

Legislative
Assembly
of Ontario



Assemblée
législative
de l'Ontario

1ST SESSION, 43RD LEGISLATURE, ONTARIO
2 CHARLES III, 2023

Bill 142

(Chapter 23 of the Statutes of Ontario, 2023)

**An Act to enact the Consumer Protection Act, 2023,
to amend the Consumer Reporting Act and to amend or repeal various other Acts**

The Hon. T. McCarthy

Minister of Public and Business Service Delivery

1st Reading	October 23, 2023
2nd Reading	November 2, 2023
3rd Reading	December 4, 2023
Royal Assent	December 6, 2023



EXPLANATORY NOTE

This Explanatory Note was written as a reader's aid to Bill 142 and does not form part of the law. Bill 142 has been enacted as Chapter 23 of the Statutes of Ontario, 2023.

SCHEDULE 1 CONSUMER PROTECTION ACT, 2023

The Schedule repeals the *Consumer Protection Act, 2002* and enacts the *Consumer Protection Act, 2023* in its place.

The new *Consumer Protection Act, 2023* is, like the current *Consumer Protection Act, 2002*, divided into Parts. The following are the highlights of each Part.

Part I sets out definitions that are used throughout the Act and provides that, subject to any prescribed exceptions, the Act applies to consumer transactions if the consumer or the person engaging in the transaction with the consumer is located in Ontario when the transaction takes place. Other general rules are set out in Part I, including that information required under the Act to be disclosed by a supplier must be clear, comprehensible and prominent and that ambiguities in any consumer contract provided by the supplier or in information that must be disclosed under the Act are to be interpreted to the benefit of the consumer.

Part II deals with fair marketplace rules. The Part prohibits unfair practices; namely, making false, misleading or deceptive representations, making unconscionable representations and engaging in unconscionable acts. Examples of unfair practices are provided, such as failing to state a material fact or charging a price that grossly exceeds the price of similar goods or services available from similar suppliers. The Part also prohibits the inclusion of certain terms and acknowledgements in consumer contracts and sets out rules regarding unsolicited goods or services, estimates and deemed warranties.

Part III applies to various consumer contracts: contracts in respect of which delivery, performance or payment in full is not made when the parties enter into the contract, contracts entered into when the consumer and supplier are not present together and direct contracts. Certain exceptions are provided. The Part governs various rules in relation to these contracts: disclosure, content, delivery, amendments and continuations. Suppliers are prohibited from soliciting consumers to enter into prescribed consumer contracts or entering into such contracts while at the consumer's dwelling, unless prescribed conditions are satisfied. Specific requirements are imposed in respect of certain types of consumer contracts, including purchase-cost-plus leases, contracts for personal development services and contracts in respect of loan brokering, credit repair and contract breaking.

Part IV deals with credit agreements, leases and prepaid purchase card contracts. With respect to credit agreements, the Part sets out various rules including governing disclosure, representations, termination of optional services, limitations on credit agreement default charges and entitlements for a borrower to prepay a portion or all of their outstanding balance. With respect to leases, the Part applies to leases for a fixed term of four months or more, leases for an indefinite term or that are renewed automatically until one of the parties takes positive steps to terminate them and residual obligation leases, but does not apply to purchase-cost-plus leases. The Part sets out rules concerning representations, disclosure statements and the maximum liability of a lessee at the end of a residual obligation lease. With respect to prepaid purchase card contracts, the Part provides that contracts and suppliers of contracts must comply with such requirements as may be prescribed. The Part also prohibits suppliers from entering into prepaid purchase card contracts that have an expiry in respect of the performance of the contract. A prepaid purchase card contract with an expiry is effective as if it has no expiry.

Part V sets out various rules respecting consumer remedies, including when contracts are not binding or deemed to be void. It also sets out rules regarding the assignment of consumer contracts, refunds of illegal charges and payments, the cancellation or reversal of credit card charges and rescission and cancellation rights. The Part provides that consumers may terminate timeshare contracts on or after the 25-year anniversary of entering into the contract and the regulations may provide for rules in the event of the death of a consumer who is a party to a timeshare contract. These rules apply to existing and future timeshare contracts. When certain remedies are exercised, consumers and suppliers have obligations such as returning goods on request and giving refunds, respectively. Certain rules are provided respecting non-compliance with credit agreements and leases. The Part provides for procedures in respect of remedies.

Part VI deals with the powers and duties of the Minister and Director, as well as inspectors and investigators. The Part also provides for compliance and enforcement, including providing for the issuance of orders and administrative penalties and setting out offences and penalties under the Act. This Part authorizes the Lieutenant Governor in Council to make regulations with respect to various matters, including governing the form and content of consumer contracts, notices, invoices and other documents, the cashing of government cheques, rewards points, disclosure statements in respect of credit agreements and leases and repairs to motor vehicles. The regulations may provide that provisions of the Act or regulations apply to contracts entered into before the enactment of the Act. The Minister may also make regulations respecting specified matters.

Part VII provides for related and consequential amendments and sets out the commencement and short title.

SCHEDULE 2
CONSUMER REPORTING ACT

The Schedule amends the *Consumer Reporting Act*. The definition of “consumer score” in subsection 1 (1) is amended to remove the ability to define the term by regulation. New subsection 2 (3) permits the Registrar to establish written policies in respect of the Act.

Section 12 is amended to specify the information consumer reporting agencies must disclose in consumer reports, to provide an exemption to the requirement to provide information under subsection 12 (4), to remove the requirement for agencies to provide disclosures to consumers in person, and to modify the circumstances by which agencies may charge fees for disclosures to consumers.

Section 12.0.1 is amended to specify that the method used to generate a consumer score in response to a request from a consumer must be similar to the method that would most commonly be used if a creditor made the request in respect of the consumer.

Subsection 12.4 (2) is amended to prohibit a consumer reporting agency from disclosing consumer information for certain purposes if there is a security freeze on the consumer’s file. An amendment is made to subsection 12.4 (6) with respect to the timing for when a security freeze must be terminated. Subsections 12.4 (7) and (8) are repealed.

Paragraph 5 of section 12.5, which currently requires prescribed consumer reporting agencies to publish information respecting how consumers may make directions to disclose to particular persons or entities during a security freeze, is repealed.

New section 12.6 permits a consumer to provide to a consumer reporting agency an explanatory statement about information in the consumer’s file. The agency must include the statement in every consumer report furnished by the agency if the report contains information pertaining to the statement, and the consumer may amend or remove the statement from the consumer’s file. If the consumer does not request that the statement be removed from their file, the agency must remove the statement on a specified date.

New section 16.2 provides the Registrar or a designated person with inspection powers to enter and inspect a registrant’s business premises. The Registrar or a designated person may also contact any person who manages a registrant’s operations to exercise inspection powers without entering any premises. The provision places limits and conditions on inspection powers as well as duties and obligations on registrants and other persons during inspections.

New section 16.3 provides that if the Registrar believes with reason that an activity for which registration is required is occurring, the Registrar or a designated person may conduct an inspection and that parts of section 16.2 apply to those inspections.

Section 23 is amended by increasing the maximum fine for offences.

New section 23.1 provides a consumer with a right to commence an action for damages sustained by the consumer as a result of a person’s contravention of the Act or the regulations.

Amendments are made to section 25 which authorizes the making of regulations. Various other amendments are also made to the Act.

**An Act to enact the Consumer Protection Act, 2023,
to amend the Consumer Reporting Act and to amend or repeal various other Acts**

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

Contents of this Act

1 This Act consists of this section, sections 2 and 3 and the Schedules to this Act.

Commencement

2 (1) Except as otherwise provided in this section, this Act comes into force on the day it receives Royal Assent.

(2) The Schedules to this Act come into force as provided in each Schedule.

(3) If a Schedule to this Act provides that any of its provisions are to come into force on a day to be named by proclamation of the Lieutenant Governor, a proclamation may apply to one or more of those provisions, and proclamations may be issued at different times with respect to any of those provisions.

Short title

3 The short title of this Act is the *Better for Consumers, Better for Businesses Act, 2023*.

**SCHEDULE 1
CONSUMER PROTECTION ACT, 2023**

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Preamble

Consumers should have confidence that they are well-protected and well-informed when they buy goods or services in the marketplace.

The economy thrives when businesses understand their responsibilities and consumers can trust businesses when spending their hard-earned money.

The Government of Ontario is dedicated to informing consumers, empowering them with a greater understanding of their rights and protecting consumers from unfair business practices, while holding non-compliant businesses accountable.

The Government of Ontario is committed to supporting a level playing field for businesses in order to promote fairness in the marketplace.

PART I

INTERPRETATION, APPLICATION, ETC.

Interpretation

1 (1) In this Act,

“administrative penalty” means an administrative penalty imposed under section 95; (“pénalité administrative”)

“advance”, except in section 23, means value, as prescribed, received by the borrower under a credit agreement; (“avance”)

“borrower” means a consumer who, as a party to a credit agreement, receives or may receive credit or a loan of money from the other party or who indicates an interest in becoming such a party, but does not include a guarantor; (“emprunteur”)

“consumer” means an individual acting for personal, family or household purposes and does not include a person who is acting for business purposes; (“consommateur”)

“consumer contract” means a contract between a supplier and a consumer in which,

- (a) the supplier agrees to supply goods or services for payment, or

(b) the supplier agrees to provide rewards points to the consumer, on the supplier's own behalf or on behalf of another supplier, when the consumer purchases goods or services or otherwise acts in a manner specified in the contract; ("contrat de consommation")

"consumer transaction" means any act or instance of conducting business or other dealings with a consumer, including a consumer contract; ("opération de consommation")

"contract breaker" means a supplier of contract breaking; ("transgresseur de contrat")

"contract breaking" means services or goods that are intended to assist a consumer in having their obligations under a consumer contract terminated or reduced; ("rupture de contrat")

"cost of borrowing" means all amounts that a borrower is required to pay under or as a condition of entering into a credit agreement and all prescribed amounts other than,

(a) a payment or repayment of a portion of the principal under the agreement as prescribed, and

(b) prescribed charges; ("coût d'emprunt")

"credit agreement" means a consumer contract under which a lender extends credit or lends money to a borrower and includes a supplier credit agreement and a prospective consumer contract under which an extension of credit, loan of money or supplier credit agreement may occur in the future, but does not include an agreement under which a lender extends credit or lends money on the security of a mortgage of real property or consumer contracts of a prescribed type; ("convention de crédit")

"credit card" means a card or device under which a borrower can obtain advances under a credit agreement for open credit; ("carte de crédit")

"credit repair" means services or goods that are intended to improve a consumer report, credit information, file or personal information, including a credit record, credit history or credit rating; ("redressement de crédit")

"credit repairer" means a supplier of credit repair; ("redresseur de crédit")

"default charge" means a charge imposed on a borrower who does not make a payment as it comes due under a credit agreement or who does not comply with any other obligation under a credit agreement, but does not include interest on an overdue payment; ("frais de défaut")

"direct contract" means a consumer contract that is negotiated or concluded in person at the consumer's home or in any other place other than,

(a) at the supplier's place of business, or

(b) at a market place, an auction, trade fair, agricultural fair or exhibition; ("contrat direct")

"Director" means the person designated as the Director under the *Ministry of Consumer and Business Services Act*; ("directeur")

"estimated retail value", in relation to goods leased under a purchase-cost-plus lease, means,

(a) if the lessor sells the leased goods to consumers in the ordinary course of business, an amount that fairly represents the sum of the price at which the lessor sells the goods and any associated delivery or installation charges, or

(b) if the lessor does not sell the leased goods to consumers in the ordinary course of business, a reasonable estimate of the sum of the retail price of the goods and any associated delivery or installation costs; ("valeur au détail estimative")

"fixed credit" means credit or a loan of money under a credit agreement that is not for open credit; ("crédit fixe")

"goods" means any type of property; ("marchandises")

"inspector" means an inspector appointed or designated under section 77; ("inspecteur")

"investigator" means an investigator appointed under subsection 80 (1); ("enquêteur")

"lease" means a consumer contract for the lease of goods, other than a consumer contract for the lease of goods in connection with a residential tenancy agreement, and "lessor" and "lessee" have a corresponding meaning; ("bail")

"lease term" means the period during which the lessee is entitled to retain possession of the leased goods; ("durée du bail")

"lender" means a supplier who is or may become a party to a credit agreement and who extends or may extend credit or lends or may lend money to the borrower and includes a credit card issuer; ("prêteur")

"loan broker" means a supplier of loan brokering; ("courtier en prêts")

"loan brokering" means services or goods that are intended to assist a consumer in obtaining credit or a loan of money, including obtaining credit or a loan of money from the loan broker who is providing the services or goods to the consumer; ("courtage en prêts")

“material change” means a change or a series of changes to goods or services that is of such nature or quality that it could reasonably be expected to influence a reasonable person’s decision as to whether to enter into the consumer contract for the supply of the goods or services; (“changement important”)

“Minister” means the member of the Executive Council to whom the administration of this Act or part of this Act is assigned or transferred under the *Executive Council Act*; (“ministre”)

“Ministry” means the ministry of the Minister; (“ministère”)

“officer” includes the chair and any vice-chair of the board of directors, the president and any vice-president, the secretary and assistant secretary, the treasurer and assistant treasurer and the general manager and assistant general manager of the corporation or a partner or general manager and assistant general manager of a partnership, any other individual designated as an officer by by-law or resolution or any other individual who performs functions normally performed by an individual occupying such office; (“dirigeant”)

“open credit” means credit or a loan of money under a credit agreement that,

- (a) anticipates multiple advances to be made as requested by the borrower in accordance with the agreement, and
- (b) does not define the total amount to be advanced to the borrower under the agreement, although it may impose a credit limit; (“crédit en blanc”)

“optional service” means,

- (a) in respect of a credit agreement, a service that is offered to a borrower in connection with the agreement and that the borrower does not have to accept in order to enter into the agreement, or
- (b) in respect of a purchase-cost-plus lease, a service that is offered to a lessee in connection with the purchase-cost-plus lease and that the lessee does not have to accept in order to enter into the purchase-cost-plus lease; (“service facultatif”)

“payment” means consideration of any kind; (“paiement”)

“permitted contract-end charges” means,

- (a) cost-recovery charges in respect of reasonable costs a supplier incurs in order to terminate the supply of goods or services under the consumer contract, and
- (b) other prescribed charges; (“frais de rupture de contrat autorisés”)

“personal development services” means,

- (a) services provided for,
 - (i) health, fitness, diet or matters of a similar nature,
 - (ii) modelling and talent, including photo shoots relating to modelling and talent, or matters of a similar nature,
 - (iii) martial arts, sports, dance or similar activities, or
 - (iv) other matters as may be prescribed, and
- (b) facilities provided for or instruction on the services referred to in clause (a) and any goods that are incidentally provided in addition to the provision of the services; (“services de perfectionnement personnel”)

“personal development services contract” means a consumer contract for personal development services; (“contrat de services de perfectionnement personnel”)

“prepaid purchase card” means a gift card, written certificate, voucher or other payment device with a monetary value, whether in electronic form or otherwise, that the holder is entitled to apply towards payment for goods or services covered by the card; (“carte prépayée”)

“prepaid purchase card contract” means a consumer contract under which the supplier issues a prepaid purchase card to the consumer and under which,

- (a) if the prepaid purchase card is a reloadable prepaid purchase card, the consumer makes payment in an amount equal to the initial value of the card when entering into the contract, or
- (b) if the prepaid purchase card is not a reloadable prepaid purchase card, the consumer makes payment in full when entering into the contract; (“contrat de carte prépayée”)

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

“purchase-cost-plus lease” means a lease under which the total amount payable exceeds 90 per cent of the estimated retail value of the leased goods; (“bail de location-achat à prix coûtant majoré”)

“regulations” means regulations made under this Act; (“règlements”)

“related agreement” means any agreement related to the consumer’s obligations under a consumer contract, including,

- (a) any guarantee given in respect of money payable under the contract,
- (b) any agreement under which security is given by the consumer or a guarantor in respect of money payable under the contract, and
- (c) any credit agreement or other payment instrument that the consumer enters into in respect of money payable under the contract; (“convention connexe”)

“reloadable prepaid purchase card” means a prepaid purchase card to which the holder can add value after the initial purchase of the card; (“carte prépayée rechargeable”)

“representation”, except in clause 102 (8) (a), means a representation, claim, statement, offer, request or proposal that is or purports to be,

- (a) made respecting or with a view to the supplying of goods or services to consumers, or
- (b) made for the purpose of receiving payment for goods or services supplied or purporting to be supplied to consumers; (“assertion”)

“residual obligation lease” means a lease under which the lessor may require the lessee at the end of the lease term to pay the lessor an amount based in whole or in part on the difference, if any, between,

- (a) the estimated wholesale value of the leased goods at the end of the lease term, and
- (b) the realizable value of the leased goods at the end of the lease term; (“bail à obligation résiduelle”).

