debt Collection Practice Regulations, (NWT Reg 049-2003)

12. (1) No collection agency and no collector acting for a collection agency shall continue to communicate with a debtor, other than in writing, after the debtor has, in writing,

(a) requested the collection agency to communicate with the debtor only in writing; and

(b) provided the collection agency with an address at which the debtor may be contacted.

Proposals for Additional Prohibited Practices

- **1) A provision providing for *Successor Obligations* on Collection Agencies:**
 - Many collection agencies pass along/re-sell/transfer collection of the debt to other collection agency companies as soon as they learn that the debtor has legal counsel—this allows the new company the ability to evade the clear provisions in the current s. 20 (1)(e) of the *Collection Agencies Act* which prohibits collectors from contacting a debtor where they have been told in writing to ‘contact the debtor’s legal counsel.’

- 2) A provision prohibiting the collection of stale (i.e., statute barred) debts**

Bill #107
Debt Collection and Management Reform (2012) Act

CHANGES RECOMMENDED TO THE
LAW AMENDMENTS COMMITTEE
BY THE MINISTER OF
SERVICE NOVA SCOTIA AND MUNICIPAL RELATIONS

PAGE 15, Clause 25, proposed clause 20A(2)(g), lines 1 and 2 - delete “from whom the debt management agency or agent is attempting to collect a debt” and substitute “for whom the debt management agency or agent is acting or offering to act”.

PAGE 23, paragraph 40(i), proposed clause 4(h), lines 1 and 2 - delete “make telephone or personal calls, contact by means of electronic communication” and substitute “contact by telephone, personal call or electronic means”.

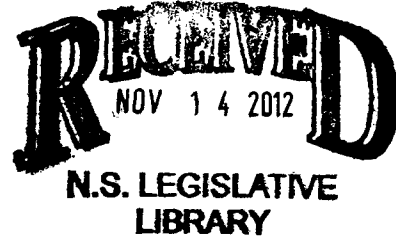
PAGE 23, paragraph 4(j) - delete and substitute the following:

- (j) striking out clause (i) and substituting the following clause:
 - (i) give, by implication, inference or statement, directly or indirectly, any false or misleading information to any person;

LAW AMENDMENTS COMMITTEE

Red Room, Province House

November 14, 2012



Bill #102 - Education Act (amended)

4:30 p.m.

1. Leana Todd

Bill #97 - Fairer Power Rates Act [amendments to Public Utilities Act]

No representation

Bill #107 - Debt collection and Management Reform (2012) Act [amendments to the Collection Agencies Act and the Consumer Creditors' Conduct Act]

No representation

Bill #125 - War Amps Key Tag Act [amendments to the Motor Vehicle Act]

No representation

Bill #107
Debt Collection and Management Reform (2012) Act

CHANGES RECOMMENDED TO THE
LAW AMENDMENTS COMMITTEE
BY THE MINISTER OF
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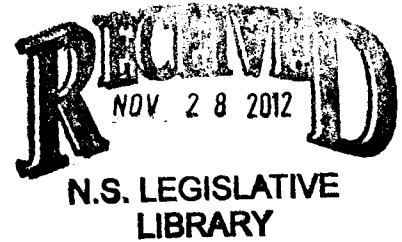
PAGE 23, paragraph 4(j) - delete and substitute the following:

- (j) striking out clause (i) and substituting the following clause:
 - (i) give, by implication, inference or statement, directly or indirectly, any false or misleading information to any person;

LAW AMENDMENTS COMMITTEE

Red Room, Province House

Tuesday, November 20, 2012



Bill #111 - Fur Industry Act (amended)

- 2:00 p.m.
1. Simeon Roberts, Managing Director
Nova Scotia Mink Breeders Association
 2. Dan Mullen
 3. Henry Vissers, Executive Director
Beth Densmore, President
Nova Scotia Federation of Agriculture
 4. Matt Moses

Bill #119 - Cosmetology Act

- 3:00 p.m.
1. Dana Sharkey, Executive Director
Paula Minnikin, Consultant
Cosmetology Association of Nova Scotia

Bill #94 - House of Assembly Act (amended)

- 3:00 p.m.
1. Steve Sampson, Warden
Richmond County
 2. Glen Myra, Past President
Tom Giovannetti, Deputy Chair Legislative Liaison
Nova Scotia Land Surveyors

Bill #131 - Education Act (amended)

- 3:30 p.m.
1. Dr. Paul Bennett, Director, *Schoolhouse Consulting*
Adjunct Professor of Education, *St. Mary's University*
 2. Anne Totten
Students First Nova Scotia

3. David Cameron

Bill #102 - Education Act (amended)

(deferred from previous meeting)

Bill #107 - Debt Collection and Management Reform (2012) Act

(deferred from previous meeting)

Bill #127 - Art Gallery of Nova Scotia Act (amended)

No representation