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Bill 8

An Act to amend the Consumer Reporting Act and the Technical Standards and Safety Act, 2000

The Hon. T. MacCharles
Minister of Government and Consumer Services

Government Bill

1st Reading March 20, 2018

2nd Reading April 23, 2018

3rd Reading

Royal Assent

*(Reprinted as amended by the Standing Committee on General Government
and as reported to the Legislative Assembly May 1, 2018)*

(The provisions in this Bill will be renumbered after 3rd Reading)



This reprint of the Bill is marked to indicate the changes that were made in Committee.
The changes are indicated by underlines for new text and a ~~striketrough~~ for deleted text.

EXPLANATORY NOTE

The Bill amends the *Consumer Reporting Act* and the *Technical Standards and Safety Act, 2000*.

Consumer Reporting Act

Section 12 is remade to give consumers a right to obtain disclosure of consumer scores and to provide for the rules respecting such disclosures. The remade section 12 also modifies the existing rules respecting disclosures of consumer reports. A new section 12.0.1 sets out the requirements respecting which method of generating a consumer score a consumer reporting agency is required to use.

The Act is amended to provide for security freezes on consumers' files. New section 12.4 provides the requirements respecting security freezes and new section 12.5 provides the information consumer reporting agencies are required to publish respecting security freezes and security alerts.

Amendments are made to expand the information the Registrar may require a consumer reporting agency to obtain and provide to the Registrar. The amendments also provide the Registrar with the authority to order an agency to amend or delete certain credit and personal information or prohibit or limit the use of credit and personal information. A new section 16.1 provides for inquiries by the Registrar.

Technical Standards and Safety Act, 2000

An assessor appointed by the Corporation is allowed to impose an administrative penalty on a person if the assessor is satisfied that the person has contravened or is contravening a prescribed provision of the Act or the regulations, a restriction, limitation or condition of a prescribed authorization or a prescribed Minister's order or a prescribed director's order. The prescribing regulation is made by the Lieutenant Governor in Council. The person against whom an order imposing an administrative penalty is made can appeal the order to the person prescribed by a regulation made by the Minister or to the Licence Appeal Tribunal if the Minister has not prescribed a person for that purpose.

The Lieutenant Governor in Council may make regulations governing standards of availability for elevating devices or classes of them, including standards for their repair and time requirements for their repair, governing the reporting of outages as related to elevating devices or classes of them and requiring a director to establish one or more publicly accessible databases of information with respect to elevating devices or classes of them.

An Act to amend the Consumer Reporting Act and the Technical Standards and Safety Act, 2000

Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

CONSUMER REPORTING ACT

1 The French version of the *Consumer Reporting Act* is amended by striking out “Commission” wherever it appears in the following provisions and substituting in each case “Tribunal”:

1. Subsection 4 (3).
2. Subsections 6 (2), (3) and (6).
3. Clause 6 (8) (b).
4. Subsection 14 (4).
5. Clause 25 (e).

2 Subsection 1 (1) of the Act is amended by adding the following definitions:

“consumer score” means a consumer score as defined in the regulations, or if consumer score is not defined in the regulations, a score, grade or value assigned to a consumer that is generated from information about the consumer maintained by a consumer reporting agency; (“pointage du consommateur”)

“prescribed” means prescribed by the regulations made under this Act; (“prescrit”)

3 The French version of subsections 6 (4) and (5) of the Act is repealed and the following substituted:

Pouvoirs du Tribunal

(4) Si l’auteur de la demande ou l’inscrit demande une audience devant le Tribunal conformément au paragraphe (2), le Tribunal fixe la date et l’heure de l’audience, et la tient. À la demande du registrateur à l’audience, le Tribunal peut enjoindre à celui-ci, par ordonnance, de mettre à exécution son intention ou de s’en abstenir, ou de prendre les mesures qu’il estime opportunes aux termes de la présente loi et des règlements. À cette fin, il peut substituer son opinion à celle du registrateur.

Conditions de l’ordonnance

(5) Le Tribunal peut assortir son ordonnance ou l’inscription des conditions qu’il considère opportunes pour l’application de la présente loi.

4 Clause 9 (3) (m) of the Act is repealed and the following substituted:

- (m) any other information that may be prescribed.