“rewards points” means, subject to the regulations, points provided to a consumer under a consumer contract that can be exchanged for money, goods or services; (“points de récompense”)

“services” means anything other than goods, including any service, right, entitlement or benefit; (“services”)

“supplier” means a person who is in the business of selling, leasing or trading in goods or services or is otherwise in the business of supplying goods or services, including the supply of rewards points, and includes an agent of the supplier and a person who holds themselves out to be a supplier or an agent of the supplier; (“fournisseur”)

“supplier credit agreement” means a consumer contract, other than a consumer contract involving leases to which sections 38 to 41 apply, under which a supplier or an associate of the supplier extends fixed credit to a consumer to assist the consumer in obtaining goods or services, other than credit or a loan of money, from the supplier; (“convention de crédit fournisseur”)

“supplier creditor” means the supplier or an associate of the supplier in a supplier credit agreement; (“créancier fournisseur”)

“timeshare contract” means a consumer contract by which a consumer,

- (a) acquires the right to use property as part of a plan that provides for the use of the property to circulate periodically among persons participating in the plan, whether or not the property is located in Ontario, or
- (b) is provided with access to discounts or benefits for the future provision of transportation, accommodation or other goods or services related to travel; (“contrat de propriété en temps partagé”)

“total amount payable”, in relation to a purchase-cost-plus lease, means the amount determined under the prescribed rules; (“somme totale payable”)

“trade-in allowance” means the greater of,

- (a) the price or value of the consumer’s goods or services as set out in a trade-in arrangement, and
- (b) the market value of the consumer’s goods or services when taken in trade under a trade-in arrangement; (“valeur de reprise”)

“trade-in arrangement” means an arrangement under which a consumer agrees to sell the consumer’s own goods or services to the supplier and the supplier accepts the goods or services as all or part of the consideration for supplying goods or services; (“entente de reprise”)

“Tribunal” means the Licence Appeal Tribunal established under the *Licence Appeal Tribunal Act, 1999* or such other tribunal as may be prescribed; (“Tribunal”)

“unsolicited goods or services” means,

- (a) goods that are supplied to a consumer who did not request them but does not include,
 - (i) goods that the recipient knows or ought to know are intended for another person,
 - (ii) a change to periodically supplied goods, if the change in goods is not a material change, or

- (iii) goods supplied under a written consumer contract that provides for the periodic supply of goods to the recipient without further solicitation, or
- (b) services that are supplied to a consumer who did not request them but does not include,
 - (i) services that were intended for another person from the time the recipient knew or ought to have known that they were so intended,
 - (ii) a change to ongoing or periodic services that are being supplied, if the change in the services is not a material change, or
 - (iii) services supplied under a written consumer contract that provides for the ongoing or periodic supply of services to the recipient without further solicitation. (“marchandises ou services non sollicités”)

Definition of “credit repair”

(2) For the purposes of the definition of “credit repair” in subsection (1), “consumer report”, “credit information”, “file” and “personal information” each have the same meaning as in section 1 of the *Consumer Reporting Act*.

Application

2 Subject to such exceptions as may be prescribed, this Act applies in respect of all consumer transactions if the consumer or the person engaging in the transaction with the consumer is located in Ontario when the transaction takes place.

Anti-avoidance

3 In determining whether this Act applies to an entity or transaction, a court or other tribunal shall consider the real substance of the entity or transaction and in so doing may disregard the outward form.

Disclosure of information

4 (1) If a supplier is required to disclose information under this Act, the disclosure must be clear, comprehensible and prominent.

Delivery of information

(2) If a supplier is required to give or deliver information to a consumer under this Act, the information must, in addition to satisfying the requirements in subsection (1), be given or delivered in a manner that will likely come to the consumer’s attention and in a form that can be retained by the consumer.

Ambiguities to benefit consumer

5 Any ambiguity that allows for more than one reasonable interpretation of a consumer contract provided by the supplier to the consumer or of any information that must be disclosed under this Act shall be interpreted to the benefit of the consumer.

Rights reserved

6 Nothing in this Act or in the regulations shall be interpreted to limit any right or remedy that a consumer may have in law.

No waiver of substantive or procedural rights

7 The substantive and procedural rights given under this Act apply despite any agreement or waiver to the contrary.

PART II FAIR MARKETPLACE RULES

UNFAIR PRACTICES

False, misleading or deceptive representation

8 (1) It is an unfair practice for a person to make a false, misleading or deceptive representation.

Examples of false, misleading or deceptive representations

(2) Without limiting the generality of what constitutes a false, misleading or deceptive representation, the following are included as false, misleading or deceptive representations:

1. A representation that the goods or services have sponsorship, approval, performance characteristics, accessories, uses, ingredients, benefits or qualities they do not have.
2. A representation that the person who is to supply the goods or services has sponsorship, approval, status, affiliation or connection the person does not have.
3. A representation that the person who is to supply the goods or services, the operations of that person, or the goods or services are approved, licensed, endorsed, associated with or registered by the Government of Canada, the Government of Ontario, the government of any other province or territory of Canada or a municipality of Ontario if they are not.
4. A representation that the goods or services are of a particular standard, quality, grade, style or model, if they are not.

5. A representation that the goods are new or unused, if they are not or if they are reconditioned or reclaimed.
6. A representation that the goods have been used to an extent that is materially different from the fact.
7. A representation that the goods or services are available for a reason that does not exist.
8. A representation that the goods or services have been supplied in accordance with a previous representation, if they have not.
9. A representation that the goods or services or any part of them are available or can be delivered or performed when the person making the representation knows or ought to know they are not available or cannot be delivered or performed.
10. A representation that the goods or services or any part of them will be available or can be delivered or performed by a specified time when the person making the representation knows or ought to know they will not be available or cannot be delivered or performed by the specified time.
11. A representation that a service, part, replacement or repair is needed or advisable, if it is not.
12. A representation as to the condition of a consumer's goods, if the representation is inaccurate.
13. A representation that a specific price advantage exists, if it does not.
14. A representation that misrepresents the authority of a salesperson, representative, employee or agent to negotiate the final terms of the consumer contract.
15. A representation that the transaction involves or does not involve rights, remedies or obligations if the representation is false, misleading or deceptive.
16. A representation made by a person involving a prepaid purchase card, voucher or similar item that states that another person will provide goods or services or will provide goods or services at a discounted or reduced price if the person making the representation knows or ought to know that the other person will not.
17. A representation using exaggeration, innuendo or ambiguity as to a material fact or failing to state a material fact if such use or failure deceives or tends to deceive.
18. A representation that includes a statement of opinion, if the statement of opinion is misleading and relying on it would be to a consumer's disadvantage.
19. A representation, including a representation that a consumer has won or is eligible for a prize, that misrepresents the purpose or intent of any solicitation of or any communication with a consumer.
20. A representation that misrepresents the purpose of any charge or proposed charge.
21. A representation that misrepresents or exaggerates the benefits that are likely to flow to a consumer if the consumer helps a person obtain new or potential customers.

Unconscionable representation or act

9 (1) It is an unfair practice to make an unconscionable representation or to engage in an unconscionable act.

Examples of unconscionable acts

(2) Without limiting the generality of what constitutes an unconscionable act, the following are included as unconscionable acts:

1. Taking advantage of a consumer as a result of the consumer's inability to protect their interests because of disability, ignorance, illiteracy, inability to understand the language of a consumer contract or similar factors.
2. Charging a price for goods or services that grossly exceeds the price at which similar goods or services are available from similar suppliers.
3. Entering into a consumer contract with a consumer, if the person doing so knows or ought to know that the consumer is unable to receive a substantial benefit from the subject matter of the contract.
4. Entering into a consumer contract with a consumer, if the person doing so knows or ought to know that there is no reasonable probability that the consumer will be able to pay the total amount owing under the contract for the goods or services.
5. Including terms in a consumer contract that are so harsh, oppressive or adverse to the consumer that the terms of the contract are inequitable.
6. Including terms in a consumer contract that make the contract excessively one-sided in favour of someone other than the consumer.
7. Subjecting a consumer to undue pressure to enter into, amend, continue, cancel or terminate a consumer contract.
8. Using control of a consumer's goods to pressure the consumer into renegotiating the terms of a consumer contract.

9. Charging a consumer for assistance obtaining any benefit, right or protection to which the consumer is entitled under this Act, unless, before the consumer agrees to pay the charge, the person discloses,
- i. the entitlement's existence and direct availability to the consumer, and
 - ii. the cost, if any, the consumer would be required to pay for the entitlement if the consumer obtained the entitlement directly.

Unconscionable representations

(3) Without limiting the generality of what constitutes an unconscionable representation, an unconscionable representation includes a representation that relates to an unconscionable act referred to in subsection (2).

Unfair practices prohibited

10 (1) No person shall engage in an unfair practice.

One act deemed practice

(2) A person who makes one representation or engages in one act referred to in section 8 or 9 is deemed to be engaging in an unfair practice.

Timing of unfair practice

(3) An unfair practice may occur before, during or after a consumer contract is entered into and is an unfair practice even if no consumer contract is entered into.

Advertising excepted

(4) It is not an unfair practice for a person, on behalf of another person, to print, publish, distribute, broadcast or telecast a representation that the person accepted in good faith for printing, publishing, distributing, broadcasting or telecasting in the ordinary course of business.

OTHER RULES

Unsolicited goods or services: relief from legal obligations

11 (1) Except as otherwise provided for in this section, a recipient of unsolicited goods or services has no legal obligation in respect of their use or disposal.

No payment for unsolicited goods or services

(2) No supplier shall demand or receive payment or make any representation that suggests that a consumer is required to make payment in respect of any unsolicited goods or services despite their use, receipt, misuse, loss, damage or theft.

Request not inferred

(3) A request for goods or services by a consumer shall not be inferred solely on the basis of payment, inaction or the passing of time.

Material change deemed unsolicited

(4) If a consumer is receiving goods or services on an ongoing or periodic basis and there is a material change in such goods or services, the goods or services are deemed to be unsolicited from the time of the material change forward unless the supplier is able to establish that the consumer contract under which the goods or services are provided has been amended to account for the material changes.

Estimates

12 (1) If a consumer contract includes an estimate, the supplier shall not charge the consumer an amount that exceeds the estimate by more than 10 per cent.

Performance of consumer contract

(2) If a supplier charges an amount that exceeds the estimate by more than 10 per cent, the consumer may require that the supplier provide the goods or services at the estimated price.

Subsequent amendment

(3) Nothing in this section prevents a consumer and a supplier from agreeing to amend the estimate or price in a consumer contract, if the consumer requires additional or different goods or services.

Deemed warranty re quality of services

13 (1) The supplier is deemed to warrant that the services supplied under a consumer contract are of a reasonably acceptable quality.

Quality of goods

(2) The implied conditions and warranties applying to the sale of goods by virtue of the *Sale of Goods Act* are deemed to apply with necessary modifications to goods that are leased or traded or otherwise supplied under a consumer contract.

Prohibited terms and acknowledgements in contract

14 (1) No person shall include a term or acknowledgment in a consumer contract or a related agreement if it is a term or acknowledgment that,

- (a) requires or has the effect of requiring that disputes arising out of the contract or related agreement be submitted to arbitration or adjudicated by a court other than the Superior Court of Justice, if it prevents a consumer from exercising a right to commence an action in the Superior Court of Justice given under this Act;
- (b) prevents or has the effect of preventing the consumer from commencing or becoming a member of a class proceeding;
- (c) purports to negate or vary any implied condition or warranty under the *Sale of Goods Act* or any deemed condition or warranty under this Act;
- (d) places or has the effect of placing a monetary limit on the amount of any claim made by the consumer for breach of a condition or warranty under the *Sale of Goods Act* or any deemed condition or warranty under this Act;
- (e) allows or has the effect of allowing a supplier to acquire title to, possession of or any rights in any goods of the consumer, other than the goods passing to the consumer under the contract or related agreement;
- (f) prevents or has the effect of preventing a consumer from publishing or communicating a review of the supplier or of the goods or services supplied; or
- (g) prevents or has the effect of preventing a consumer from filing a complaint with the Ministry or otherwise communicating with the Ministry.

Terms and acknowledgements void

(2) If a term or acknowledgment set out in subsection (1) is included in a consumer contract or a related agreement, the term or acknowledgment is deemed to be void.

No repossession after two-thirds paid except by leave of court

15 (1) Subject to subsection (2), if a consumer under a consumer contract has paid two-thirds or more of their payment obligation as fixed by the contract, any provision in the contract or any related agreement under which the supplier may retake possession of or resell the goods or services upon default in payment by the consumer is not enforceable except by leave obtained from the Superior Court of Justice.

Exception

(2) Subsection (1) does not apply to a credit agreement, other than a supplier credit agreement, or to a lease.

Powers of court

(3) Upon an application for leave under subsection (1), the court may, in its discretion, grant leave to the supplier or refuse leave or grant leave upon such terms and conditions as the court considers advisable.

PART III RULES RESPECTING VARIOUS CONSUMER CONTRACTS

GENERAL

Application

16 (1) Subject to subsections (3) to (5), this Part applies in respect of the following consumer contracts:

1. A consumer contract in respect of which delivery, performance or payment in full is not made when the parties enter into the contract.
2. A consumer contract that is entered into when the consumer and supplier are not present together, including a contract entered into online when the consumer and supplier are not present together.
3. A direct contract.

Examples of subs. (1) contracts

(2) The following are examples of consumer contracts described in subsection (1):

1. A lease, other than a lease described in subsection 38 (1).
2. A purchase-cost-plus lease.
3. A personal development services contract.

4. A consumer contract for loan brokering, credit repair or contract breaking.
5. A timeshare contract.

Exceptions

(3) This Part does not apply in respect of the following consumer contracts:

1. A credit agreement.
2. A lease described in subsection 38 (1), unless the lease is a purchase-cost-plus lease or the lease is a direct contract.
3. A prepaid purchase card contract.
4. Any part of a consumer contract that relates to the provision of rewards points.
5. A consumer contract for work to be done on or repairs to be made to a motor vehicle as defined in subsection 1 (1) of the *Highway Traffic Act*.
6. Such other consumer contracts as may be prescribed.

Same

(4) Despite paragraph 1 of subsection (3), if a credit agreement is a supplier credit agreement, this Part applies to the part of the credit agreement under which the supplier supplies goods or services, other than credit or loan of money, to the consumer, if that part of the credit agreement would be a consumer contract described in subsection (1).

Limitation

(5) This Part applies to a consumer contract referred to in subsection (1) only if the consumer's total potential payment obligation under the contract exceeds such amount as may be prescribed, in respect of that contract, for the purposes of this subsection.

Same

(6) For the purposes of subsection (5), a consumer's total potential payment obligation under a consumer contract for loan brokering, credit repair, contract breaking or the provision of such other goods or services as may be prescribed is the consumer's total potential payment obligation for those services or goods provided by the supplier.

Required disclosure before entering into consumer contract

17 (1) Before a consumer enters into a consumer contract, the supplier shall disclose such information as may be prescribed in respect of the contract and shall do so in accordance with such requirements as may be prescribed.

Express opportunity to accept or decline contract

(2) The supplier shall provide the consumer with an express opportunity to correct errors and to accept or decline the proposed consumer contract immediately before the consumer enters into it.

Requirements re entering consumer contracts

18 (1) If a consumer and supplier enter into a consumer contract, the supplier shall ensure that the contract is in writing and that it complies with such other requirements as may be prescribed in respect of the contract.

Delivery

(2) The supplier shall deliver a copy of the consumer contract to the consumer in accordance with the following rules:

1. The copy of the contract must be delivered in a manner that allows the supplier to prove that the consumer has received it.
2. Unless the regulations provide otherwise, the copy of the contract must be delivered immediately after entering into the contract, if the supplier and consumer are present together when they enter into the contract or if the contract is,
 - i. a direct contract,
 - ii. a purchase-cost-plus lease,
 - iii. a timeshare contract,
 - iv. a personal development services contract, or
 - v. a contract for loan brokering, credit repair, or contract breaking.
3. If paragraph 2 does not apply in respect of the contract, the copy of the contract must be delivered as soon as feasible after entering into the contract, but not later than 15 days afterwards.

Amendments and continuations

Interpretation

19 (1) For the purposes of this section,

- (a) a reference to a “continuation” of a consumer contract is a reference to a renewal or extension of a fixed-term consumer contract, and references to “continue” have the corresponding meaning; and
- (b) a reference to an “amendment” to a consumer contract is a reference to any change to a consumer contract, other than a change that results in the continuation of the contract, and references to “amend” have the corresponding meaning.

Restriction re amendments and continuations

(2) No supplier shall amend or continue or purport to amend or continue a consumer contract except as otherwise provided for in the regulations.

Same

(3) An amendment to or continuation of a consumer contract is void if it is not made in accordance with the regulations.

RESTRICTION ON ENTERING CERTAIN CONTRACTS

Solicitation at consumer’s dwelling, etc.

20 (1) No supplier shall, while at a consumer’s dwelling or at any other prescribed place, solicit the consumer to enter into a prescribed consumer contract or enter into such a contract unless the prescribed conditions are satisfied.

Same

(2) The following activities do not constitute solicitation for the purpose of subsection (1):

1. Leaving marketing materials at a consumer’s dwelling or any other place prescribed for the purpose of that subsection without attempting to contact the consumer with respect to any consumer contract to which that subsection applies.
2. Such other activities as may be prescribed.

