

BUSINESS PRACTICES AND CONSUMER PROTECTION ACT

SBC 2004, CHAPTER 2

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HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows:

Part 1 -- Definitions and Application

Definitions

1 (1) In this Act:

"administrative authority" means the Business Practices and Consumer Protection Authority established under the Business Practices and Consumer Protection Authority Act;

"administrative penalty" means a penalty imposed under section 164;

"associate", if used to indicate a relationship with a person, means

- (a) a spouse, parent, child, sibling or business partner of the person, or
- (b) a corporation of which a sufficient number of shares to elect a majority of the

corporation's directors is beneficially owned, directly or indirectly, by

- (i) the person,
- (ii) one or more of the persons referred to in paragraph (a), or
- (iii) the person and one or more of the persons referred to in paragraph (a);

"compensation fund" means a compensation fund established under section 130 or the Travel Assurance Fund continued under section 130;

"compliance order" means an order issued under section 155 by an inspector;

"consumer" means an individual, whether in British Columbia or not, who participates in a consumer transaction, but does not include a guarantor;

"Consumer Advancement Fund" means the Consumer Advancement Fund established under section 139;

"consumer transaction" means

- (a) a supply of goods or services or real property by a supplier to a consumer for purposes that are primarily personal, family or household, or
- (b) a solicitation, offer, advertisement or promotion by a supplier with respect to a transaction referred to in paragraph (a),

and, except in Parts 4 and 5, includes a solicitation of a consumer by a supplier for a contribution of money or other property by the consumer;

"director", except in reference to a director of a corporation, means, subject to the restrictions specified in a designation, the individual or administrative authority designated under section 175 as director;

"direct sales prohibition order" means an order issued under section 156 by the director;

"goods" means personal property, fixtures and credit, but does not include a security as defined in the Securities Act or contracts of insurance under the Insurance Act;

"goods or services" means goods or services or both;

"inspector" means the director or a person designated as an inspector under section 176;

"licence" means a licence issued under section 145 and includes a renewal of the licence;

"private dwelling" means a

- (a) a structure that is occupied as a private residence, or

(b) if only part of a structure is occupied as a private residence, that part of the structure;

"property freezing order" means an order made under section 159 (2) by the director;

"publish" means make public in any manner, including by or through any media;

"services" means services, whether or not the services are together with or separate from goods, and includes a membership in a club or organization;

"supplier" means a person, whether in British Columbia or not, who in the course of business participates in a consumer transaction by

(a) supplying goods or services or real property to a consumer, or

(b) soliciting, offering, advertising or promoting with respect to a transaction referred to in paragraph (a) of the definition of "consumer transaction",

whether or not privity of contract exists between that person and the consumer, and includes the successor to, and assignee of, any rights or obligations of that person and, except in Parts 3 to 5 [Rights of Assignees and Guarantors Respecting Consumer Credit; Consumer Contracts; Disclosure of the Cost of Consumer Credit], includes a person who solicits a consumer for a contribution of money or other property by the consumer;

"supply" includes, in respect of the supply of goods or services or real property to a consumer, a sale, lease, assignment, award by chance or other disposition;

"time share contract" means a contract by which the consumer acquires the right to use property, whether or not the property is located in British Columbia,

(a) for a period of time each year or other interval, and

(b) as part of a plan that provides for the use of the property to circulate, in any year or other interval, among persons participating in the plan,

but does not include a time share plan as defined in the Real Estate Development Marketing Act;

"total cost of credit" has the meaning given to it in section 57 [definitions];

"total price" means the total obligation or amount that is payable, given, undertaken or assumed by a consumer under a consumer transaction;

"undertaking" means an undertaking accepted under section 154 by the director.

(2) Subject to subsection (3), the definitions in the Cremation, Interment and Funeral Services Act, except where a contrary definition is set out in this Act or the regulations, apply to this Act.

(3) The definition of "register" in the Cremation, Interment and Funeral Services Act does not apply to this Act.

**** Editor's Table ****

Provision	Changed by	In force	Authority
"time share contract"	2004-41-48	2005 Jan 1	BC Reg 505/04

SBC 2004-2-1, effective July 4, 2004 (B.C. Reg. 274/2004); SBC 2004-41-48.

Application of this Act

2 (1) Parts 6 [Credit Reporting] and 7 [Debt Collection] apply to transactions, matters or things, regardless of whether they involve a consumer.

(2) Except for the following, this Act does not apply to a sale, lease, mortgage of or charge on land or a chattel real:

- (a) Parts 2 [Unfair Practices] and 5 [Disclosure of the Cost of Consumer Credit];
- (b) section 3 and Parts 3 [Rights of Assignees and Guarantors Respecting Consumer Credit], 8 to 10 [Compensation Funds and Consumer Advancement Fund; Licences; Inspections and Enforcement], 13 [Offences and Penalties] and 14 [Regulations], as those Parts relate to Parts 2 and 5.