5 Section 12 of the Act is repealed and the following substituted:

Right of consumer to request disclosure

12 (1) A consumer may, in writing, request a consumer reporting agency to provide,

- (a) the consumer’s consumer report; or
- (b) the consumer’s current consumer score and consumer report.

Electronic requests

(1.1) A consumer may make a request under subsection (1) electronically.

Content of disclosure under cl. (1) (a)

(2) If a consumer makes a request under clause (1) (a), the consumer reporting agency shall, in accordance with this section, section 12.0.1 and any prescribed requirements, disclose to the consumer the following information:

1. The nature and substance of all information in the consumer reporting agency’s files pertaining to the consumer at the time of the request.

~~—2. The sources of credit and personal information.~~

- ~~3. The name and contact information, including the address, telephone number and email address, of every person on whose behalf the file has been accessed within the three year period preceding the request.~~
- ~~4. If the agency furnished a consumer report pertaining to the consumer within the one year period preceding the request,

 - ~~i. the names and contact information, including the address, telephone number and email address, of the recipients of that report, and~~
 - ~~ii. a copy of the consumer report if it was furnished in writing or the particulars of the content of the report if it was furnished orally.~~~~
- ~~5. If the agency furnished a consumer score, or any other information evaluating the credit or personal information of the consumer within the one year period preceding the request,

 - ~~i. the names and contact information, including the address, telephone number and email address, of the recipients of that score or information, and~~
 - ~~ii. the score and the particulars of any other information evaluating the credit or personal information of the consumer.~~~~

2. The sources of credit information.

- 3. The name and contact information, including the address and the telephone number or email address, of every person on whose behalf the file has been accessed within the three-year period preceding the request.
- 4. If the agency furnished a consumer report pertaining to the consumer within the one-year period preceding the request,

 - i. the names and contact information, including the address and the telephone number or email address, of the recipients of that report, and
 - ii. a copy of the consumer report if it was furnished in writing or the particulars of the content of the report if it was furnished orally.
- 5. If the agency generated and furnished a consumer score, furnished a consumer score generated by another entity or furnished any other information evaluating the credit or personal information of the consumer within the one-year period preceding the request,

 - i. the names and contact information, including the address and the telephone number or email address, of the recipients of that score or information, and
 - ii. the score and the particulars of any other information evaluating the credit or personal information of the consumer.

6. Any other information relating to the consumer score that may be prescribed.

Content of disclosure under cl. (1) (b)

(3) If a consumer makes a request under clause (1) (b), the consumer reporting agency shall, in accordance with this section, section 12.0.1 and any prescribed requirements, generate the consumer's current consumer score and disclose the following information to the consumer:

- 1. The consumer score.
- 2. The date on which the consumer score was generated.
- 3. The range of possible consumer scores under the method used.
- ~~4. The factors used by the agency in generating consumer scores under the method used.~~
- 4. The primary factors used by the agency in generating consumer scores under the method used.
- 5. The information listed in subsection (2).
- 6. Any other information that may be prescribed.

Disclosure of right to dispute

(4) When a consumer reporting agency discloses information under this section, the agency shall inform the consumer of his or her right to dispute any information contained in the file under section 13 and the manner in which a dispute may be made.

Request for disclosure

- (5) When making a request for disclosure under this section, a consumer shall,
 - (a) provide the consumer reporting agency with a copy of any prescribed identification and a copy of any other identification the agency may reasonably require to verify the consumer's identity;

- (b) indicate to the consumer reporting agency by which of the methods referred to in subsection (6) the consumer chooses to receive the disclosure; and
- (c) provide the consumer reporting agency with any other prescribed information.

Method of disclosure

(6) A consumer reporting agency shall disclose information in whichever of the following methods the consumer chooses in the consumer's request:

1. In person, if the consumer attends personally at the agency's premises during normal business hours for that purpose.
2. By telephone.
3. By mail.
4. Electronically.
5. By a prescribed method of disclosure.