Exception

(3) Despite paragraph 1 of subsection (2), leaving marketing materials at a consumer’s dwelling without attempting to contact the consumer with respect to any prescribed consumer contract constitutes solicitation if the materials contain a false, misleading, deceptive or unconscionable representation for the purposes of sections 8 and 9.

PURCHASE-COST-PLUS LEASES

Option to purchase on termination

21 (1) Subject to subsection (3), a purchase-cost-plus lease must include the following:

1. Provisions that entitle the lessee to purchase the leased goods and terminate the lease at any point during the lease term upon payment of an amount not exceeding the amount determined under the allowable buyout cost schedule mentioned in paragraph 2.
2. An allowable buyout cost schedule setting out,
 - i. the cost for which the lessee may purchase the leased goods in accordance with the provisions described in paragraph 1, which cost may not exceed an amount determined in accordance with the regulations and must decrease to zero during the lease term, and
 - ii. such other information as may be prescribed.

Decrease in cost

(2) The decrease in the cost of the leased goods to zero referred to in paragraph 2 of subsection (1) must satisfy such requirements as may be prescribed.

Exception

(3) A purchase-cost-plus lease is not required to include the provisions described in paragraphs 1 and 2 of subsection (1) if the lessee is not required under the lease to pay any charge on early termination, other than permitted contract-end charges.

Termination of optional services

22 Section 31 applies with necessary modifications to the termination of an optional service of a continuing nature provided by the lessor under a purchase-cost-plus lease.

PERSONAL DEVELOPMENT SERVICES

Application

23 Sections 24 and 25 apply in respect of personal development services or proposed personal development services for which payment in advance is required.

Contracts for one year only

24 (1) No supplier shall enter into a personal development services contract for a term longer than one year after the day that all the services are made available to the consumer.

Only one contract

(2) No supplier shall enter into a new personal development services contract with a consumer with whom the supplier has an existing personal development services contract unless the new contract is for personal development services that are distinctly different from the services provided under the existing contract.

Same

(3) For the purposes of subsection (2), a different term or a different commencement date does not constitute a distinct difference in the personal development services to be provided.

Continuations exempted

(4) Nothing in this section prevents a personal development services contract from being continued during the term of the contract provided that the continuation is done in accordance with this Part.

Payment for unavailable services

25 (1) No supplier shall receive payment from a consumer for personal development services that are not available at the time the payment is made.

Exception

(2) Subsection (1) does not apply when one of the services that is not available is the use of a facility and the consumer has agreed in writing to use another facility provided by the supplier until the facility contracted for is available.

SECTORS WHERE ADVANCE PAYMENT PROHIBITED

Advance payments prohibited

26 (1) No credit repairer, loan broker, contract breaker or other supplier who supplies such goods or services as may be prescribed shall require or accept any payment or any security for a payment, directly or indirectly, from or on behalf of a consumer unless and until,

- (a) in respect of loan brokering, the consumer receives the credit or loan of money that the loan broker has assisted the consumer to obtain;
- (b) in respect of credit repair, the credit repairer causes a material improvement to the consumer report, credit information, file, personal information, credit record, credit history or credit rating of the consumer;
- (c) in respect of contract breaking, the contract breaker causes the consumer to have their obligations under the contract, in respect of which the consumer has engaged the contract breaker, to be terminated or to be reduced as agreed to by the contract breaker and the consumer, in exchange for no more than the amount the consumer agreed to pay for such termination or reduction; or
- (d) in respect of the supply of such other goods or services as may be prescribed, the prescribed requirements are met.

Security arrangement void

(2) Every arrangement by which a supplier takes security in contravention of subsection (1) is void.

PART IV CREDIT AGREEMENTS, LEASES AND PREPAID PURCHASE CARD CONTRACTS

CREDIT AGREEMENTS

Obligations of loan brokers

27 If a loan broker assists a consumer to obtain credit or a loan of money and the creditor is not in the business of extending credit or lending money, the obligations that this Part would impose on a lender are deemed to be obligations of the loan broker and not the creditor, except as prescribed.

Credit card, liability

28 (1) A consumer who applies for a credit card without signing an application form is not liable to pay the lender any amount in respect of the credit card until the consumer uses the card.

Credit card, deemed agreement

(2) A consumer described in subsection (1) is deemed to have entered into a credit agreement with the issuer with respect to the card on first using the card.

Limiting liability for unauthorized charges

29 If charges are incurred without the authorization of the borrower under a credit agreement for a credit card when the credit card, or information associated with the credit card, is used without the borrower's authorization,

- (a) the borrower is not liable for charges that are incurred after the earlier of when the borrower gives the lender oral or written notice of,
 - (i) the unauthorized use of the credit card or information associated with the credit card, and
 - (ii) the loss or theft of the credit card, if applicable;
- (b) the maximum liability of the borrower for charges that are incurred before the borrower gives the lender oral or written notice under clause (a) is the lesser of,
 - (i) \$50 or such other amount as may be prescribed, and
 - (ii) the amount fixed or agreed to by the lender as the maximum amount for which the borrower will be liable in such cases.

Required insurance

30 (1) A borrower who is required under a credit agreement to purchase insurance may purchase it from any insurer who may lawfully provide that type of insurance, except that the lender may reserve the right to disapprove, on reasonable grounds, an insurer selected by the borrower.

Disclosure by lender

(2) A lender who offers to provide or to arrange insurance required under a credit agreement shall at the same time disclose to the borrower in writing that the borrower may purchase the insurance through an agent or an insurer of the borrower's choice.

Termination of optional services

31 (1) A borrower may terminate an optional service of a continuing nature provided by a lender or an associate of the lender by giving 30 days notice or such shorter period of notice as is specified in the agreement under which the service is provided.

Liability of borrower

(2) A borrower who terminates an optional service in accordance with subsection (1) is not liable for charges relating to any portion of the service that has not been provided at the time of termination and is entitled to a refund of amounts already paid for those charges.

Notice

(3) Notice under subsection (1) may be given in any way, as long as it indicates the intention of the borrower to terminate the optional service and section 68 applies, with necessary modifications, to such notice.

Deferral of payments

32 (1) If the lender under a credit agreement invites the borrower to defer making a payment that would otherwise be due under the agreement, the invitation must disclose whether or not interest will accrue on the unpaid amount during the period of the deferral and, if interest will accrue, the invitation must also disclose the interest rate.

Waiver of interest

(2) If the lender does not comply with subsection (1), the lender is deemed to have waived the interest that would otherwise accrue during the period.

Default charges

33 A lender is not entitled to impose on a borrower under a credit agreement default charges other than,

- (a) reasonable charges in respect of legal costs that the lender incurs in collecting or attempting to collect a required payment by the borrower under the agreement;
- (b) reasonable charges in respect of costs, including legal costs, that the lender incurs in realizing a security interest or protecting the subject matter of a security interest after default under the agreement; or
- (c) reasonable charges reflecting the costs that the lender incurs because a cheque or other instrument of payment given by the borrower under the agreement has been dishonoured.

Prepayment

34 (1) A borrower is entitled to pay the full outstanding balance under a credit agreement at any time without any prepayment charge or penalty.

Refund or credit to borrower

(2) If a borrower prepays the full outstanding balance under a credit agreement for fixed credit, the lender shall refund to the borrower or credit the borrower with the portion, determined in the prescribed manner, of the amounts that were paid by the borrower under the agreement or added to the balance under the agreement and that form part of the cost of borrowing, other than amounts paid on account of interest.

Partial prepayment

(3) A borrower is entitled to prepay a portion of the outstanding balance under a credit agreement for fixed credit on any scheduled date of the borrower's required payments under the agreement or once in any month without any prepayment charge or penalty.

No credit to borrower

(4) A borrower who makes a payment under subsection (3) is not entitled to the refund or credit described in subsection (2).

Representations

35 No lender shall make representations or cause representations to be made with respect to a credit agreement, whether orally, in writing or in any other form, unless the representations satisfy the prescribed requirements.

Disclosure re credit agreement

36 Disclosure statements in respect of credit agreements shall disclose the prescribed information and shall be made and delivered in accordance with the regulations.

Allowance for trade-in subject to adjustment

37 (1) If the amount to be paid by a consumer under a consumer contract is determined after an allowance for a trade-in and is stated in the contract to be subject to adjustment after the existence or amount of liens against the trade-in is ascertained or confirmed, any statements of the terms of payment and the cost of borrowing, as required under this Act, shall be based upon the amount as determined upon the information provided by the consumer.

Further adjustments

(2) If there is an additional adjustment to the amount to be paid by a consumer under a consumer contract to which subsection (1) applies after the adjustment under that subsection, the contract shall not be adjusted to change,

- (a) the percentage rate by which the cost of borrowing is expressed;
- (b) the total number of instalments required to pay the total indebtedness; or
- (c) the price shown in the contract.

LEASES**Application**

38 (1) Sections 39 to 41 apply to,

- (a) leases for a fixed term of four months or more;
- (b) leases for an indefinite term or that are renewed automatically until one of the parties takes positive steps to terminate them;
- (c) residual obligation leases; and
- (d) such other leases that are prescribed.

Exception

(2) Despite subsection (1), sections 39 to 41 do not apply to purchase-cost-plus leases.

Representations

39 No person shall make representations or cause representations to be made about the cost of a lease, whether orally, in writing or in any other form, unless the representations satisfy the prescribed requirements.

Disclosure statement

40 (1) Every lessor shall deliver a disclosure statement for a lease to the lessee before the earlier of,

- (a) the time that the lessee enters into the lease; and

(b) the time that the lessee makes any payment in connection with the lease.

Contents of statement

(2) The disclosure statement for a lease shall disclose the prescribed information.

Compensation re: termination of lease

41 (1) The maximum amount of compensation that may be charged to a lessee by a lessor for termination of a lease before the end of the lease term may be limited as prescribed.

Residual obligation lease

(2) The maximum liability of the lessee at the end of the term of a residual obligation lease after returning the leased goods to the lessor shall be the amount calculated in the prescribed manner.

PREPAID PURCHASE CARD CONTRACTS

Required information

42 (1) A supplier of a prepaid purchase card contract shall ensure that the contract contains such information as may be prescribed and complies with such other requirements as may be prescribed.

Requirements, supplier

(2) A supplier of a prepaid purchase card contract shall comply with such requirements as may be prescribed, including any requirements in respect of fees or other charges.

No expiry dates

43 (1) No supplier shall enter into a prepaid purchase card contract that has an expiry with respect to the performance of the contract.

Same

(2) A prepaid purchase card contract with an expiry date with respect to its performance shall be effective as if it has no expiry date if the contract is otherwise valid.

**PART V
CONSUMER REMEDIES**

GENERAL

Consumer contracts not binding

44 (1) A consumer contract is not binding on the consumer unless the contract is made in accordance with this Act and the regulations.

Court may order consumer bound

(2) Despite subsection (1), a court may order that a consumer is bound by all or a portion or portions of a consumer contract, even if the contract has not been made in accordance with this Act or the regulations, if the court determines that it would be inequitable in the circumstances for the consumer not to be bound.

Certain contracts void by operation of Act

45 (1) A consumer contract entered into in contravention of subsection 24 (2) and any related agreements are deemed to be void.

Same

(2) A consumer contract entered into in contravention of subsection 20 (1) and any related agreements are deemed to be void, and any goods or services supplied under such a contract are deemed to be unsolicited goods or services to which subsections 11 (1), (2) and (3) apply.

Third party charges

(3) If a supplier supplies goods or services to a consumer under a consumer contract that is void under subsection (2) and the consumer incurs charges from a third party that are related to the contract, including, but not limited to, charges in respect of the removal or return of any goods, the supplier is liable to reimburse the consumer for the amount of all those charges.

Recovery of amount

(4) The consumer may commence an action to recover the amount described in subsection (3) and may set off the amount against any amount owing to the supplier under any consumer contract between the consumer and the supplier, other than the contract described in subsection (2).

Assignment of consumer contracts

46 (1) If a supplier assigns a consumer contract or any right to payment under a consumer contract to another person, the assignee has no greater rights than, and is subject to the same obligations, liabilities and duties as, the supplier in connection with the contract, and the provisions of this Act and the regulations apply equally to the assignee.

Same

(2) Despite subsection (1), if a consumer contract to which subsection 49 (1) or (2) applies has been assigned or if any right to payment under such a consumer contract has been assigned, the liability of the person to whom it has been assigned is limited to the amount paid to that person by the consumer.

Credit agreements

(3) Despite subsection (1), if a consumer contract that is a credit agreement has been assigned or if any right to payment under a consumer contract that is a credit agreement has been assigned, the borrower shall not recover from, or be entitled to set off against, an assignee of the lender an amount greater than the balance owing under the contract at the time of the assignment, and, if there have been two or more assignments, the borrower shall not recover from an assignee who no longer holds the benefit of the contract an amount that exceeds the payments made by the borrower to that assignee.

Illegal charges and payments

47 (1) If a supplier has charged a fee or an amount in contravention of this Act or the regulations or received a payment in contravention of this Act or the regulations, the consumer who paid the charge or made the payment may demand a refund by giving notice in accordance with section 68 within one year after paying the charge or making the payment.

Supplier to provide refund

(2) A supplier who receives a notice demanding a refund under subsection (1) shall provide the refund within 15 days after the consumer demands it.

Right of action

(3) The consumer may commence an action to recover,

- (a) the payment of a fee or an amount that was charged by the supplier in contravention of this Act or the regulations; or
- (b) a payment that was received by the supplier in contravention of this Act or the regulations.

Consumer's recourse re: credit card charges

48 (1) A consumer who has charged to a credit card account all or any part of a payment described in subsection (2) may request the credit card issuer to cancel or reverse the credit card charge and any associated interest or other charges.

Types of payment

(2) Subsection (1) applies to,

- (a) a payment in respect of a consumer contract that has been cancelled under this Act or in respect of any related agreement;
- (b) a payment that was received in contravention of this Act;
- (c) a payment in respect of a fee or an amount that was charged in contravention of this Act; and
- (d) a payment that was collected in respect of unsolicited goods or services for which payment is not required under section 11.

Timing of request

(3) A consumer may make a request under subsection (1) if the consumer has cancelled a consumer contract or demanded a refund in accordance with this Act, and the supplier has not refunded all of the payment within the required period.

Request

(4) A request under subsection (1) shall be in writing, shall comply with the requirements, if any, that are prescribed under subsection 68 (2), and shall be given to the credit card issuer, in the prescribed period, in accordance with section 68.

Obligations of credit card issuer

(5) The credit card issuer,

- (a) shall, within the prescribed period, acknowledge the consumer's request; and
- (b) if the request meets the requirements of subsection (4), shall, within the prescribed period,
 - (i) cancel or reverse the credit card charge and any associated interest or other charges, or

- (ii) after having conducted an investigation, send a written notice to the consumer explaining the reasons why the credit card issuer is of the opinion that the consumer is not entitled to cancel the consumer contract or to demand a refund under this Act.

Right of action

(6) A consumer may commence an action against a credit card issuer to recover a payment and associated interest and other charges to which the consumer is entitled under this section.

Other prescribed payment systems

(7) If a consumer charges all or part of a payment described in subsection (2) to a prescribed payment system, the consumer may request that the charge be cancelled or reversed and this section applies, with necessary modifications, to the cancellation or reversal of such a charge.

RESCISSION, CANCELLATION, ETC.

Rescinding contract

49 (1) Any consumer contract, whether written, oral or implied, in respect of which an unfair practice occurred, whether the unfair practice occurred before, during or after the contract was entered into, may be rescinded by the consumer and the consumer is entitled to any remedy that is available in law, including damages.

Remedy if rescission not possible

(2) A consumer is entitled to recover the amount by which the consumer's payment under the consumer contract exceeds the value that the goods or services have to the consumer or to recover damages, or both, if rescission of the contract under subsection (1) is not possible,

- (a) because the return or restitution of the goods or services is no longer possible; or
- (b) because rescission would deprive a third party of a right in the subject-matter of the contract, other than a right to payment, that the third party has acquired in good faith and for value.

Notice

(3) A consumer must give notice within the later of one year after entering into the consumer contract and one year after the unfair practice occurs, if,

- (a) the consumer seeks to rescind a contract under subsection (1); or
- (b) the consumer seeks recovery under subsection (2), if rescission is not possible.

Commencement of an action

(4) If a consumer has given notice and has not received a satisfactory response within 15 days after the day the consumer gave the notice or within such other period as may be prescribed, the consumer may commence an action.

Evidence

(5) In the trial of an issue under this section, oral evidence respecting an unfair practice is admissible despite the existence of a written consumer contract and despite the fact that the evidence pertains to a representation in respect of a term, condition or undertaking that is or is not provided for in the contract.

Liability

(6) Each person who engaged in an unfair practice is liable jointly and severally with the person who entered into the consumer contract with the consumer for any amount to which the consumer is entitled under this section.