SBC 2004-2-2, effective July 4, 2004 (B.C. Reg. 274/2004).

Waiver or release void except as permitted

3 Any waiver or release by a person of the person's rights, benefits or protections under this Act is void except to the extent that the waiver or release is expressly permitted by this Act.

SBC 2004-2-3, effective July 4, 2004 (B.C. Reg. 274/2004).

Part 2 -- Unfair Practices

Division 1 -- Deceptive Acts or Practices

Deceptive acts or practices

4 (1) In this Division:

"deceptive act or practice" means, in relation to a consumer transaction,

- (a) an oral, written, visual, descriptive or other representation by a supplier, or
- (b) any conduct by a supplier

that has the capability, tendency or effect of deceiving or misleading a consumer or guarantor;

"representation" includes any term or form of a contract, notice or other document used or relied on by a supplier in connection with a consumer transaction.

(2) A deceptive act or practice by a supplier may occur before, during or after the consumer transaction.

(3) Without limiting subsection (1), one or more of the following constitutes a deceptive act or practice:

- (a) a representation by a supplier that goods or services
 - (i) have sponsorship, approval, performance characteristics, accessories, ingredients, quantities, components, uses or benefits that they do not have,
 - (ii) are of a particular standard, quality, grade, style or model if they are not,
 - (iii) have a particular prior history or usage that they do not have, including a representation that they are new if they are not,
 - (iv) are available for a reason that differs from the fact,
 - (v) are available if they are not available as represented,
 - (vi) were available in accordance with a previous representation if they were not,
 - (vii) are available in quantities greater than is the fact, or
 - (viii) will be supplied within a stated period if the supplier knows or ought to know that they will not;
- (b) a representation by a supplier
 - (i) that the supplier has a sponsorship, approval, status, affiliation or connection that the supplier does not have,
 - (ii) that a service, part, replacement or repair is needed if it is not,
 - (iii) that the purpose or intent of a solicitation of, or a communication with, a consumer by a supplier is for a purpose or intent that differs from the fact,
 - (iv) that a consumer transaction involves or does not involve rights, remedies or obligations that differs from the fact,

- (v) about the authority of a representative, employee or agent to negotiate the final terms of a consumer transaction if the representation differs from the fact,
 - (vi) that uses exaggeration, innuendo or ambiguity about a material fact or that fails to state a material fact, if the effect is misleading,
 - (vii) that a consumer will obtain a benefit for helping the supplier to find other potential customers if it is unlikely that the consumer will obtain the benefit,
 - (viii) that appears in an objective form such as an editorial, documentary or scientific report if the representation is primarily made to sell goods or services, unless the representation states that it is an advertisement or promotion, or
 - (ix) to arrange for the consumer an extension of credit for a fee, unless the fee is deducted from the advance, as defined in section 57 [definitions];
- (c) a representation by a supplier about the total price of goods or services if
- (i) a person could reasonably conclude that a price benefit or advantage exists but it does not,
 - (ii) the price of a unit or instalment is given in the representation, and the total price of the goods or services is not given at least the same prominence, or
 - (iii) the supplier's estimate of the price is materially less than the price subsequently determined or demanded by the supplier unless the consumer has expressly consented to the higher price before the goods or services are supplied;
- (d) a prescribed act or practice.

SBC 2004-2-4, effective July 4, 2004 (B.C. Reg. 274/2004).

Prohibition and burden of proof

5 (1) A supplier must not commit or engage in a deceptive act or practice in respect of a consumer transaction.

(2) If it is alleged that a supplier committed or engaged in a deceptive act or practice, the burden of proof that the deceptive act or practice was not committed or engaged in is on the supplier.

SBC 2004-2-5, effective July 4, 2004 (B.C. Reg. 274/2004).

Advertising

6 (1) In this section, "advertiser" means a supplier who publishes advertisements.

(2) An advertiser who, on behalf of another supplier, publishes a deceptive or misleading

advertisement is not liable under section 171 [damages recoverable], 172 [court actions respecting consumer transactions] or 189 [offences] if the advertiser proves that the advertiser did not know and had no reason to suspect that its publication would contravene section 5.

(3) An advertiser, for each advertisement accepted, must maintain a record of the name and address of the supplier who provides the advertisement.

SBC 2004-2-6, effective July 4, 2004 (B.C. Reg. 274/2004).

Division 2 -- Unconscionable Acts or Practices

Application of this Division

7 Nothing in this Division limits, restricts or derogates from a court's power or jurisdiction.

SBC 2004-2-7, effective July 4, 2004 (B.C. Reg. 274/2004).