Timing of disclosure

(7) The consumer reporting agency shall make disclosures required under this section in accordance with the following rules respecting timing:

1. If a consumer chooses to receive the disclosure in person, by telephone or by mail, the consumer reporting agency shall have the information available or mail the information, as applicable,
 - i. on or before the prescribed deadline, or
 - ii. if no deadline is prescribed, within a reasonable time in the circumstances after the consumer provides everything required under subsection (5).
2. If a consumer chooses to receive the disclosure electronically, the consumer reporting agency shall send the electronic copy,
 - i. on or before the prescribed deadline, or
 - ii. if no deadline is prescribed, on or before the day that is two business days after the consumer provides everything required under subsection (5).
3. If the consumer chooses to receive the disclosure by a prescribed method the consumer reporting agency shall provide the disclosure on or before the prescribed deadline.

Plain language

(8) A disclosure made under this section must be in understandable language and if it is made in writing it must be easily readable.

Consumer's adviser

(9) A consumer who chooses to receive a disclosure in person shall be permitted to be accompanied by one other person of his or her choosing to whom the consumer reporting agency may be required by the consumer to disclose the consumer's information.

Trained personnel

(10) Every consumer reporting agency shall provide trained personnel to explain to the consumer any information disclosed to him or her under this section.

Explanation of consumer score

(11) If a consumer who received a disclosure under subsection (3) makes a request in accordance with any prescribed requirements to the consumer reporting agency that made the disclosure, the agency shall explain to the consumer how the consumer's credit or personal information has affected the consumer's consumer score.

Fees

(12) A consumer reporting agency shall not charge a fee for making a disclosure under this section unless the agency is permitted to do so by the regulations.

Same, exception for electronic disclosure

(13) Despite subsection (12), if the consumer requests the electronic disclosure of a consumer report or a consumer score and consumer report and the consumer reporting agency has already made an electronic disclosure to the consumer two or more times during the calendar year in which the request is made, the agency may charge a fee for the disclosure, subject to any prescribed limitations.

Same, exception for disclosure under cl. (1) (b)

(14) Despite subsection (12), if the consumer requests the disclosure, by any method, of a consumer score and consumer report under clause (1) (b) and the consumer reporting agency has already made a disclosure by any method under subsection (3) to the consumer two or more times during the calendar year in which the request is made, the agency may charge a fee for the disclosure, subject to any prescribed limitations.

No conditions

(15) A consumer reporting agency shall not require a consumer to give any undertaking or waive or release any right as a condition of receiving a disclosure under this section.

Exception for certain medical information

(16) A consumer reporting agency shall withhold from the disclosures required under this section any medical information obtained with the written consent of the consumer which the consumer's own physician has specifically requested in writing be withheld from the consumer in his or her own best interest.

Consumer scores

12.0.1 (1) Subject to subsection (2), when generating a consumer score, a prescribed consumer reporting agency shall use the method that is most commonly used by the agency to generate scores.

Prescribed method of generating consumer score

(2) If the regulations prescribe a method of generating a consumer score to be used for a prescribed purpose or in a prescribed circumstance, the consumer reporting agency shall use that method when generating a consumer score for the purpose or in the circumstances, as the case may be.

Previous requests not a factor

(3) The consumer reporting agency shall ensure that the fact that a consumer has made a request for disclosure under section 12, or exercised any other right under this Act, is not used in the generation of a consumer score with respect to that consumer.

Publication of information about consumer scores

(4) The consumer reporting agency shall, in accordance with any prescribed requirements, publish any prescribed information about consumer scores on a website maintained by the agency.

6 The Act is amended by adding the following sections:**Security freeze**

~~12.4 (1) A consumer may, in accordance with this section and any prescribed requirements, require a prescribed consumer reporting agency to place a security freeze on his or her file.~~

Identification

~~(2) A consumer who requires a security freeze under subsection (1) shall provide the consumer reporting agency with a copy of any prescribed identification and a copy of any other identification the agency may reasonably require to verify the consumer's identity.~~

Placing of security freeze

~~(3) If the consumer has complied with the prescribed requirements and subsection (2), the consumer reporting agency shall place a security freeze on the consumer's file on or before the prescribed deadline.~~

Effect of security freeze

~~(4) During the period that a security freeze on a consumer's file is in effect, the consumer reporting agency shall not disclose any credit or personal information about the consumer maintained by the agency, including any consumer scores, to any person.~~

Termination

~~(5) If the consumer, in accordance with any prescribed requirements, directs the consumer reporting agency to terminate the freeze, the agency shall terminate the security freeze on or before the prescribed deadline.~~