Cancellation: cooling-off period

50 (1) A consumer may, without any reason, cancel any of the following consumer contracts at any time after the date of entering into the contract until 10 days after the date on which the consumer has received the written copy of the contract or after such other date as may be prescribed for the particular contract:

1. A direct contract.
2. A purchase-cost-plus lease.
3. A timeshare contract.
4. A personal development services contract.
5. A contract for loan brokering, credit repair, or contract breaking.
6. Other contracts as may be prescribed.

Exception

(2) For greater certainty, subsection (1) does not apply in respect of a consumer contract that is amended or continued.

Cancellation: non-compliance with s. 18 (1) or (2)

51 A consumer may cancel a consumer contract to which Part III applies within one year after the date of entering into the contract if the contract is not made in accordance with subsection 18 (1) or is not delivered to the consumer in accordance with subsection 18 (2).

Cancellation: non-compliance with s. 21 (1) or (2)

52 A consumer may cancel a purchase-cost-plus lease within one year after the date of entering into the lease if the lease is not made in accordance with subsections 21 (1) or (2).

Cancellation: non-compliance with s. 42 (1)

53 A consumer may cancel a prepaid purchase card contract within one year after the date of entering into the contract if the consumer does not receive a copy of the contract that satisfies the requirements required by subsection 42 (1).

Cancellation: prohibited term or acknowledgement

54 (1) A consumer may cancel a consumer contract within one year after the date of entering into the contract if the contract or a related agreement contains a term or acknowledgement that is deemed to be void under subsection 14 (2).

Exception

(2) Subsection (1) does not apply to,

- (a) a credit agreement, other than a supplier credit agreement; or
- (b) a lease described in subsection 38 (1), unless the lease is a purchase-cost-plus lease or the lease is a direct contract.

Cancellation: late delivery or performance**Application**

55 (1) This section applies in respect of a consumer contract for which delivery, performance or payment in full is not made when the parties enter into the contract and the consumer's total potential payment obligation under the contract exceeds such amount as may be prescribed, in respect of that contract, for the purposes of this subsection.

Exception

(2) Despite subsection (1), this section does not apply to,

- (a) a credit agreement, other than a supplier credit agreement; or
- (b) a lease described in subsection 38 (1), unless the lease is a purchase-cost-plus lease or the lease is a direct contract.

Cancellation

(3) The consumer may cancel the consumer contract at any time before delivery under the contract or the commencement of performance under the contract if the supplier,

- (a) does not make delivery within 30 days after the delivery date specified in the contract or an amended delivery date; or
- (b) does not begin performance of their obligations within 30 days after the commencement date specified in the contract or an amended commencement date.

Delivery or commencement date not specified

(4) If the delivery date or commencement date is not specified in the consumer contract, a consumer may cancel the contract at any time before delivery or commencement if the supplier does not deliver or commence performance within 30 days after the date the contract is entered into.

Forgiveness of failure

(5) If, after the period in subsection (3) or (4) has expired, the consumer agrees to accept delivery or authorize commencement, the consumer may not cancel the consumer contract under this section.

Deemed delivery or performance

(6) For the purposes of subsections (3) and (4), a supplier is deemed to have delivered or commenced performance under the consumer contract if,

- (a) delivery was attempted but was refused by the consumer at the time that delivery was attempted;
- (b) delivery was attempted but not made because no person was available to accept delivery for the consumer on the day for which reasonable notice was given to the consumer that there was to be delivery;
- (c) commencement was attempted but was refused by the consumer at the time that commencement was attempted; or

- (d) commencement was attempted but did not occur because no person was available to enable commencement on the day for which reasonable notice was given to the consumer that commencement was to occur.

Timeshare contracts

56 (1) This section and the regulations made for the purposes of this section apply in respect of a timeshare contract and any related agreement entered into before, on or after the day this section comes into force, including a contract or related agreement entered into before the day the *Better for Consumers, Better for Businesses Act, 2023* received Royal Assent.

Modification, extinguishment of rights

(2) For clarity, if this section and the regulations made for the purposes of this section apply to a timeshare contract and any related agreement that was entered into before the day this section comes into force, including a contract or related agreement entered into before the day the *Better for Consumers, Better for Businesses Act, 2023* received Royal Assent, this section and those regulations may have the effect of modifying or extinguishing any right, obligation or interest acquired or accrued under the contract or related agreement.

Termination by consumer

- (3) A consumer may terminate a timeshare contract on or after the 25-year anniversary of entering into the contract by,
- giving notice of the termination to the supplier or to such other person as may be prescribed;
 - paying the termination fee determined in accordance with the regulations, if applicable, to the supplier or to such other person as may be prescribed; and
 - satisfying such other requirements as may be prescribed.

Death of party to timeshare contract

(4) The regulations may provide rules that apply in the event that a consumer who is a party to a timeshare contract dies, including providing for a right to terminate the contract.

Manner of rescission, cancellation, exercise of termination right

57 If a consumer has a right to rescind a consumer contract under subsection 49 (1), seek recovery under subsection 49 (2), cancel a consumer contract under section 50, 51, 52, 53, 54 or 55, or exercise the timeshare termination right under section 56, the consumer may do so by giving notice in accordance with section 68.

Effect of rescission or cancellation

58 (1) The rescission of a consumer contract under subsection 49 (1) or the cancellation of a consumer contract under section 50, 51, 52, 53, 54 or 55 operate to cancel, as if they never existed, the contract and all related agreements.

Effective time

(2) The rescission or cancellation takes effect when the consumer gives the notice referred to in section 57.

Supplier's obligations to refund on cancellation

59 (1) If a consumer cancels a consumer contract under section 50, 51, 52, 53, 54 or 55, the supplier shall refund to the consumer any payment made under the contract or any related agreement within 15 days after the contract is cancelled.

Refund of other currencies

(2) If any part of the payment made under the consumer contract or any related agreement was in a currency other than the currency expressed in the contract, the amount of the refund under subsection (1) in respect of that part of the payment shall be an amount equal to the value the parties placed on the payment when the contract was entered into in the currency expressed in the contract.

Refund of trade-in allowance

(3) If any part of the payment made under the consumer contract or a related agreement was in the form of a trade-in arrangement, the amount of the refund under subsection (1) in respect of that part of the payment shall be an amount equal to the trade-in allowance.

Right of action

(4) If a consumer has cancelled a consumer contract and the supplier has not met the supplier's obligations under subsection (1), the consumer may commence an action.

Supplier's duty to discharge registered notices, etc.

60 If a consumer rescinds a consumer contract under subsection 49 (1), cancels a consumer contract under section 50, 51, 52, 53, 54 or 55 or terminates a purchase-cost-plus lease, the supplier must do the following within 15 days after the rescission, cancellation or termination, as applicable:

1. Register a certificate of discharge to discharge any notice of security interest that has been registered on title to land under section 54 of the *Personal Property Security Act* in respect of goods provided under the contract or any related agreement.
2. In accordance with such requirements as may be prescribed, register any document or instrument as may be required to discharge or remove a prescribed registration, notice or instrument that has been registered to protect an interest in goods provided under the contract or any related agreement.

Return of goods to supplier

61 (1) If a consumer cancels a consumer contract under section 50, 51, 52, 53, 54 or 55, the supplier may, no later than 15 days after the consumer cancels the contract, notify the consumer, in writing, that,

- (a) the consumer must return the goods to the supplier by mail or courier service; or
- (b) the supplier will contact the consumer within 30 days after the consumer cancelled the contract to arrange for the repossession of the goods at the consumer's address.

Same, re prescribed direct contract or a purchase-cost-plus lease

(2) Clause (1) (a) does not apply in respect of a prescribed direct contract that is cancelled or a prescribed purchase-cost-plus lease that is cancelled.

Cost of returned goods

(3) If a notice is given under subsection (1), the supplier shall pay all costs associated with returning or repossessing the goods, as the case may be.

Acceptance of returned goods

(4) A supplier shall accept a return of goods by a consumer done in accordance with section 62 and shall provide the consumer with written confirmation of the return of goods.

Consumer's obligations on cancellation

62 (1) If a consumer receives a notice under clause 61 (1) (a), the consumer shall return the goods to the supplier no later than 15 days after receiving the notice.

Deemed date of return

(2) Goods that are returned by a consumer under subsection (1) are deemed to have been returned when sent by the consumer to the supplier.

Agree to repossession of goods

(3) If a consumer receives a notice under clause 61 (1) (b), the consumer shall agree to a reasonable time for the repossession and shall allow the supplier to repossess the goods at the consumer's address at the agreed upon time.

Period of reasonable care

(4) A consumer who cancels a consumer contract under section 50, 51, 52, 53, 54 or 55 shall keep the goods that the consumer receives under the contract in reasonable condition for a period that begins on the day the consumer cancels the contract and ends,

- (a) if the supplier does not give notice to the consumer under subsection 61 (1), 15 days after the day the consumer cancels the contract;
- (b) if the supplier gives notice to the consumer under clause 61 (1) (a), on the day the consumer returns the goods to the supplier; or
- (c) if the supplier gives notice to the consumer under clause 61 (1) (b),
 - (i) 30 days after the consumer cancelled the contract, if the supplier does not contact the consumer within that time to arrange for the repossession of the goods at the consumer's address, or
 - (ii) on the day agreed upon for the repossession of the goods, whether or not the goods are repossessed on that day.

Exception, packaging

(5) The requirement in subsection (4) does not apply to the goods' packaging.

End of period of reasonable care

(6) When a consumer's obligations with respect to goods under subsection (4) end, the consumer is under no other obligation, whether arising by contract or otherwise, to take care of the goods and may use or dispose of the goods as the consumer sees fit.

Right of action

(7) If a consumer has cancelled a consumer contract and has not met the consumer's obligations under this section, the supplier may commence an action.

Required destruction of goods

63 Despite sections 61 and 62, if a consumer cancels a consumer contract under section 50, 51, 52, 53, 54 or 55 and any goods received under the contract are created, recorded, transmitted or stored in digital form or in other intangible form by electronic, magnetic or optical means or by any other means that has capabilities for creation, recording, transmission or storage similar to those means, a consumer who receives from the supplier a written direction to destroy the goods shall destroy the goods as soon as feasible after the supplier pays the refund to the consumer as required by subsection 59 (1) in accordance with such instructions as may be set out in the direction.

Title to goods under trade-in arrangement

64 If the consumer recovers an amount equal to the trade-in allowance under subsection 59 (3) and the title of the consumer to the goods delivered under the trade-in arrangement has not passed from the consumer, the title to the goods vests in the person entitled to the goods under the trade-in arrangement.

Limitations on cancellation

65 Despite sections 58 to 64, in the prescribed circumstances, the effect of cancelling a consumer contract under this Part by a consumer and the obligations arising as a result of the cancellation of the contract may be subject to such limitations as may be prescribed.

CREDIT AGREEMENT OR LEASE: NON-COMPLIANCE

Consequence of non-compliance: credit agreement

66 A borrower under a credit agreement is not liable to pay the lender,

- (a) the cost of borrowing under a credit agreement if the credit agreement contains a term or acknowledgement set out in subsection 14 (1);
- (b) the cost of borrowing under a credit agreement if the borrower does not receive any of the statements required by Part IV; or
- (c) as part of the cost of borrowing under a credit agreement, any amount in excess of the amounts specified in the statements that Part IV requires to be delivered to the borrower in respect of the agreement.

Consequence of non-compliance: leases

67 A lessee under a lease to which Part IV applies is not liable to pay the lessor,

- (a) the implicit finance charge for the lease, if the lease contains a term or acknowledgment set out in subsection 14 (1);
- (b) the implicit finance charge for the lease, if the lessee does not receive a disclosure statement for the lease as required under subsection 40 (1); or
- (c) any amount in excess of the amount specified as the implicit finance charge for the lease in the disclosure statement received by the lessee.

PROCEDURES FOR REMEDIES

Form of consumer notice

68 (1) If this Act or the regulations require a consumer to give notice to a supplier to request a remedy, the consumer may do so by giving notice in accordance with this section.

Same

(2) The notice may be expressed in any way, as long as it indicates the intention of the consumer to seek the remedy being requested and complies with such other requirements as may be prescribed.

Giving notice

(3) Unless the regulations provide otherwise, the notice may be oral or in writing and may be given by any means.

Notice given when sent

(4) If notice in writing is given other than by personal service, the notice is deemed to be given when sent.

Address

(5) The consumer may send or deliver the notice to the address of the supplier that is set out in the consumer contract or, if the address of the supplier is not set out in the contract or the consumer did not receive a written copy of the contract,

- (a) any address of the supplier on record with the Government of Ontario or the Government of Canada; or
- (b) an address of the supplier known by the consumer.

Action in Superior Court of Justice

69 (1) If a consumer has a right to commence an action under this Act, the consumer may commence the action in the Superior Court of Justice.

Judgment

(2) If a consumer is successful in an action, unless in the circumstances it would be inequitable to do so the court shall order that the consumer recover,

- (a) the full payment to which the consumer is entitled under this Act; or
- (b) in the case of an action brought in respect of a refund, three times the amount of the refund.

Same

(3) In addition to an order under subsection (2), the court may order exemplary or punitive damages or such other relief as the court considers proper.

Class proceedings

70 A consumer may commence a proceeding on behalf of members of a class under the *Class Proceedings Act, 1992* or may become a member of a class in such a proceeding in respect of a dispute arising out of a consumer contract.

Procedure to resolve dispute

71 (1) After a dispute arises over which a consumer may commence an action in the Superior Court of Justice under this Act or that may result in a class proceeding, the consumer, the supplier and any other person involved in the dispute may agree,

- (a) despite clause 14 (1) (a), to resolve the dispute using any procedure that is available in law even if such agreement prevents the consumer from exercising a right to commence an action in the Superior Court of Justice given under this Act;
- (b) despite clause 14 (1) (b), to resolve the dispute using any procedure that is available in law even if such agreement prevents the consumer from commencing or becoming a member of a class proceeding; and
- (c) despite clause 14 (1) (f), that the consumer is prevented from publishing or communicating a review of the supplier or of the goods or services supplied.

Settlements or decisions

(2) A settlement or decision that results from the procedure agreed to under subsection (1) is as binding on the parties as such a settlement or decision would be if it were reached in respect of a dispute concerning a contract to which this Act does not apply.

Non-application of *Arbitration Act, 1991*

(3) Subsection 7 (1) of the *Arbitration Act, 1991* does not apply in respect of any proceeding commenced under this Act or to a proceeding referred to in section 70 of this Act unless, after the dispute arises, the consumer agrees to submit the dispute to arbitration.

Waiver of notice

72 If a consumer is required to give notice under this Act in order to obtain a remedy, a court may disregard the requirement to give the notice or any requirement relating to the notice if it is in the interest of justice to do so.

PART VI GENERAL

POWERS AND DUTIES OF MINISTER AND DIRECTOR

Powers of Minister

73 (1) The Minister may enforce this Act, the regulations and other legislation for the protection of consumers.

Enforcement agreements

(2) For the purpose of enforcing this Act, the regulations and other legislation for the protection of consumers, the Minister may,

- (a) enter into agreements with law enforcement agencies in Canada and other jurisdictions; and
- (b) for the purposes of clause (a), share and exchange information concerning breaches or possible breaches of this Act, the regulations or other legislation for the protection of consumers.

Duties of Director

74 (1) The Director shall perform such duties and exercise such powers as are given to or conferred upon the Director under this or any other Act.

Public record

(2) The Director shall maintain, in accordance with the prescribed requirements, a public record which contains the prescribed documents and information.

Agreements for shared information

(3) The Director may enter into an agreement with any of the following entities for that entity to disclose information to the Ministry for the purpose of making the information publicly available for the purposes of this section:

1. Another ministry of the Government of Ontario, a corporation that administers legislation on behalf of that Government or an agency, board or commission established under an Act of Ontario.
2. A municipality in Ontario or one of its agencies, boards or commissions.
3. The Government of Canada or one of its ministries, departments, agencies, boards or commissions.

Public record

(4) If the Ministry receives information pursuant to an agreement described in subsection (3), the Director shall make the information part of the public record described in subsection (2).

Deemed compliance with privacy legislation

(5) The disclosure of personal information in a public record under this section is deemed to be in compliance with clause 42 (1) (e) of the *Freedom of Information and Protection of Privacy Act*.

Publication of documents, etc.

(6) The Director shall publish such documents or information as are prescribed.

Policies re interpretation, etc.

75 (1) The Director may establish policies regarding the interpretation, administration and enforcement of this Act or the regulations.

Publicly available

(2) The Director shall ensure that any policies established under subsection (1) are made available to the public.

COMPLAINTS AND MEDIATION

Ministry receives complaints and makes inquiries

76 (1) The Ministry may,

- (a) provide or disseminate information for the purpose of educating and advising consumers;
- (b) receive complaints concerning conduct that may be in contravention of this Act or the regulations, of other legislation for the protection of consumers or of any other prescribed Act, whether the conduct constitutes an offence or not; and
- (c) make inquiries, gather information and attempt to mediate or resolve complaints, as appropriate, concerning any matter that comes to its attention that may be in contravention of this Act or the regulations, of other legislation for the protection of consumers or of any other prescribed Act, whether the matter constitutes an offence or not.

Mediation

(2) The Ministry may mediate a complaint if the parties to the complaint agree to mediation.

Agreement to mediate

(3) The agreement to mediate a complaint shall be signed by the parties to the complaint and be on a form approved by the Director that contains the terms and conditions of the mediation and the parties' obligations regarding the mediation.

Documents and other evidence

(4) If the Ministry attempts to mediate a complaint involving a supplier and a consumer, the Ministry may request in writing that either party to the mediation provide, to the Ministry within the time specified by the Ministry, documents or other evidence that are relevant to the complaint.

Party's failure to respond

(5) If either party fails to provide a document or other evidence as required by the Ministry under subsection (4), the Ministry may terminate the mediation.

Director's powers saved

(6) Nothing in a mediation or its results affects the authority of the Director to address the complaint even if the mediation results in a settlement.

Protection of settlement records

(7) None of the records, evidence or information that are disclosed in the course of attempting to effect a settlement and that are subject to mediation privilege shall be used or disclosed outside the attempted settlement.

Protection for mediator

(8) A person who conducts a mediation under this section shall not be required to testify in a civil proceeding or in a proceeding before any tribunal respecting the mediation.

INSPECTORS**Inspectors**

77 The Director may, in writing,

- (a) appoint persons as inspectors for the purposes of this Act and the regulations; and
- (b) designate persons, including persons engaged as inspectors or investigators for the purposes of any other Act, as inspectors for the purposes of this Act and the regulations or for any specific purposes of this Act or the regulations provided for in the designation.

Inspection powers

78 (1) An inspector may, without a warrant, enter and inspect any place in order to perform an inspection to ensure this Act and the regulations are being complied with.

Time of entry

(2) The power to enter and inspect a place without warrant may only be exercised during the place's regular business hours, or during other reasonable times.

Dwellings

(3) The power to enter and inspect a place without a warrant shall not be used to enter and inspect a place or a part of a place that is used as a dwelling.

Use of force

(4) An inspector is not entitled to use force to enter and inspect a place.

Identification

(5) An inspector shall, upon request, produce evidence of their appointment or designation.

Powers of inspector

- (6) An inspector conducting an inspection may,
- (a) examine a record or other thing that the inspector thinks may be relevant to the inspection;
 - (b) require the production of a record or other thing that the inspector thinks may be relevant to the inspection;
 - (c) remove for review and copying a record or other thing that the inspector thinks may be relevant to the inspection;
 - (d) in order to produce a record in readable form, use data storage, information processing or retrieval devices or systems that are normally used in carrying on business in the place;
 - (e) take photographs, video recordings or other visual or audio recordings that are relevant to the inspection; and
 - (f) question any person on matters the inspector thinks may be relevant to the inspection.

Written demand

(7) A demand that a record or other thing be produced must be in writing and must include a statement of the nature of the record or other thing to be produced.

Obligation to produce and assist

(8) If an inspector demands that a record or other thing be produced, the person who has custody of the record or thing shall produce it and, in the case of a record, shall on request provide any assistance that is reasonably necessary to interpret the record or to produce it in a readable form.

Records and things removed from place

(9) An inspector who removes a record or other thing under clause (6) (c) shall provide a receipt and return the record or thing to the person within a reasonable time.

Copy admissible in evidence

(10) A copy of a record that purports to be certified by an inspector as being a true copy of the original is admissible in evidence to the same extent as the original, and has the same evidentiary value.

Additional contact

(11) In addition to the power to enter a place under this section, an inspector may, by any means, contact any person who manages the operations of a supplier and may exercise the powers that the inspector has to conduct an inspection under this section with respect to the supplier or person, without entering any place, if the inspector establishes that,

- (a) the supplier is subject to this Act; and
- (b) the person manages the operations of the supplier.

Identification

(12) An inspector who establishes contact with a person under subsection (11) shall provide a written confirmation to the person of the inspector's authority to conduct the inspection, whether or not there is a request under subsection (5).

Time for production

(13) If an inspector establishes contact with a person under subsection (11) and requires the person to produce a record or other thing under clause (6) (b), the person shall provide the record or other thing to the inspector in the manner specified by the inspector and within the time specified by the inspector, which shall not be less than 10 days from the day of the demand to produce.

Duty to assist

(14) A person who is contacted by an inspector under subsection (11) shall assist the inspector in accordance with subsection (8), subject to the time period mentioned in subsection (13).

Obstruction

(15) No person shall,

- (a) hinder, obstruct or interfere with or attempt to hinder, obstruct or interfere with an inspector conducting an inspection;
- (b) refuse to answer questions on matters that an inspector thinks may be relevant to an inspection;
- (c) provide an inspector with information on matters the inspector thinks may be relevant to an inspection that the person knows to be false or misleading; or
- (d) prevent or attempt to prevent an inspector from making inquiries of any person separate and apart from another person under clause (6) (f).

Delegation of order-making powers, etc.

79 (1) The Director may delegate to an inspector, subject to any conditions set out in the delegation, the power to do anything that the Director may do under the following sections and anything done by an inspector pursuant to such a delegation is, for all purposes, as effective as if it were done by the Director:

1. Section 86 (False, misleading or deceptive representation).
2. Section 87 (Freeze order).
3. Section 88 (Undertaking of voluntary compliance).
4. Section 89 (Compliance order).
5. Section 90 (Order for immediate compliance).
6. Section 91 (Revocation of order by Director).
7. Section 93 (Compliance order, etc. re duty to discharged registered notices).
8. Section 95 (Administrative penalty).
9. Section 106 (Liens and charges).

In writing

(2) A delegation under this section must be in writing.

References to Director

(3) If an inspector has done anything pursuant to a delegation under this section, every reference to the Director in or with respect to the section under which the thing was done and every reference to the Director in sections 100 and 101 is deemed to be a reference to that inspector.

INVESTIGATORS

Appointment of investigators

80 (1) The Director may appoint persons to be investigators for the purposes of conducting investigations.

Certificate of appointment

(2) The Director shall issue to every investigator a certificate of appointment bearing the Director's signature or a facsimile of the signature.

Production of certificate of appointment

(3) Every investigator who is conducting an investigation, including under section 81, shall, upon request, produce the certificate of appointment as an investigator.

Search warrant

81 (1) Upon application made without notice by an investigator, a justice of the peace may issue a warrant, if the justice of the peace is satisfied by information given under oath or affirmation that there are reasonable grounds for believing that,

- (a) an inspector is being prevented from doing anything the inspector is entitled to do under section 78; or
- (b) a person has contravened or is contravening this Act or the regulations, and there is,
 - (i) in any building, dwelling, receptacle or place anything relating to the contravention of this Act or the regulations, or
 - (ii) information or evidence relating to the contravention of this Act or the regulations that may be obtained through the use of an investigative technique or procedure or the doing of anything described in the warrant.

Powers under warrant

(2) Subject to any conditions contained in it, a warrant obtained under subsection (1) authorizes an investigator to,

- (a) enter or access the building, dwelling, receptacle or place specified in the warrant and examine and seize anything described in the warrant;
- (b) make reasonable inquiries of any person, orally or in writing, with respect to anything relevant to the investigation;
- (c) require a person to produce the information or evidence described in the warrant and to provide whatever assistance is reasonably necessary, including using any data storage, processing or retrieval device or system to produce, in any form, the information or evidence described in the warrant;
- (d) use any data storage, processing or retrieval device or system used in carrying on business in order to produce information or evidence described in the warrant, in any form; and
- (e) use any investigative technique or procedure or do anything described in the warrant.

Entry of dwelling

(3) Despite subsection (2), an investigator shall not exercise the power under a warrant to enter a place, or part of a place, used as a dwelling, unless,

- (a) the justice of the peace is informed that the warrant is being sought to authorize entry into a dwelling; and
- (b) the justice of the peace authorizes the entry into the dwelling.

Conditions on warrant

(4) A warrant obtained under subsection (1) shall contain such conditions as the justice of the peace considers advisable to ensure that any search authorized by the warrant is reasonable in the circumstances.

Expert help

(5) The warrant may authorize persons who have special, expert or professional knowledge and other persons as necessary to accompany and assist the investigator in respect of the execution of the warrant.

Time of execution

(6) An entry or access under a warrant issued under this section shall be made between 6 a.m. and 9 p.m., unless the warrant specifies otherwise.

Expiry of warrant

(7) A warrant issued under this section shall name a date of expiry, which shall be no later than 30 days after the warrant is issued, but a justice of the peace may extend the date of expiry for an additional period of no more than 30 days, upon application without notice by an investigator.

Use of force

(8) An investigator may call upon police officers for assistance in executing the warrant and the investigator may use whatever force is reasonably necessary to execute the warrant.

No obstruction

(9) No person shall obstruct an investigator executing a warrant under this section or withhold from the investigator or conceal, alter or destroy anything relevant to the investigation being conducted pursuant to the warrant.

Compliance

(10) If an investigator under clause (2) (c) requires a person to produce evidence or information or to provide assistance, the person shall produce the evidence or information or provide the assistance, as the case may be.

Copies of seized items

(11) An investigator who seizes any thing under this section or section 82 may make a copy of it.

Admissibility

(12) A copy of a document or record certified by an investigator as being a true copy of the original is admissible in evidence to the same extent as the original and has the same evidentiary value.

Seizure of things not specified

82 An investigator who is lawfully present in a place pursuant to a warrant or otherwise in the execution of the investigator's duties may, without a warrant, seize anything in plain view that the investigator believes on reasonable grounds will afford evidence relating to a contravention of this Act or the regulations.

Searches in exigent circumstances

83 (1) An investigator may exercise any of the powers described in subsection 81 (2) without a warrant if the conditions for obtaining the warrant exist but by reason of exigent circumstances it would be impracticable to obtain the warrant.

Dwellings

(2) Subsection (1) does not apply to a building or part of a building that is being used as a dwelling.

Use of force

(3) The investigator may, in executing any authority given by this section, call upon police officers for assistance and use whatever force is reasonably necessary.

Applicability of s. 81

(4) Subsections 81 (5), (9), (10), (11) and (12) apply with necessary modifications to a search under this section.

Report when things seized

84 (1) An investigator who seizes any thing under the authority of section 81, 82 or 83 shall bring it before a justice of the peace or, if that is not reasonably possible, shall report the seizure to a justice of the peace.

Procedure

(2) Sections 159 and 160 of the *Provincial Offences Act* apply, with necessary modifications, in respect of a thing seized under the authority of section 81, 82 or 83 of this Act.

Production order

85 (1) On application without notice by an investigator, a justice of the peace may issue a production order to a person, other than a person under investigation for an offence, requiring the person to,

- (a) produce documents or copies of documents, certified by affidavit to be true copies, or produce data; or
- (b) prepare a document based on documents or data already in existence and produce it.

Contents of order

(2) A production order must stipulate when, where and how the documents or data are to be produced, and to whom they are to be produced.

Grounds

(3) A justice of the peace may make a production order if satisfied by information given under oath or affirmation that there are reasonable grounds to believe that,

- (a) an offence under this Act has been or is being committed;
- (b) the document or data will provide evidence respecting the offence or suspected offence; and
- (c) the person who is subject to the order has possession or control of the document or data.

Conditions

(4) A production order may contain any conditions the justice of the peace considers advisable.

Admissibility

(5) A copy of a document or data produced under this section, on proof by affidavit that it is a true copy, is admissible in evidence in proceedings under this Act and has the same probative force as the original document or data would have if it had been proved in the ordinary way.

No return of copies

(6) Copies of documents or data produced under this section are not required to be returned to the person who provided them.

Compliance required

(7) A person to whom a production order is directed shall comply with the order according to its terms.

ORDERS

False, misleading or deceptive representation

86 (1) If the Director believes on reasonable grounds that any person is making a false, misleading or deceptive representation in an advertisement, circular, pamphlet or material published by any means, the Director may,

- (a) order the person to cease making the representation; and
- (b) order the person to retract the representation or publish a correction of equal prominence to the original publication.

Exception

(2) Despite subsection 10 (4), an order under subsection (1) of this section may be made against a person who, on behalf of another person, prints, publishes, distributes, broadcasts or telecasts a representation that the person accepted in good faith for printing, publishing, distributing, broadcasting or telecasting in the ordinary course of business.

Order effective

(3) The order takes effect immediately upon being made.

Service

(4) The Director shall serve the order, together with written reasons for it, on the person named in it.

Request for a hearing

(5) The order shall inform the person named in it that the person may request a hearing before the Tribunal by giving a written notice of request for a hearing to the Director and the Tribunal within 15 days after service of the order.

Hearing date

(6) If the person gives a notice of request for a hearing within the allowed time, the Tribunal shall hold a hearing.

Stay of order

(7) The Tribunal may stay the order until it confirms or sets aside the order under subsection (9).

Parties

(8) The Director, the person who requested the hearing and the persons whom the Tribunal specifies are parties to the hearing.

Powers of Tribunal

(9) After holding the hearing, the Tribunal may,

- (a) confirm the order with the amendments, if any, that the Tribunal considers proper to give effect to the purposes of this Act and the regulations; or
- (b) set aside the order.

Same

(10) In confirming or setting aside the order, the Tribunal may substitute its opinion for that of the Director.

Appeal

(11) Even if the person named in an order made under this section appeals the order under section 11 of the *Licence Appeal Tribunal Act, 1999*, the order takes effect immediately but the Tribunal may grant a stay until the disposition of the appeal.

Freeze order

87 (1) If the conditions in subsection (2) are met, the Director may, in writing,

- (a) order any person having on deposit or controlling any assets or trust funds of a supplier or former supplier to hold those funds or assets;
- (b) order a supplier or former supplier to refrain from withdrawing any asset or trust fund from a person having them on deposit or controlling them; or
- (c) order a supplier or former supplier to hold any asset or trust fund of a consumer or other person in trust for the person entitled to it.

Conditions

(2) The Director may make an order under subsection (1) if the Director believes that it is advisable for the protection of consumers and,

- (a) a search warrant has been issued under this Act;
- (b) an order has been made under section 89 or 90; or
- (c) there has been an undertaking of voluntary compliance under section 88.

Person engaged in unfair practice

(3) Subsections (1) and (2) apply with necessary modifications to any person, whether or not the person is or was a supplier, if the person has engaged or is engaging in unfair practices under this Act.

Limitation

(4) In the case of a bank or authorized foreign bank within the meaning of section 2 of the *Bank Act* (Canada), a credit union within the meaning of the *Credit Unions and Caisses Populaires Act, 2020* or a loan or trust corporation, the order under subsection (1) applies only to the offices and branches named in the order.

Release of assets

(5) The Director may consent to the release of any particular asset or trust fund from the order or may wholly revoke the order.

Exception

(6) Subsection (1) does not apply if the person files with the Director, in such manner and amount as the Director determines,

- (a) a personal bond accompanied by collateral security;
- (b) a bond of an insurer licensed under the *Insurance Act* to write surety and fidelity insurance;
- (c) a bond of a guarantor accompanied by collateral security; or
- (d) another prescribed form of security.

Application to court

(7) An application may be made to the Superior Court of Justice for a determination in respect of the disposition of an asset or trust fund,

- (a) by a person in receipt of an order under subsection (1), if that person is in doubt as to whether the order applies to the asset or trust fund; or
- (b) by a person who claims an interest in the asset or trust fund subject to the order.

Notice

(8) If an order is made under this section, the Director may register in the appropriate land registry office a notice that an order under subsection (1) has been issued and that the order may affect land belonging to the person referred to in the notice and the notice has the same effect as the registration of a certificate of pending litigation except that the Director may in writing revoke or modify the notice.

Cancellation or discharge application

(9) A person in respect of whom an order has been made under subsection (1) or any person having an interest in land in respect of which a notice is registered under subsection (8) may apply to the Tribunal for cancellation in whole or in part of the order or for discharge in whole or in part of the registration.

Disposition by Tribunal

(10) The Tribunal shall dispose of the application after a hearing and may cancel the order or discharge the registration in whole or in part, if the Tribunal finds,

- (a) that the order or registration is not required in whole or in part for the protection of consumers or of other persons having an interest in the land; or
- (b) that the interests of other persons are unduly prejudiced by the order or registration.

Parties

(11) The applicant, the Director and such other persons as the Tribunal may specify are parties to the proceedings before the Tribunal.

Court application

(12) If the Director has made an order under subsection (1) or registered a notice under subsection (8), the Director may apply to the Superior Court of Justice for directions or an order relating to the disposition of assets, trust funds or land affected by the order or notice.

Notice not required

(13) An application by the Director under this section may be made without notice to any other person.

Undertaking of voluntary compliance

88 (1) At any time before all rights of appeal are exhausted or the time for appeals has expired without an appeal being commenced, any person against whom the Director has made or is considering making an order under section 89 or 90 may enter into a written undertaking of voluntary compliance to,

- (a) not engage in the specified act after the date of the undertaking;
- (b) provide a refund or other payment to a consumer;
- (c) discharge or remove a notice of security interest or other prescribed registration, notice or instrument that has been registered in respect of goods provided under a consumer contract or any related agreement that has been rescinded, cancelled or terminated;
- (d) publicize the undertaking or the actions being undertaken as a result of the undertaking;
- (e) pay any cost incurred in investigating the person's activities, any legal costs incurred in relation to the person's activities and any cost associated with the undertakings; and
- (f) take any such action as the Director considers appropriate in the circumstances.