Expiry

~~(6) A security freeze expires at the end of the prescribed period, if any.~~

Disclosure despite a security freeze

~~(7) Despite subsection (4), the consumer reporting agency may, in accordance with any prescribed requirements, disclose prescribed information about a consumer maintained by the agency to prescribed persons and entities.~~

Same

~~(8) Despite subsection (4), if a consumer, in accordance with any prescribed requirements, directs a consumer reporting agency to disclose information to an identified person or entity, the agency shall disclose the information as directed and shall do so on or before any prescribed deadline.~~

Fees

~~(9) A consumer reporting agency shall not charge the consumer a fee for placing a security freeze, terminating a security freeze or disclosing information at the direction of a consumer during a security freeze unless the agency is permitted to do so by regulations.~~

Information

~~(10) When a consumer requests that a security freeze be placed on his or her file, the consumer reporting agency shall provide the consumer with the information referred to in section 12.5 and the name and phone number or email address of a person the consumer can contact for an explanation of the information.~~

Security freeze

12.4 (1) A prescribed consumer reporting agency shall place a security freeze on the file of a consumer on or before the prescribed deadline if,

- (a) the consumer has, in accordance with this section and any prescribed requirements, required the agency to place a security freeze on the file; and
- (b) the consumer has complied with subsection (9) and any prescribed requirements.

Effect of security freeze

(2) During the period that a security freeze on a consumer's file is in effect, the consumer reporting agency shall not disclose any credit or personal information about the consumer maintained by the agency, including any consumer scores, to any person.

Suspending a security freeze

(3) The consumer reporting agency shall suspend a security freeze on or before the prescribed deadline if,

- (a) the consumer whose file is subject to the security freeze requires the suspension in accordance with this section and any prescribed requirements; and
- (b) the consumer has complied with subsection (9) and any prescribed requirements, including any requirements respecting the duration of a suspension.

Same, duration

(4) If the consumer reporting agency is required to suspend a security freeze under subsection (3), the suspension shall be for the duration specified by the consumer.

Same, effect

(5) A security freeze that is suspended is not in effect.

Terminating a security freeze

(6) The consumer reporting agency shall terminate a security freeze on or before the prescribed deadline if,

- (a) the consumer whose file is subject to the security freeze requires the termination in accordance with this section and any prescribed requirements; and
- (b) the consumer has complied with subsection (9) and any prescribed requirements.

Expiry

(7) Unless terminated earlier, a security freeze expires at the end of the prescribed period, if any.

Disclosure despite a security freeze

(8) Despite subsection (2), the consumer reporting agency may, in accordance with any prescribed requirements, disclose to prescribed persons and entities such information as may be maintained by the agency about a consumer, if the information is prescribed.

Identification

(9) A consumer who requires a consumer reporting agency to place, suspend or terminate a security freeze shall provide the agency with a copy of any prescribed identification and a copy of any other identification the agency may reasonably require to verify the consumer's identity.

Fees

(10) A consumer reporting agency shall not charge the consumer a fee for placing, suspending or terminating a security freeze unless the agency is permitted to do so by regulations.

Information

(11) When a consumer requires that a security freeze be placed on his or her file, the consumer reporting agency shall provide the consumer with the information referred to in section 12.5 and the name and telephone number or email address of a person the consumer can contact for an explanation of the information.

Publication of information re alerts and freezes

12.5 Every prescribed consumer reporting agency shall, in accordance with any prescribed requirements, publish the following information on a website maintained by the agency:

1. A description of alerts and their implications.
2. A description of security freezes and their implications.
3. Information respecting how a consumer may request an alert or security freeze.
4. Information respecting how a consumer may remove an alert and terminate a security freeze.
5. Information respecting how a consumer may make directions to disclose to particular persons or entities during a security freeze.
6. Any other prescribed information respecting consumer alerts and security freezes.

7 Subsection 13 (1) of the Act is repealed and the following substituted:

Correction of errors

(1) Subject to any prescribed limitations, a consumer may, in accordance with any prescribed requirements, dispute the accuracy or completeness of any item of information contained in his or her file and the consumer reporting agency shall, within a reasonable time and in accordance with any prescribed requirements, use its best endeavours to confirm or complete the information and shall correct, supplement or delete the information in accordance with good practice.