Undertaking deemed order

(2) When an undertaking of voluntary compliance is accepted by the Director, the undertaking has and shall be given for all purposes of this Act and the regulations the force and effect of an order made by the Director.

Security for any undertaking

(3) The Director may require any person who is giving an undertaking of voluntary compliance to provide, in such manner and amount as the Director determines, security in the form of,

- (a) a personal bond accompanied by collateral security;
- (b) a bond of an insurer licensed under the *Insurance Act* to write surety and fidelity insurance;
- (c) a bond of a guarantor accompanied by collateral security; or
- (d) another prescribed form of security.

Release of security

(4) The bond and any collateral security required under subsection (3) shall not be released until the Director is satisfied that the person has fulfilled the undertaking.

Compliance order

89 (1) If the Director believes on reasonable grounds that a person has contravened any requirement under this Act, whether the contravention would constitute an offence or not, the Director may propose to make an order directing the person to comply with the requirement.

Same re persons facilitating

(2) If the Director proposes to make an order against a person under subsection (1) and the Director believes on reasonable grounds that another person is facilitating the person's contravention of a requirement under this Act, the Director may propose to make an order directing the person who is facilitating the contravention to cease doing so.

Order for refund or other payment

(3) For greater certainty, if the Director proposes to make an order under subsection (1) directing a person to comply with a requirement to provide a refund or other payment to a consumer, the proposed order may specify the amount of the required refund or payment and may include a direction to the person to pay that amount.

Notice of order

(4) If the Director proposes to make an order under this section, the Director shall serve on the person named in the proposed order a notice of the proposed order, together with written reasons, and the notice shall state that the person is entitled to a hearing by the Tribunal if the person mails or delivers, within 15 days after the notice of the proposed order is served, notice in writing requiring a hearing to the Director and the Tribunal.

No hearing required

(5) If the person does not require a hearing in accordance with subsection (4), the Director may make the order.

Hearing

(6) If the person requires a hearing in accordance with subsection (4), the Tribunal shall hold the hearing and may order the Director to make the proposed order or to refrain from making the proposed order or may make an order of its own in substitution for that of the Director.

Conditions

(7) The Tribunal may attach such conditions to its order as it considers proper.

Parties

(8) The Director, the person who has required the hearing and such other persons as the Tribunal may specify are parties to proceedings before the Tribunal under this section.

Appeal

(9) Even if, under section 11 of the *Licence Appeal Tribunal Act, 1999*, a party to a proceeding before the Tribunal appeals an order of the Tribunal made under this section, the order takes effect immediately but the Tribunal may grant a stay until the disposition of the appeal.

Order for immediate compliance

90 (1) Despite subsection 89 (1), the Director may make an order against a person requiring immediate compliance with a requirement under this Act if, in the Director's opinion, it is in the public interest to do so.

Same re facilitator

(2) Despite subsection 89 (2), if the Director makes an order against a person under subsection (1) of this section in respect of non-compliance with a requirement under this Act, the Director may make an order directing a person who is facilitating the non-compliance to immediately cease doing so if, in the Director's opinion, it is in the public interest to do so.

When order takes effect

(3) An order made under this section takes effect immediately.

Order for refund or other payment

(4) For greater certainty, if the Director makes an order under subsection (1) for immediate compliance requiring that a person comply with a requirement to provide a refund or other payment to a consumer, the order may specify the amount of the required refund or payment and may include a direction to the person to pay that amount.

Notice of order

(5) If the Director makes an order under this section, the Director shall serve on the person named in the order a notice of the order, together with the written reasons for making it, and the notice shall state that the person is entitled to a hearing by the Tribunal if the person mails or delivers, within 15 days after the notice of the order is served, a notice in writing requiring a hearing to the Director and the Tribunal.

Hearing

(6) When a person named in an order made under this section requires a hearing in accordance with subsection (5), the Tribunal shall hold the hearing and may confirm or set aside the order or exercise such other powers as may be exercised in a proceeding under section 89.

Expiration of order

(7) If a hearing by the Tribunal is required,

- (a) the order expires 15 days after the notice in writing requiring a hearing is received by the Tribunal; or
- (b) the Tribunal may extend the time of expiration until the hearing is concluded, if a hearing is commenced within the 15-day period referred to in clause (a).

Same

(8) Despite subsection (7), if it is satisfied that the conduct of the person named in the order has delayed the commencement of the hearing, the Tribunal may extend the time of the expiration for the order,

- (a) until the hearing commences; and
- (b) once the hearing commences, until the hearing is concluded.

Parties

(9) The Director, the person who has required the hearing and such other persons as the Tribunal may specify are parties to proceedings before the Tribunal under this section.

Appeal

(10) Even if, under section 11 of the *Licence Appeal Tribunal Act, 1999*, a party to a proceeding before the Tribunal appeals an order of the Tribunal made under this section, the order takes effect immediately but the Tribunal may grant a stay until the disposition of the appeal.

Revocation of order by Director

91 The Director may revoke, in whole or part, an order made under subsection 86 (1), 89 (1), 89 (2), 90 (1) or 90 (2), if,

- (a) in the Director's opinion, it is appropriate in the circumstances to do so; and
- (b) the Tribunal has not made an order in accordance with subsection 86 (9), 89 (6) or 90 (6), as applicable, with respect to the person against whom the order was made.

Reconsideration of order against facilitator

92 (1) A person against whom an order is made under subsection 89 (2) or 90 (2) may apply to the Director for reconsideration of the order if both of the following circumstances exist:

1. The Tribunal has not made an order in accordance with subsection 89 (6) or 90 (6), as applicable, with respect to the person against whom the order was made under subsection 89 (2) or 90 (2).
2. The Tribunal has made an order in accordance with subsection 89 (6) or 90 (6) with respect to the related order made under subsection 89 (1) or 90 (1), as applicable.

Powers of Director

(2) On an application for reconsideration, the Director may confirm, revoke or vary the order.

Director's decision final

(3) A decision made by the Director under subsection (2) is final and not subject to appeal.

Compliance order, etc., re duty to discharge registered notices**Application**

93 (1) This section applies to an order made under subsection 89 (1) or (2) or 90 (1) or (2) against a person, if the order relates to the person contravening section 60.

Rules re par. 1 of s. 60

(2) If the order relates to the contravention of paragraph 1 of section 60, the following rules apply if all rights of appeal are exhausted with respect to the order or the time for appeals has expired without an appeal being commenced:

1. The Director may issue to a consumer an order directing the appropriate land registrar to delete the notice of security interest referred to in paragraph 1 of section 60 from title to the land identified in the order.
2. The consumer, after receipt of the order, may register the order in the proper land registry office in a manner approved by the Director of Titles appointed under the *Land Titles Act*.
3. Upon registration of the order, the land registrar shall delete the notice of security interest from title to the land identified in the order.

Rules re par. 2 of s. 60

(3) If the order relates to the contravention of paragraph 2 of section 60 and if all rights of appeal are exhausted with respect to the order or the time for appeals has expired without an appeal being commenced, the Director or other prescribed persons may take such steps as may be prescribed in order to ensure the registration, notice or instrument referred to in paragraph 2 of section 60 is or can be discharged or removed.

Court order for compliance

94 (1) If it appears to the Director that a person is not complying with this Act or the regulations or an order made under this Act, the Director may apply to the Superior Court of Justice for an order directing that person to comply and, upon the application, the court may make such order as the court thinks fit.

Same

(2) Subsection (1) applies in addition to any other procedures that may be available to the Director, whether or not the Director has exercised such procedures.

Appeal

(3) An appeal lies to the Divisional Court from an order made under subsection (1).

ADMINISTRATIVE PENALTIES**Administrative penalty**

95 (1) If the Director is satisfied that a person has contravened or is contravening a prescribed provision of this Act or the regulations, the Director may, by order, impose an administrative penalty against the person in accordance with this section and the regulations made by the Minister.

Purpose

(2) An administrative penalty may be imposed under this section for one or more of the following purposes:

1. To promote compliance with this Act and the regulations.
2. To prevent a person from deriving, directly or indirectly, any economic benefit as a result of contravening a provision of this Act or the regulations.

Amount

(3) The amount of an administrative penalty shall reflect the purposes of the penalty and shall be the amount prescribed by the Minister, which amount shall not exceed \$50,000.

Form of order

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

Absolute liability

(5) 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

(6) For greater certainty, nothing in subsection (5) affects the prosecution of an offence.

Other measures

(7) Subject to section 97, 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.

Limitation

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

No hearing required

(9) Subject to the regulations made by the Minister, the Director 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

(10) The *Statutory Powers Procedure Act* does not apply to an order of the Director made under subsection (1) of this section.

Appeal

96 (1) The person against whom an order made under subsection 95 (1) imposes an administrative penalty may appeal the order to the Tribunal by delivering a written notice of appeal to the Tribunal within 15 days after receiving the order.

Extension of time for appeal

(2) The Tribunal may extend the time period for appealing and may determine the circumstances in which extensions are given.

Form of notice

(3) The notice of appeal shall be in the form that the Tribunal determines.

Filing of notice

(4) The person against whom the order imposing the administrative penalty is made shall file the notice of appeal in the manner that the Tribunal determines.

Stay

(5) An appeal commenced in accordance with subsection (1) operates as a stay of the order until disposition of the appeal.

Opportunity for submissions

(6) Before disposing of an appeal, the Tribunal shall give the person against whom the order imposing the administrative penalty is made a reasonable opportunity to make written submissions.

Powers on appeal

(7) On an appeal, the Tribunal may confirm, revoke or vary the order.

Effect of paying penalty

97 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

98 (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 is deemed to be the date of the order.

Debt due to Crown

(3) An administrative penalty that is not paid in accordance with the terms of the order imposing it or, if the order is varied on appeal, in accordance with the terms of the varied order is a debt due to the Crown and is enforceable as such.

CONFIDENTIALITY, SERVICE, ETC.

Confidentiality

99 (1) A person who obtains information in the course of exercising a power or carrying out a duty related to the administration of this Act or the regulations shall preserve secrecy with respect to the information and shall not communicate the information to any person except,

- (a) as may be required in connection with a proceeding under this Act or in connection with the administration of this Act or the regulations;
- (b) to a ministry, department or agency of a government for the purpose of assisting that ministry, department or agency in administering legislation for which it is responsible;
- (c) as authorized under the *Regulatory Modernization Act, 2007*;
- (d) to a prescribed entity or organization, if the purpose of the communication is consumer protection;
- (e) to a law enforcement agency;
- (f) to their counsel; or
- (g) with the consent of the person to whom the information relates.

Testimony

(2) Except in a proceeding under this Act, no person shall be required to give testimony in a civil proceeding with regard to information obtained in the course of exercising a power or carrying out a duty related to the administration of this Act or the regulations.

Service by the Director of notice or order

100 (1) Any notice or order required to be given or served by the Director under this Act is sufficiently given or served if,

- (a) delivered personally;
- (b) sent by registered mail; or
- (c) sent by another manner if the Director can prove receipt of the notice or order.

Deemed service

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

Exception

(3) Despite subsection (1), the Tribunal may order any other method of service.

Certificate as evidence

101 (1) For all purposes in any proceeding, a statement purporting to be certified by the Director is, without proof of the office or signature of the Director, admissible in evidence as proof in the absence of evidence to the contrary, of the facts stated in it in relation to,

- (a) the filing or non-filing of any document or material required or permitted to be filed; or
- (b) the time when the facts upon which the proceedings are based first came to the knowledge of the Director.

Same

(2) A statement purporting to be certified by an official acting under legislation that protects consumers in another jurisdiction, as prescribed, shall have the same force and effect as a certificate of the Director issued under subsection (1).

Proof of document

(3) Any document made under this Act that purports to be signed by the Director or a certified copy of the document is admissible in evidence in any proceeding as proof, in the absence of evidence to the contrary, that the document is signed by the Director without proof of the office or signature of the Director.

OFFENCES**Offences**

102 (1) A person is guilty of an offence if the person,

- (a) fails to comply with any order, direction or other requirement under this Act; or
- (b) contravenes or fails to comply with any provision of this Act or the regulations.

Attempt

(2) Any person who attempts to commit any offence mentioned in subsection (1) is guilty of an offence.

Liability of officers and directors

(3) If a corporation commits an offence mentioned in subsection (1) or (2), an officer or director of the corporation, or any individual acting or claiming to act in that capacity, is party to and guilty of the offence unless the individual proves, on the balance of probabilities, that they took all reasonable care to prevent the commission of the offence.

Same

(4) Subsection (3) applies whether or not the corporation has been prosecuted or convicted of the offence.

Penalties

(5) An individual who is convicted of an offence mentioned in subsection (1), (2) or (3) is liable to a fine of not more than \$100,000 or to imprisonment for a term of not more than two years less a day, or both.

Same, corporation

(6) A corporation that is convicted of an offence mentioned in subsection (1) or (2) is liable to a fine of not more than \$500,000.

Limitation

(7) No proceeding under this section shall be commenced more than two years after the facts upon which the proceeding is based first came to the knowledge of the Director.

Presiding judge

(8) The Crown may, by notice to the clerk of the Ontario Court of Justice, require that a provincial judge preside over a proceeding in respect of an offence under this section.

Protection of information

(9) In a prosecution for an offence under this section or where documents or materials are filed with a court in relation to an investigation into an offence under this Act, the court may, at any time, take precautions to avoid the disclosure by the court or any person of any personal information about an individual, including, where appropriate,

- (a) receiving representations without notice;
- (b) conducting hearings or parts of hearings in private; or
- (c) sealing all or part of the court files.

Orders for restitution

103 (1) If a person is convicted of an offence under this Act, the court making the conviction may, in addition to any other penalty, order the person convicted to make restitution.

Notification of order

(2) Where a court makes an order for restitution, it shall cause a copy of the order or a notice of the content of the order to be given to the person to whom the restitution is ordered to be paid.

Filing of order in court

(3) An order for restitution may be filed with a local registrar of the Superior Court of Justice and the responsibility for filing shall be on the person to whom the restitution is ordered to be paid.

Enforcement of order

(4) An order for restitution filed under subsection (3) may be enforced as if it were an order of the court.

Same

(5) Section 129 of the *Courts of Justice Act* applies in respect of an order for restitution filed under subsection (3) of this section and, for that purpose, the date of filing is deemed to be the date of the order.

Civil remedy

(6) A civil remedy for an act or omission is not affected by reason only that an order for restitution under this section has been made in respect of that act or omission.

Order re registration system or land registry

104 (1) If a person is convicted of an offence under this Act, the court making the conviction may, if it considers it just to do so having regard to all the circumstances, order that,

- (a) the registrar amend the information recorded in the central file of the registration system to indicate that the registration of a financing statement has been discharged or partially discharged, as the case may be; or
- (b) the land registrar delete any entry in the books of the land registry office related to a notice of security interest or that the land registrar amend the books of the land registry office to indicate that a security interest has been discharged or partially discharged, as the case may be.

Meaning of words and expressions

(2) Words and expressions used in clauses (1) (a) and (b) have the same meaning as in subclauses 56 (5) (b) (i) and (ii) of the *Personal Property Security Act*.

Default in payment of fines

105 (1) If a fine payable as a result of a conviction for an offence under this Act is in default for at least 60 days, the Director may disclose to a consumer reporting agency the name of the defaulter, the amount of the fine and the date the fine went into default.

Where payment made

(2) Within 10 days after the Director has received notice that the fine has been paid in full, the Director shall inform the consumer reporting agency of the payment.

Liens and charges

106 (1) If a fine payable as a result of a conviction for an offence under this Act or an administrative penalty is in default for at least 60 days, the Director may by order create a lien against the property of the person who is liable to pay the fine or administrative penalty.

Liens on personal property

- (2) If the lien created by the Director under subsection (1) relates to personal property,
- (a) the *Personal Property Security Act*, except Part V, applies with necessary modifications to the lien, despite clause 4 (1) (a) of that Act;
 - (b) the lien is deemed to be a security interest that has attached for the purposes of the *Personal Property Security Act*; and
 - (c) the Director may perfect the security interest referred to in clause (b) for the purposes of the *Personal Property Security Act* by the registration of a financing statement under that Act.

Liens and charges on real property

(3) If the lien created by the Director under subsection (1) relates to real property, the Director may register the lien against the property of the person liable to pay the fine or administrative penalty in the proper land registry office and, on registration, the obligation under the lien becomes a charge on the property.

Initiation of sale proceedings prohibited

(4) The Director shall not initiate sale proceedings in respect of any real property against which the Director has registered a lien under subsection (3).

Proceeds of sale

(5) If a lien is perfected by registration under subsection (2) or is registered against real property under subsection (3) and the related real or personal property is sold, the Director shall ensure the funds received as a result of the sale are used to pay the fine or administrative penalty.

Discharge of lien

- (6) Within 10 days after the Director has knowledge of the payment in full of the fine or administrative penalty, the Director shall,
- (a) discharge the registration of any financing statement registered under clause (2) (c); and
 - (b) register a discharge of a charge created on registration of a lien under subsection (3).

REGULATIONS

Lieutenant Governor in Council regulations

107 (1) The Lieutenant Governor in Council may make regulations providing for any matters which, in the opinion of the Lieutenant Governor in Council, are necessary or advisable for the purposes of this Act, including,

1. prescribing anything in this Act that is described as being prescribed, done in accordance with the regulations or provided for in the regulations, including governing anything described as being prescribed, done in accordance with the regulations or provided for in the regulations, which is not already provided for in this subsection, other than a matter that this Act describes as being prescribed by the Minister or provided for in regulations made by the Minister;
2. exempting any supplier, consumer transaction, goods or services, representation, any combination of any of them or any class of any of them from this Act or any provision of this Act or the regulations, and prescribing conditions or restrictions that apply in respect of an exemption;
3. defining, for the purposes of this Act and the regulations, any word or expression that is used in this Act but not defined in this Act;
4. prescribing the form and content of notices, invoices or any documents required under this Act;
5. prescribing one or more amounts for the purposes of subsection 16 (5) or 55 (1), including providing that different amounts apply in respect of different classes of consumer contracts;
6. governing matters relating to consumer contracts to which Part III does not apply, in addition to matters that are otherwise provided for by this subsection, including,
 - i. governing the disclosure of information,
 - ii. governing the form and content of such contracts, and
 - iii. governing the making, amending or continuation of such contracts;
7. governing the performance of consumer contracts, in addition to any requirements set out in the Act;

8. governing the termination of consumer contracts, in addition to the requirements of this Act and any regulation made under paragraph 15, 16, 21 or 41 to 46, including,
 - i. establishing and governing rights and obligations of consumers and suppliers in connection with termination,
 - ii. requiring contracts to include a right to terminate the contract, and
 - iii. governing the process or methods by which contracts may be terminated, including requiring a contract to include certain provisions regarding the process or methods by which the contract may be terminated;
9. governing the fees and charges for supplying goods or services under a consumer contract that the supplier under the contract may charge or is prohibited from charging to the consumer, in addition to regulations otherwise provided for by paragraph 19, subparagraphs 20 ii, 22 i and 23 i and paragraphs 27 and 37;
10. prescribing and governing additional circumstances where a consumer contract or certain terms or acknowledgements in a consumer contract are void, unenforceable, invalid, or of no force or effect;
11. prescribing and governing circumstances in which a consumer may request a copy of a consumer contract, and requiring suppliers to give a copy if so requested;
12. prescribing and governing record-keeping requirements in respect of consumer contracts;
13. governing the cancellation of consumer contracts, including,
 - i. establishing and governing cancellation rights in addition to those set out in sections 50 to 55, and
 - ii. governing the cancellation of consumer contracts for the purposes of sections 50 to 55, in addition to prescribing anything described as being prescribed in those sections;
14. governing trade-ins and trade-in arrangements made under consumer contracts or arising from consumer contracts;
15. governing the termination of timeshare contracts under subsection 56 (3), including,
 - i. governing the termination fee, including,
 - A. providing for the determination of the amount of a termination fee, and
 - B. specifying rules that apply if the contract does not provide for a termination fee or if the contract provides for a termination fee in excess of the amount of the fee determined under the regulations, including, for example, providing that in such circumstances the fee is nil,
 - ii. governing the obligations, rights and entitlements of consumers, suppliers and other persons, and
 - iii. governing the date on which a timeshare contract termination becomes effective, including providing for waivers or the release of obligations, rights, entitlements or benefits of a consumer or supplier or any other person in respect of the timeshare contract or any related agreement;
16. governing timeshare contracts in the circumstances described in subsection 56 (4), including,
 - i. providing for a right to terminate the contract, including,
 - A. prescribing persons who may terminate the contract and when the right may be exercised,
 - B. providing for the notice of termination that a person must provide to the supplier or to such other persons,
 - C. providing for and governing a termination fee to be paid to the supplier or to such other person, including providing for the determination of the amount of a termination fee and specifying rules that apply if the contract does not provide for a termination fee or if the contract provides for a termination fee in excess of the amount of the fee determined under the regulations, including, for example, providing that in such circumstances the fee is nil,
 - D. governing the matters mentioned in subparagraphs ii and iii of paragraph 15, and
 - E. specifying other requirements in respect of the termination, and
 - ii. permitting specified persons to refuse or disclaim the contract, and providing for rules that apply to such refusal or disclaimer;
17. governing price escalation clauses in consumer contracts, including,
 - i. governing the disclosure of information, and
 - ii. specifying limitations with respect to price increases;
18. governing the use of security interests, liens or notices with respect to consumer contracts, including imposing limitations as it relates to such security interests, liens or notices;

19. governing the cancellation or reversal of payments, and associated interest or other charges, that are charged to a credit card or other payment system;
20. governing consumer contracts respecting the cashing of government cheques for a consumer, including,
 - i. governing the disclosure of information and statements that must be provided to a consumer, and
 - ii. providing for rules and limits in relation to fees and other charges for cashing a government cheque;
21. governing consumer contracts under which rewards points are provided, including,
 - i. clarifying the definition of “rewards points” in subsection 1 (1) and specifying things that do or do not constitute rewards points,
 - ii. governing the transfer of rewards points among consumers, including upon death,
 - iii. governing the inactivity of consumer contracts under which rewards points are provided and of the rewards points themselves,
 - iv. governing the termination of consumer contracts under which rewards points are provided and of the rewards points themselves, and
 - v. governing the expiry of rewards points;
22. governing prepaid purchase cards, including,
 - i. governing fees or other charges respecting prepaid purchase cards, including,
 - A. prescribing fees or other charges that the supplier may charge or is prohibited from charging to the consumer, and
 - B. prescribing rules respecting the reduction of the value of a prepaid purchase card;
23. governing consumer transactions involving repairs to motor vehicles, including,
 - i. prescribing requirements with respect to the providing of an estimate, and prescribing rules respecting the charging of a fee for an estimate,
 - ii. governing authorizations that must be obtained from consumers, including prescribing requirements that must be met in recording an authorization,
 - iii. prescribing signs that a repairer must post, prescribing requirements for posting the signs and prescribing the contents of the signs and the manner in which the contents are to be presented,
 - iv. governing invoices, including prescribing the information to be contained in an invoice and the manner in which the information is to be presented,
 - v. prohibiting a supplier from making specified representations,
 - vi. governing the disclosure of information,
 - vii. providing rules with respect to the return of parts, and
 - viii. establishing and governing warranties in connection with motor vehicle repairs, including prescribing minimum warranty requirements for parts and labour provided as part of a repair;
24. requiring suppliers to make returns and furnish information to the Director as is prescribed;
25. requiring information that is required or permitted to be furnished to the Director or that is contained in any form or return to be verified by affidavit;
26. authorizing the Director to conduct quality assurance programs in relation to the administration of this Act or the regulations and to use information collected under this Act for the purposes of those programs;
27. governing fees and other charges in respect of personal development services;
28. governing the factors that a lender is required to take into account with respect to a borrower before entering into a credit agreement with the borrower;
29. prohibiting lenders from entering into a credit agreement with a borrower if the amount of the credit to be extended or money to be lent under the agreement exceeds the prescribed amounts or the amounts calculated according to the prescribed manner;
30. requiring a lender under a credit agreement to provide to the borrower in writing, before entering into the agreement, a copy of the lender’s assessment of the factors prescribed under paragraph 28 with respect to the borrower, and requiring that such information be given in accordance with the prescribed requirements;

31. specifying that if a lender under a credit agreement does not comply with a regulation made under paragraph 30, the borrower is not liable to pay the lender the cost of borrowing under the agreement;
32. prohibiting a lender from initiating contact with a borrower for the purpose of offering to refinance a credit agreement;
33. requiring lenders to correct errors in statements of account issued under a credit agreement for open credit in accordance with the prescribed requirements;
34. governing representations made in respect of credit agreements and leases;
35. governing the annual percentage rate in respect of a lease or a credit agreement, including prescribing the manner of determining the annual percentage rate;
36. governing and requiring the use of tags or other markers attached to or displayed around a good that is to be leased and the use of statements included in a display relating to a good that is to be leased, and governing the content of such tags, markers, statements or displays and the manner and form in which they are used;
37. prescribing maximum amounts for charges that are not included in the cost of borrowing under a credit agreement, or a method of setting maximum amounts;
38. governing disclosure statements and statements of account that loan brokers and lenders are required to give in connection with credit agreements, including,
 - i. prescribing the information to be included in the statements,
 - ii. prescribing the circumstances and times in which the statements must be given,
 - iii. prescribing circumstances in which lenders may adopt a loan broker's disclosure statement as their own, and
 - iv. prescribing the manner in which the statements must be given;
39. governing applications for credit cards;
40. governing disclosure statements for leases to which Part IV applies;
41. prescribing and governing rights for lessees to purchase the leased goods and terminate the lease upon payment of an amount determined in accordance with the regulations, if a lease does not comply with specified provisions of this Act;
42. governing the right of a lessor under a lease to terminate the lease, including,
 - i. prescribing the circumstances in which a lessor is entitled to exercise the right of termination or is not entitled to exercise that right, and
 - ii. prescribing the requirements that a lessor must fulfil to exercise the right of termination, including requiring a lessor to give notice to the lessee and governing the notice;
43. governing obligations of lessors and lessees arising as the result of the termination of a lease;
44. permitting a lessee under a lease that the lessor has terminated for default in payments required under the lease to re-instate the lease, subject to any regulation made under paragraph 46, provided that the specified conditions, if any, are met;
45. permitting a lessee under a lease who has terminated the lease for any reason to re-instate the lease, subject to any regulation made under paragraph 46, provided that the specified conditions, if any, are met;
46. governing obligations of lessors and lessees arising as the result of the re-instatement of a lease as described in paragraph 44 or 45;
47. establishing and governing rights to commence an action regarding any matter under this Act;
48. delegating to the Minister any power to make a regulation under this subsection;
49. governing transitional matters that, in the opinion of the Lieutenant Governor in Council, are necessary or desirable to facilitate the implementation of this Act or the repeal of the *Consumer Protection Act, 2002*.

Application to existing consumer contracts

(2) A regulation made under subsection (1) may, if it so provides, specify that it applies to a consumer contract or a related agreement that was entered into before the day the regulation is filed, including a consumer contract or a related agreement that was entered into before the day the *Better for Consumers, Better for Businesses Act, 2023* received Royal Assent.

Same

(3) For clarity, a regulation made under subsection (1) may, if it so provides, specify that one or more provisions of this Act apply to a consumer contract or a related agreement that was entered into before the day the regulation is filed, including a consumer contract or a related agreement that was entered into before the day the *Better for Consumers, Better for Businesses Act, 2023* received Royal Assent.

Modification, extinguishment of rights

(4) For clarity, a regulation that provides that it or a provision of the Act applies to a consumer contract or related agreement that was entered into before the day the regulation is filed, including a consumer contract or related agreement that was entered into before the day the *Better for Consumers, Better for Businesses Act, 2023* received Royal Assent, may, if the regulation so provides, have the effect of modifying or extinguishing any right, obligation or interest acquired or accrued under the contract or related agreement.

Residual authority to act

(5) Despite any delegation to the Minister under paragraph 48 of subsection (1) and without having to revoke the delegation, the Lieutenant Governor in Council continues to have authority to make regulations in respect of the power that is the subject of the delegation.

Making regulation not revocation

(6) If the Lieutenant Governor in Council makes a regulation to which subsection (5) applies, the regulation does not have the effect of revoking a delegation under paragraph 48 of subsection (1) unless the regulation so specifies.

Minister's regulations preserved

(7) The Lieutenant Governor in Council may, by regulation, revoke a delegation to the Minister under paragraph 48 of subsection (1), but the revocation of a delegation does not result in the revocation of any regulation made by the Minister under the delegated power before the revocation of the delegation.

Conflict, Ministerial regulation

(8) If there is a conflict between a regulation made under subsection (1) and a regulation made by the Minister under clause 108 (1) (e), the regulation of the Lieutenant Governor in Council prevails.

Conflict, transitional matters

(9) If there is a conflict between a regulation made under paragraph 48 of subsection (1) and any provision of this Act or the regulations, the regulation made under paragraph 48 of subsection (1) prevails.

Minister's regulations

108 (1) The Minister may make regulations,

- (a) governing any matter that this Act describes as being prescribed by the Minister or provided for in regulations made by the Minister;
- (b) specifying different administrative penalties for the contravention of different prescribed provisions of this Act or the regulations, different portions of those prescribed provisions or different prescribed requirements in those prescribed provisions;
- (c) governing the procedure for making an order under section 95 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;
- (d) providing that the prescribed amount of an administrative penalty mentioned in subsection 95 (3) shall be calculated on the basis specified in the regulation, including an amount reflecting the number of transactions involved in the contravention on which an order for the administrative penalty is based;
- (e) respecting any matter for which the power to make regulations is delegated by the Lieutenant Governor in Council to the Minister under paragraph 48 of subsection 107 (1).

Same

(2) In addition to the power of the Lieutenant Governor in Council to make regulations under section 107, the Minister may make regulations requiring a supplier under a consumer contract to disclose to the consumer the information specified in the regulation, governing the content of the disclosure and requiring the supplier to take the other measures specified in the regulation to ensure that the consumer has received the disclosure.

Delegation

(3) If the Lieutenant Governor in Council makes a regulation to which paragraph 48 of subsection 107 (1) applies, subsections 107 (2), (3) and (4) apply in respect of the delegation.

No compensation

109 (1) Except as otherwise provided for under this Act, no supplier or other person is entitled to compensation as a result of the enactment of this Act or any regulation, order or other instrument made by the Lieutenant Governor in Council, the Minister, the Director or the Tribunal under this Act, including an order or other instrument made by a delegate of the Director.

No expropriation or injurious affection

(2) Nothing done or not done in accordance with this Act or the regulations under it constitutes an expropriation or injurious affection for the purposes of the *Expropriations Act* or otherwise at law.

PART VII AMENDMENTS, COMMENCEMENT AND SHORT TITLE

REPEAL AND CONSEQUENTIAL AMENDMENTS

Repeal

110 The *Consumer Protection Act, 2002* is repealed.

Collection and Debt Settlement Services Act

111 (1) Subsection 16.6 (5) of the *Collection and Debt Settlement Services Act* is amended by striking out “section 92 of the *Consumer Protection Act, 2002*” and substituting “section 68 of the *Consumer Protection Act, 2023*”.

(2) Subsection 16.7 (3) of the Act is amended by striking out “shall do so in accordance with sections 92 and 94 of the *Consumer Protection Act, 2002*” and substituting “shall do so by giving notice in accordance with section 68 of the *Consumer Protection Act, 2023*”.

(3) Section 16.7 of the Act is amended by adding the following subsection:

Effective time

(3.1) The cancellation takes effect when the debtor gives notice.

(4) Clause 16.7 (4) (d) of the Act is amended by striking out “all credit agreements, as defined in Part VII of the *Consumer Protection Act, 2002*” and substituting “all credit agreements, as defined in subsection 1 (1) of the *Consumer Protection Act, 2023*”.

(5) Subsection 16.8 (1) of the Act is amended by striking out “section 92 of the *Consumer Protection Act, 2002*” and substituting “section 68 of the *Consumer Protection Act, 2023*”.

(6) Section 16.9 of the Act is repealed and the following substituted:

Application of Consumer Protection Act, 2023

16.9 References in section 16.6, 16.7 or 16.8 of this Act to section 68 of the *Consumer Protection Act, 2023* shall be read as references to that provision, reading,

- (a) references to a consumer contract as references to a debt settlement services agreement;
- (b) references to that Act as references to this Act;
- (c) references to matters that are prescribed as references to matters prescribed under that Act;
- (d) references to the regulations in those provisions as references to the regulations made under that Act and the regulations made under this Act;
- (e) references to a consumer as references to a debtor; and
- (f) references to a supplier as references to a collection agency.

Consumer Reporting Act

112 (1) The definition of “credit agreement” in subsection 12.3 (5) of the *Consumer Reporting Act* is amended by striking out “a credit agreement as defined in section 66 of the *Consumer Protection Act, 2002*” and substituting “a credit agreement as defined in subsection 1 (1) of the *Consumer Protection Act, 2023*”.

(2) The definition of “open credit” in subsection 12.3 (5) of the Act is amended by striking out “as defined in section 1 of the *Consumer Protection Act, 2002*” and substituting “as defined in subsection 1 (1) of the *Consumer Protection Act, 2023*”.

Discriminatory Business Practices Act

113 (1) Subsection 6 (2) of the *Discriminatory Business Practices Act* is amended by striking out “subsections 111 (2) to (7) of the *Consumer Protection Act, 2002*” and substituting “subsections 89 (4) to (8) of the *Consumer Protection Act, 2023*”.