8 (1) Subsection 14 (1) of the Act is repealed and the following substituted:

Order by Registrar re proof and documentation

~~(1) The Registrar may order a consumer reporting agency to,~~

(1) In connection with a complaint made to the Registrar in respect of a consumer reporting agency or in connection with an inspection or investigation of a consumer reporting agency undertaken under this Act, the Registrar may order a consumer reporting agency to,

- (a) obtain proof or documentation of the credit and personal information contained in a consumer file from the source of that information; and
- (b) provide a copy of the proof and documentation of the credit and personal information to the Registrar in a reasonable time period and in the form and manner specified by the Registrar.

Order by Registrar re information

(1.1) The Registrar may order a consumer reporting agency to amend or delete credit and personal information or restrict or prohibit the use of credit and personal information if,

- (a) the agency failed to comply with an order under subsection (1) with respect to the information; or

~~—(b) the agency complied with an order under subsection (1) with respect to the information but, in the Registrar's opinion, the information is inaccurate, incomplete or does not comply with the provisions of this Act or the regulations.~~

(b) in the Registrar's opinion the information maintained by the agency is inaccurate, incomplete or does not comply with the provisions of this Act or the regulations.

(2) The French version of subsection 14 (3) of the Act is repealed and the following substituted:

Audience devant le Tribunal

(3) Si le consommateur ou l'agence de renseignements sur le consommateur s'estime lésé par une décision du registrateur aux termes du présent article, le consommateur ou l'agence de renseignements sur le consommateur peut demander une audience au Tribunal. L'article 6 s'applique alors avec les adaptations nécessaires à la décision de la même manière qu'à une intention exprimée par le registrateur aux termes de l'article 6 et comme si le consommateur et l'agence de renseignements sur le consommateur étaient l'auteur de la demande ou l'inscrit. Toutefois, l'ordre du registrateur peut être exécutoire immédiatement sauf suspension par le Tribunal jusqu'à ce que l'ordre soit définitif.

9 The Act is amended by adding the following section:

Inquiry by Registrar

16.1 (1) For the purposes of ensuring compliance with this Act and the regulations, the Registrar, or a person designated by the Registrar in writing, may inquire into, and direct a consumer reporting agency to provide, within such time as the Registrar or designated person may specify, information about the agency's practices in connection with any of the requirements in this Act and the regulations.

Duty to provide information

(2) If the Registrar or a designated person requires the production of information from a consumer reporting agency under subsection (1), the consumer reporting agency shall provide that information to the Registrar or designated person within the specified time.

Orders

(3) If, after giving the consumer reporting agency an opportunity to be heard, the Registrar determines that a practice of the agency contravenes this Act or the regulations, the Registrar may order the agency to amend or discontinue the practice.

Limits on orders

(4) The Registrar may order no more than what is reasonably necessary to achieve compliance with this Act or the regulations.

Appeal

(5) If a consumer reporting agency considers itself aggrieved by an order of the Registrar under this section, the agency may apply to the Tribunal for a hearing in accordance with the prescribed procedures and section 6 applies with necessary modifications except as otherwise specified by the regulations.

10 Section 24.1 of the Act is repealed.

11 (1) Section 25 of the Act is amended by adding the following clauses:

(0.a) prescribing anything that is referred to in this Act as prescribed;

.

(a.1) defining the term "consumer score" in subsection 1 (1);

(2) Clause 25 (h) of the Act is repealed and the following substituted:

(h) exempting a class of consumer reporting agencies from any provision of section 12 or limiting the extent to which any provision of section 12 applies to a class of consumer reporting agencies;

(h.1) clarifying the requirements with respect to disclosures for the purposes of subsection 12 (8);

(h.2) permitting, limiting and governing fees for the purposes of subsections 12 (12), (13) and (14) that a consumer reporting agency may charge with respect to a disclosure under section 12;

(h.3) prescribing methods for generating a consumer score and the purposes and circumstances in which a prescribed method is to be used by a consumer reporting agency for the purposes of section 12.0.1;

(h.4) governing the information, including specified wording, that a consumer reporting agency shall publish with respect to consumer scores for the purposes of subsection 12.0.1 (4);