(2) Subsection 6 (3) of the Act is repealed and the following substituted:

Order for immediate compliance

(3) Despite subsection (2), the Director may make an order under subsection (1) to take effect immediately if, in the Director’s opinion, to do so is necessary for the protection of the public or of any person and in such case subsections 90 (5) to (9) of the

Consumer Protection Act, 2023 apply with necessary modifications and, subject to subsections 90 (6), (7) and (8) of that Act, the order takes effect immediately.

(3) Subsection 8.1 (2) of the Act is amended by striking out “Subsections 107 (2) to (12) of the *Consumer Protection Act, 2002*” at the beginning and substituting “Subsections 81 (2) to (12) of the *Consumer Protection Act, 2023*”.

(4) Subsection 8.3 (1) of the Act is amended by striking out “subsection 107 (2) of the *Consumer Protection Act, 2002*” and substituting “subsection 81 (2) of the *Consumer Protection Act, 2023*”.

(5) Subsection 8.3 (4) of the Act is amended by striking out “Subsections 107 (5), (9), (10), (11) and (12) of the *Consumer Protection Act, 2002*” at the beginning and substituting “Subsections 81 (5), (9), (10), (11) and (12) of the *Consumer Protection Act, 2023*”.

Licence Appeal Tribunal Act, 1999

114 Subsection 11 (1) of the *Licence Appeal Tribunal Act, 1999* is amended by striking out “*Consumer Protection Act, 2002*” and substituting “*Consumer Protection Act, 2023*”.

Limitations Act, 2002

115 The definition of “business agreement” in subsection 22 (6) of the *Limitations Act, 2002* is amended by striking out “*Consumer Protection Act, 2002*” and substituting “*Consumer Protection Act, 2023*”.

Personal Property Security Act

116 (1) Subsection 14 (2) of the *Personal Property Security Act* is amended by striking out “section 83 of the *Consumer Protection Act, 2002*” and substituting “section 46 of the *Consumer Protection Act, 2023*”.

(2) Clause 73 (2) (a) of the Act is amended by striking out “*Consumer Protection Act, 2002*” wherever it appears and substituting in each case “*Consumer Protection Act, 2023*”.

Repair and Storage Liens Act

117 (1) Subsection 3 (2) of the *Repair and Storage Liens Act* is repealed and the following substituted:

When lien arises

(2) A repairer’s lien arises and takes effect when the repair is commenced, except that no repairer’s lien arises if the repairer was required to comply with the prescribed provisions of the regulations made under the *Consumer Protection Act, 2023*, if applicable, and the repairer has not done so.

(2) Subsection 3 (2.1) of the Act is repealed and the following substituted:

Amount of lien

(2.1) In cases where the prescribed provisions of the regulations made under the *Consumer Protection Act, 2023* apply, the amount of a repairer’s lien under subsection (2) shall be determined in accordance with the requirements prescribed for the purposes of this subsection, if any.

(3) Subsection 4 (3) of the Act is amended by striking out “comply with sections 56 and 57, subsection 58 (1) and section 59 of the *Consumer Protection Act, 2002*” and substituting “comply with the prescribed provisions of the regulations made under the *Consumer Protection Act, 2023*”.

(4) Subsection 4 (3.1) of the Act is repealed and the following substituted:

Amount of lien

(3.1) In cases where the prescribed provisions of the regulations made under the *Consumer Protection Act, 2023* apply, if a storer receives possession of an article for storage and repair, the amount of the storer’s lien under subsection (3) shall be determined in accordance with the requirements prescribed for the purposes of this subsection, if any.

Resource Recovery and Circular Economy Act, 2016

118 Paragraph 3 of subsection 12 (2) of the *Resource Recovery and Circular Economy Act, 2016* is repealed and the following substituted:

3. *Consumer Protection Act, 2023.*

Ticket Sales Act, 2017

119 The definition of “false, misleading or deceptive representation” in subsection 20 (2) of the *Ticket Sales Act, 2017* is amended by striking out “subsection 14 (2) of the *Consumer Protection Act, 2002*” and substituting “subsection 8 (2) of the *Consumer Protection Act, 2023*”.

COMMENCEMENT AND SHORT TITLE

Commencement

120 The Act set out in this Schedule comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

121 The short title of the Act set out in this Schedule is the *Consumer Protection Act, 2023*.

**SCHEDULE 2
CONSUMER REPORTING ACT**

1 (1) The definition of “consumer score” in subsection 1 (1) of *Consumer Reporting Act*, as enacted by section 2 of the *Access to Consumer Credit Reports and Elevator Availability Act, 2018*, is amended by striking out “a consumer score as defined in the regulations, or if consumer score is not defined in the regulations”.

(2) The definition of “Minister” in subsection 1 (1) of the Act is repealed and the following substituted:

“Minister” means the member of the Executive Council to whom the administration of this Act or part of this Act is assigned or transferred under the *Executive Council Act*; (“ministre”)

2 (1) The English version of subsection 2 (2) of the Act is amended by striking out “him or her” and substituting “the Registrar”.

(2) Section 2 of the Act is amended by adding the following subsection:

Policies

(3) The Registrar may establish written policies regarding the interpretation, administration and enforcement of the Act.

3 (1) Subsection 12 (3) of the Act, as re-enacted by section 5 of the *Access to Consumer Credit Reports and Elevator Availability Act, 2018*, is repealed and the following substituted:

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

(3) 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 information.
3. The name, 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 consumer reporting agency furnished a consumer report pertaining to the consumer within the one-year period preceding the request,
 - i. the names, telephone numbers and email addresses 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 or by telephone or other means of telecommunication.
5. Any other information relating to the consumer score that may be prescribed.

(2) Section 12 of the Act, as re-enacted by section 5 of the *Access to Consumer Credit Reports and Elevator Availability Act, 2018*, is amended by adding the following subsection:

Same, exemption

(4.1) A consumer reporting agency is exempt from the requirements set out in subsection (4) unless,

- (a) the agency has been prescribed by the regulations; or
- (b) the agency is part of a class of consumer reporting agencies that has been prescribed by the regulations.

(3) The English version of subsection 12 (5) of the Act, as re-enacted by section 5 of the *Access to Consumer Credit Reports and Elevator Availability Act, 2018*, is amended by striking out “his or her” and substituting “the consumer’s”.

(4) Subsection 12 (7) of the Act, as re-enacted by section 5 of the *Access to Consumer Credit Reports and Elevator Availability Act, 2018*, is repealed and the following substituted:

Method of disclosure

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

1. By telephone or other means of telecommunication.
2. By mail.
3. Electronically.
4. By a prescribed method of disclosure.

(5) Paragraph 1 of subsection 12 (8) of the Act, as re-enacted by section 5 of the *Access to Consumer Credit Reports and Elevator Availability Act, 2018*, is amended by striking out “in person, by telephone or by mail” in the portion before subparagraph i and substituting “by telephone or other means of telecommunication or by mail”.

(6) Subsection 12 (10) of the Act is repealed.

(7) The English version of subsection 12 (11) of the Act is amended by striking out “him or her” and substituting “the consumer”.

(8) Subsection 12 (12) of the Act is amended by striking out “a disclosure under subsection (4)” and substituting “a disclosure of information set out in subsection (4)”.

(9) Subsections 12 (14) and (15) of the Act are repealed and the following substituted:

Same, exception for electronic disclosure

(14) Despite subsection (13), 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 one or more times during the same month of the same 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)

(15) Despite subsection (13), if the consumer requests the disclosure, by any method other than electronically, of a consumer score and consumer report under clause (1) (b) and the consumer reporting agency has already made a disclosure, by any method other than electronically, of information set out in subsection (4) 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.

(10) The English version of subsection 12 (17) of the Act is amended by striking out “his or her” and substituting “the consumer’s”.

4 Subsection 12.0.1 (1) of the Act is repealed and the following substituted:

Consumer scores

(1) Subject to subsection (2), the method used to generate a consumer score in response to a request from a consumer shall be a method that is similar to the method that the consumer reporting agency would most commonly use if a creditor had requested the score in respect of the consumer.

5 (1) Subsection 12.4 (2) of the Act is repealed and the following substituted:

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, for any of the following purposes:

1. Entering into a new credit agreement.
2. Increasing credit under an existing credit agreement.
3. Entering into a mortgage for real property.
4. Entering into a motor vehicle lease.
5. Entering into an agreement or a transaction of a prescribed type.

(2) Subsection 12.4 (6) of the Act is amended by striking out “on or before the prescribed deadline” in the portion before clause (a).

(3) Subsections 12.4 (7) and (8) of the Act are repealed.

(4) The English version of subsection 12.4 (11) of the Act is amended by striking out “his or her” and substituting “the consumer’s”.

6 Paragraph 5 of section 12.5 of the Act is repealed.

7 The Act is amended by adding the following section:

Explanatory statements

12.6 (1) A consumer may deliver to a consumer reporting agency a written explanatory statement of no more than 200 words pertaining to any information in the consumer’s file.

Time period

(2) A consumer reporting agency in receipt of an explanatory statement referred to in subsection (1) shall include the statement in the consumer's file within the prescribed time period or, if no such period has been prescribed, within a reasonable time period.

Explanatory statements in reports

(3) If an explanatory statement has been included in a consumer's file, the consumer reporting agency shall incorporate the statement in every report furnished by the agency in respect of the consumer so long as the report contains information pertaining to the statement.

Amendments or removals of explanatory statements

(4) A consumer may request the consumer reporting agency to amend the explanatory statement or remove the statement from the consumer's file.

Time limit for amendments or removals

(5) Upon receiving a request made under subsection (4), the consumer reporting agency shall amend the explanatory statement or remove the statement from the consumer's file within the prescribed time period or, if no such period has been prescribed, within a reasonable time period after receiving the request.

Removal of explanatory statements

(6) If no request has been made under subsection (4) to remove an explanatory statement from a consumer's file, the consumer reporting agency shall remove the statement from the consumer's file,

- (a) on the day that is six years after the day on which the statement was included in the consumer's file; or
- (b) if a request has been made under subsection (4) to amend the statement, on the day that is six years after the day on which the statement was last amended.

8 Subsection 16 (3) of the Act is repealed.**9 The Act is amended by adding the following sections:****Inspection powers**

16.2 (1) The Registrar or any person designated in writing by the Registrar may conduct an inspection and may, as part of the inspection, enter and inspect at any reasonable time the business premises of a registrant, other than any part of the premises used as a dwelling, for the purpose of,

- (a) ensuring the registrant's compliance with this Act and the regulations;
- (b) responding to a complaint made against the registrant under section 16; or
- (c) ensuring the registrant remains entitled to be registered.

Use of force

(2) An inspector is not entitled to use force to enter and inspect the business premises of a registrant.

Identification

(3) An inspector shall, upon request, produce evidence of the inspector's authority to carry out an inspection.

Powers of inspector

(4) An inspector conducting an inspection may,

- (a) examine a record or other thing that the inspector thinks may be relevant to the inspection;
- (b) require the production of a record or other thing that the inspector thinks may be relevant to the inspection;
- (c) remove for review and copying a record or other thing that the inspector thinks may be relevant to the inspection;
- (d) in order to produce a record in readable form, use data storage, information processing or retrieval devices or systems that are normally used in carrying on business in the premises; and
- (e) question any person on matters the inspector thinks may be relevant to the inspection.

Obligation to produce and assist

(5) If an inspector demands that a record or other thing be produced, the person who has custody of the record or thing shall produce it and, in the case of a record, shall on request provide any assistance that is reasonably necessary to interpret the record or to produce it in a readable form.

Records and things removed from premises

(6) An inspector who removes a record or other thing under clause (4) (c) shall provide a receipt and return the record or thing to the person within a reasonable time.

Copy admissible in evidence

(7) A copy of a record that purports to be certified by an inspector as being a true copy of the original is admissible in evidence to the same extent as the original, and has the same evidentiary value.

Additional contact

(8) In addition to the power to enter the business premises of a registrant under this section, an inspector may, by any means, contact any person who manages the operations of a registrant and may exercise the powers that the inspector has to conduct an inspection under this section with respect to the registrant or person, without entering any premises, if the inspector establishes that,

- (a) the registrant is subject to this Act; and
- (b) the person manages the operations of the registrant.

Identification

(9) An inspector who establishes contact with a person under subsection (8) shall provide a written confirmation to the person of the inspector's authority to conduct the inspection, whether or not there is a request under subsection (3).

Time for production

(10) If an inspector establishes contact with a person under subsection (8) and requires the person to produce a record or other thing under clause (4) (b), the person shall provide the record or other thing to the inspector in the manner specified by the inspector and within the time specified by the inspector, which shall not be less than 15 days from the day of the demand to produce.

Duty to assist

(11) A person who is contacted by an inspector under subsection (8) shall assist the inspector in accordance with subsection (5), subject to the time period mentioned in subsection (10).

Obstruction

(12) No person shall,

- (a) hinder, obstruct or interfere with or attempt to hinder, obstruct or interfere with an inspector conducting an inspection;
- (b) refuse to answer questions on matters that an inspector thinks may be relevant to an inspection;
- (c) provide an inspector with information on matters the inspector thinks may be relevant to an inspection that the person knows to be false or misleading; or
- (d) prevent or attempt to prevent an inspector from making inquiries of any person separate and apart from another person under clause (4) (e).

Inspection of non-registrants

16.3 (1) If the Registrar has reasonable grounds to believe that an activity for which registration is required is occurring, the Registrar or a person designated in writing by the Registrar may conduct an inspection and may, as part of the inspection, enter and inspect at any reasonable time the business premises of a person or entity, other than any part of the premises used as a dwelling, for the purpose of determining whether the person or entity is carrying on the activity.

Application of s. 16.2

(2) Subsections 16.2 (2) to (12) apply to the inspection described in subsection (1) of this section, reading references to a registrant as references to the person or entity whose business premises are subject to the inspection.

10 (1) Subsection 23 (1) of the Act is amended by striking out "\$25,000" in the portion after clause (c) and substituting "\$50,000".

(2) Subsection 23 (2) of the Act is amended by striking out "\$100,000" and substituting "\$250,000".

11 The Act is amended by adding the following section:

Liability for contravention of Act or regulations

23.1 (1) A person who contravenes this Act or the regulations is liable to a consumer for any damages sustained by the consumer as a result of the contravention.

Consumer right of action in Superior Court of Justice

(2) A consumer has a right to commence an action for the damages referred to in subsection (1) and the consumer may commence the action in the Superior Court of Justice.

Same

(3) This section applies in addition to any other remedy available by law to the consumer.

12 (1) Clause 25 (a) of the Act is repealed and the following substituted:

(a) exempting any consumer reporting agency or class of consumer reporting agencies, or any other person or class of persons, from this Act or the regulations or any provision thereof;

(2) Clause 25 (a.1) of the Act, as enacted by subsection 11 (1) of the *Access to Consumer Credit Reports and Elevator Availability Act, 2018*, is repealed.

(3) Clause 25 (h) of the Act, as re-enacted by subsection 11 (2) of the *Access to Consumer Credit Reports and Elevator Availability Act, 2018*, is repealed and the following substituted:

(h) exempting a consumer reporting agency or 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 consumer reporting agency or class of consumer reporting agencies;

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

(h.2) permitting, limiting and governing fees for the purposes of subsections 12 (13), (14) and (15) that a consumer reporting agency or class of consumer reporting agencies may charge with respect to a disclosure under section 12;

(5) Clauses 25 (m) and (m.1) of the Act are repealed and the following substituted:

(m) defining any word or expression used in subsection 12.4 (2) that is not already defined in this Act;

(m.1) permitting and governing fees for the purposes of subsection 12.4 (10) that a consumer reporting agency or class of consumer reporting agencies may charge for placing, suspending or terminating a security freeze;

(m.2) governing the information, including specified wording, that a consumer reporting agency or class of consumer reporting agencies shall publish with respect to alerts and security freezes for the purposes of section 12.5;

Commencement

13 (1) Except as otherwise provided in this section, this Schedule comes into force on the day the *Better for Consumers, Better for Businesses Act, 2023* receives Royal Assent.

(2) Subsection 1 (1) comes into force on the later of the day section 2 of the *Access to Consumer Credit Reports and Elevator Availability Act, 2018* comes into force and the day the *Better for Consumers, Better for Businesses Act, 2023* receives Royal Assent.

(3) Sections 3 and 4 come into force on the later of the day section 5 of the *Access to Consumer Credit Reports and Elevator Availability Act, 2018* comes into force and the day the *Better for Consumers, Better for Businesses Act, 2023* receives Royal Assent.

(4) Section 5 and subsection 12 (5) come into force on the later of the day section 6 of the *Access to Consumer Credit Reports and Elevator Availability Act, 2018* comes into force and the day the *Better for Consumers, Better for Businesses Act, 2023* receives Royal Assent.

(5) Section 7 comes into force on a day to be named by proclamation of the Lieutenant Governor.

(6) Subsections 12 (2) to (4) come into force on the later of the day subsection 11 (2) of the *Access to Consumer Credit Reports and Elevator Availability Act, 2018* comes into force and the day the *Better for Consumers, Better for Businesses Act, 2023* receives Royal Assent.