(3) Section 25 of the Act is amended by adding the following clauses:

~~—(m) permitting and governing fees for the purposes of subsection 12.4 (9) that a consumer reporting agency may charge for placing a security freeze, terminating a security freeze or disclosing information during a security freeze;~~

(m) permitting and governing fees for the purposes of subsection 12.4 (10) that a consumer reporting agency may charge for placing, suspending or terminating a security freeze;

(m.1) governing the information, including specified wording, that a consumer reporting agency shall publish with respect to alerts and security freezes for the purposes of section 12.5;

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(r) governing the payment of fees for an application for registration or a renewal of registration under this Act and prescribing the amount of those fees;

TECHNICAL STANDARDS AND SAFETY ACT, 2000

12 The heading before section 1 of the *Technical Standards and Safety Act, 2000* is repealed and the following substituted:

**PART I
PURPOSE, APPLICATION, DEFINITIONS**

13 Section 3 of the Act is amended by adding the following definitions:

“administrative penalty” means an administrative penalty imposed under section 32.1; (“pénalité administrative”)

“assessor” means a person appointed as an assessor under this Act; (“évaluateur”)

14 The Act is amended by adding the following heading before the heading “Corporation” before section 3.1:

**PART II
ADMINISTRATION**

15 Subsection 3.16 (2) of the Act is amended by adding the following paragraph:

9. An assessor.

16 Sections 4 and 5 of the Act are repealed and the following substituted:

DIRECTORS, INSPECTORS, INVESTIGATORS AND ASSESSORS

Appointments of directors, inspectors, investigators and assessors

4 (1) The Corporation may appoint directors, inspectors, investigators and assessors for the purposes of this Act, the regulations or a Minister’s order, including for the purpose of determining whether authorization holders continue to meet the requirements for authorization and the requirements of this Act, the regulations and Minister’s orders.

Restrictions

(2) An appointment is subject to the restrictions, limitations and conditions set out in it.

Identification

(3) A director, inspector, investigator or assessor shall produce, on request, evidence of his or her appointment.

Powers of director

5 (1) A director has general supervisory and administrative responsibility in respect of all or any part of this Act, the regulations or a Minister’s order with respect to which he or she is appointed.

Powers regarding inspectors, investigators and assessors

(2) Unless otherwise stated in his or her appointment, a director,

(a) may supervise and direct inspectors, investigators, assessors and other persons responsible for administering or enforcing this Act, the regulations or a Minister’s order; and

(b) is an inspector, an investigator and an assessor and may exercise any of their powers and perform any of their duties.

Delegation

(3) A director may delegate in writing any of his or her powers or duties to any person subject to the restrictions, limitations and conditions set out in the delegation.

17 The Act is amended by adding the following heading before the heading “Authorizations” before section 6:

**PART III
AUTHORIZATIONS AND SAFETY AND COMPLIANCE ORDERS**

18 Subsection 13 (1) of the Act is amended by adding “an administrative penalty” after “a cost” in the portion before clause (a).

19 The Act is amended by repealing the heading before section 17 and substituting the following:

**PART IV
INSPECTIONS AND ENFORCEMENT**

INSPECTIONS AND INVESTIGATIONS

20 The Act is amended by adding the following sections:

ADMINISTRATIVE PENALTIES

Order

32.1 (1) An assessor may, by order, impose an administrative penalty against a person in accordance with this section and the regulations made by the Minister if the assessor is satisfied that the person has contravened or is contravening,

- (a) a prescribed provision of this Act or the regulations as it applies to any thing described in section 2 that is prescribed or any prescribed class of any such thing;
- (b) a restriction, limitation or condition of a prescribed authorization; or
- (c) a prescribed Minister's order or a prescribed director's order.

To whom payable

- (2) An administrative penalty is payable to the Corporation.

Purpose

- (3) An administrative penalty may be imposed under this section for one or more of the following purposes:
- 1. To ensure compliance with this Act and the regulations.
 - 2. To prevent a person from deriving, directly or indirectly, any economic benefit as a result of a contravention described in subsection (1).

Amount

- (4) The amount of an administrative penalty shall reflect the purpose of the penalty and shall be determined in accordance with the regulations made by the Minister, but the amount of the penalty shall not exceed \$10,000.

Form of order

- (5) An order made under subsection (1) imposing an administrative penalty against a person shall be in the form that the Corporation determines.

Service of order

- (6) The order shall be served on the person against whom the administrative penalty is imposed in the manner that the Corporation determines.

Absolute liability

- (7) An order made under subsection (1) imposing an administrative penalty against a person applies even if,
- (a) the person took all reasonable steps to prevent the contravention on which the order is based; or
 - (b) at the time of the contravention, the person had an honest and reasonable belief in a mistaken set of facts that, if true, would have rendered the contravention innocent.

No effect on offences

- (8) For greater certainty, nothing in subsection (7) affects the prosecution of an offence.

Other measures

- (9) Subject to section 32.3, an administrative penalty may be imposed alone or in conjunction with the exercise of any measure against a person provided by this Act or the regulations, including the application of restrictions, limitations or conditions to an authorization by a director, the suspension or revocation of an authorization or the refusal to renew an authorization.

Limitation

- (10) An assessor shall not make an order under subsection (1) more than two years after the day the assessor became aware of the person's contravention on which the order is based.

No hearing required

- (11) Subject to the regulations made by the Minister, an assessor is not required to hold a hearing or to afford a person an opportunity for a hearing before making an order under subsection (1) against the person.

Non-application of other Act

- (12) The *Statutory Powers Procedure Act* does not apply to an order of an assessor made under subsection (1).

Appeal

- 32.2** (1) In this section,

“appeal body” means the person prescribed by the Minister or, if no person is prescribed by the Minister, the Tribunal;
 (“organisme d’appel”)

“Tribunal” means the Licence Appeal Tribunal. (“Tribunal”)

Same

(2) The person against whom an order made under subsection 32.1 (1) imposes an administrative penalty may appeal the order to the appeal body by delivering a written notice of appeal to the appeal body within 15 days after receiving the order.

If no appeal

(3) If the appellant does not appeal the order in accordance with subsection (2), the order is confirmed.

Hearing

(4) If the appellant appeals the order in accordance with subsection (2), the appeal body shall hold a hearing and may, by order, confirm, revoke or vary the assessor’s order, and the appeal body may attach conditions to its order.

Parties

(5) The assessor, the appellant and the other persons that the appeal body specifies are parties to the appeal.

Non-application of other Act

(6) If the appeal body is not the Tribunal, the *Statutory Powers Procedure Act* does not apply to an order of an assessor appealed under subsection (2).

Immediate effect

(7) Even if the appellant appeals an order of the appeal body, the order takes effect immediately, unless the order provides otherwise, but the Divisional Court may grant a stay until the disposition of the appeal.

Effect of paying penalty

32.3 If a person against whom an order imposing an administrative penalty is made pays the penalty in accordance with the terms of the order or, if the order is varied on appeal, in accordance with the terms of the varied order, the person cannot be charged with an offence under this Act in respect of the same contravention on which the order is based and no other prescribed measure shall be taken against the person in respect of the same contravention on which the order is based.

Enforcement

32.4 (1) If a person against whom an order imposing an administrative penalty is made fails to pay the penalty in accordance with the terms of the order or, if the order is varied on appeal, in accordance with the terms of the varied order, the order may be filed with the Superior Court of Justice and enforced as if it were an order of the court.

Date of order

(2) For the purposes of section 129 of the *Courts of Justice Act*, the date on which the order is filed with the court shall be deemed to be the date of the order.

21 The Act is amended by adding the following heading before the heading “Orders and Regulations” before section 33:

**PART V
GENERAL**

22 (1) Clause 34 (1) (a) of the Act is amended by striking out “clause 35.1 (2) (a)” and substituting “clause 35.1 (b)”.

(2) Subsection 34 (1) of the Act is amended by adding the following clauses:

- (n.1) establishing and governing standards of availability for elevating devices or classes of elevating devices, including standards for their repair and time requirements for their repair;
- (n.2) specifying the persons who are responsible for ensuring compliance with the standards described in clause (n.1);
- (n.3) defining outages as related to elevating devices or classes of elevating devices and governing the reporting of outages as related to elevating devices or classes of elevating devices, including specifying,
 - (i) the persons required to do the reporting,
 - (ii) the information that must be included in the reporting, and
 - (iii) form and time requirements for the reporting;
- (n.4) requiring a director to establish one or more databases of information with respect to elevating devices or classes of elevating devices that include the specified information, which may include information about the standards of availability described in clause (n.1) that apply to the devices and the information reported under clause (n.3);
- (n.5) requiring a director to make any or all of the databases described in clause (n.4) or the parts of them that are specified in the regulation accessible to the public in the specified way and governing that accessibility;

- (r) delegating to the Minister the power to make regulations with respect to any matter that may be the subject of a regulation made under clause (n.2).

(3) Section 34 of the Act is amended by adding the following subsections:

Residual authority to act

(2) Despite any delegation to the Minister under clause (1) (r) and without having to revoke the delegation, the Lieutenant Governor in Council continues to have authority to make regulations in respect of the matter that is the subject of the delegation.

Making regulation not revocation

(3) If the Lieutenant Governor in Council makes a regulation to which subsection (2) applies, the regulation does not have the effect of revoking a delegation under this section unless the regulation so specifies.

Minister's regulations preserved

(4) The Lieutenant Governor in Council may, by regulation, revoke a delegation to the Minister under clause (1) (r), but the revocation of a delegation does not result in the revocation of any regulation the Minister made under the delegated power before the revocation of the delegation.

23 (1) Section 35.1 of the Act is repealed and the following substituted:

Minister's regulations

35.1 The Minister may make regulations,

- (a) specifying any provision of this Act, any regulation or any provision of a regulation for the purposes of clause 3.12 (1) (a) or (b);
- (b) requiring every person who is subject to this Act or the regulations to obtain and maintain liability insurance, in at least the prescribed amount and in accordance with the prescribed conditions, including deductibles;
- (c) prescribing any matter or thing described in clause (b) as prescribed.

(2) Section 35.1 of the Act, as re-enacted by subsection (1), is amended by adding the following clauses:

- (d) governing administrative penalties that an assessor may order and all matters necessary and incidental to the administration of a system of administrative penalties, including,
 - (i) specifying the amount of an administrative penalty or providing for the determination of the amount of an administrative penalty by specifying the method of calculating the amount and the criteria to be considered in determining the amount,
 - (ii) providing for different amounts to be paid, or different calculations or criteria to be used, depending on the circumstances that gave rise to the administrative penalty or the time at which the penalty is paid,
 - (iii) specifying information that must be included in an order for payment of an administrative penalty,
 - (iv) governing the procedure for making an order under section 32.1 for an administrative penalty and the rights of the parties affected by the procedure, including the time at which the order is deemed to be served on the person against whom the order is made, and
 - (v) governing the appeal of an order for payment of an administrative penalty;
- (e) specifying the purposes for which the Corporation may use the funds that it collects as administrative penalties;
- (f) respecting any matter with respect to which the power to make regulations is delegated by the Lieutenant Governor in Council to the Minister under clause 34 (1) (r).

24 Subsection 37 (1) of the Act is repealed and the following substituted:

Offences

- (1) A person is guilty of an offence if the person,
- (a) contravenes or fails to comply with any provision of this Act, the regulations or a Minister's order;
 - (b) knowingly makes a false statement or furnishes false information under this Act, the regulations or a Minister's order;
 - (c) contravenes or fails to comply with a term or condition of an authorization; or
 - (d) contravenes or fails to comply with an order or requirement of a director, an inspector or an assessor or obstructs an inspector.

Penalty

(1.1) A person convicted of an offence under subsection (1) is liable to,

- (a) a fine of not more than \$50,000 or to imprisonment for a term of not more than one year, or to both, if the person is an individual; or
- (b) a fine of not more than \$1,000,000, if the person is a body corporate.

COMMENCEMENT AND SHORT TITLE

Commencement

25 (1) Subject to subsection (2), this Act comes into force on the day it receives Royal Assent.

(2) Sections 2 and 4 to 7, subsection 8 (1), sections 9 to 11, 13, 15, 16, 18 and 20, subsections 22 (2) and (3) and 23 (2) and section 24 come into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

26 The short title of this Act is the *Access to Consumer Credit Reports and Elevator Availability Act, 2018*.