Unconscionable acts or practices

8 (1) An unconscionable act or practice by a supplier may occur before, during or after the consumer transaction.

(2) In determining whether an act or practice is unconscionable, a court must consider all of the surrounding circumstances of which the supplier knew or ought to have known.

(3) Without limiting subsection (2), the circumstances that the court must consider include the following:

- (a) that the supplier subjected the consumer or guarantor to undue pressure to enter into the consumer transaction;
- (b) that the supplier took advantage of the consumer or guarantor's inability or incapacity to reasonably protect his or her own interest because of the consumer or guarantor's physical or mental infirmity, ignorance, illiteracy, age or inability to understand the character, nature or language of the consumer transaction, or any other matter related to the transaction;
- (c) that, at the time the consumer transaction was entered into, the total price grossly exceeded the total price at which similar subjects of similar consumer transactions were readily obtainable by similar consumers;
- (d) that, at the time the consumer transaction was entered into, there was no reasonable probability of full payment of the total price by the consumer;
- (e) that the terms or conditions on, or subject to, which the consumer entered into the consumer transaction were so harsh or adverse to the consumer as to be inequitable;
- (f) a prescribed circumstance.

SBC 2004-2-8, effective July 4, 2004 (B.C. Reg. 274/2004).

Prohibition and burden of proof

9 (1) A supplier must not commit or engage in an unconscionable act or practice in respect of a consumer transaction.

(2) If it is alleged that a supplier committed or engaged in an unconscionable act or practice, the burden of proof that the unconscionable act or practice was not committed or engaged in is on the supplier.

SBC 2004-2-9, effective July 4, 2004 (B.C. Reg. 274/2004).

*Remedy for an unconscionable act
or practice*

10 (1) Subject to subsection (2), if an unconscionable act or practice occurred in respect of a consumer transaction, that consumer transaction is not binding on the consumer or guarantor.

(2) If a court determines that an unconscionable act or practice occurred in respect of a consumer transaction that is a mortgage loan, as defined in section 57 [definitions], the court may do one or more of the following:

- (a) reopen the transaction and take an account between the supplier and the consumer or guarantor;
- (b) despite any statement or settlement of account or any agreement purporting to close previous dealings and create a new obligation, reopen any account already taken and relieve the consumer from any obligation to pay the total cost of credit at a rate in excess of the prevailing prime rate;
- (c) order the supplier to repay any excess that has been paid or allowed by the consumer or guarantor;
- (d) set aside all or part of, or alter, any agreement made or security given in respect of the transaction and, if the supplier has parted with the security, order the supplier, to indemnify the consumer;
- (e) suspend the rights and obligations of the parties to the transaction.

SBC 2004-2-10, effective July 4, 2004 (B.C. Reg. 274/2004).

Division 3 -- Unsolicited Goods or Services

Definition and interpretation

11 (1) In this Division, "unsolicited goods or services" means goods or services that are supplied to a consumer who did not request them, other than

- (a) goods or services supplied to a consumer who knew or ought to have known they were intended for delivery to another person,
- (b) goods or services for which the supplier does not require payment, or

(c) a prescribed supply of goods or services.

(2) For the purposes of the definition of "unsolicited goods or services", a request for goods or services must not be inferred only from the passage of time or from the consumer's

(a) payment for the goods or services,

(b) use of the goods or services,

(c) request to purchase another similar good or service, or

(d) inaction.

SBC 2004-2-11, effective July 4, 2004 (B.C. Reg. 274/2004).

Unsolicited goods or services

12 (1) A consumer has no legal obligation in respect of unsolicited goods or services unless and until the consumer expressly acknowledges to the supplier in writing his or her intention to accept the goods or services.

(2) Unless the consumer has given the acknowledgment referred to in subsection (1), the supplier does not have a cause of action for any loss, use, misuse, possession, damage or misappropriation in respect of the goods or services or the value obtained by the use of the goods or services.

(3) Subsections (1) and (2) do not apply to goods supplied to a consumer on a continuing basis under a contract between the consumer and supplier.

(4) If it is alleged that the supplier supplied unsolicited goods or services, the burden of proof that the goods or services were not unsolicited is on the supplier.

SBC 2004-2-12, effective July 4, 2004 (B.C. Reg. 274/2004).

*Material change resulting in
unsolicited goods or services*

13 (1) This section does not apply to

(a) a material change in services referred to in section 25 (4) [continuing services contract -- cancellation], and

(b) a change to the price of goods or services or a renewal of an existing supply of goods or services if the goods or services are not otherwise changed.

(2) If a consumer is being supplied with goods or services on a continuing basis and there is a material change in the goods or services, or in the supply of the goods or services, the goods or services are deemed to be unsolicited goods or services from the time of the material change unless the supplier is able to establish that the consumer consented to the material change.

(3) Subject to subsection (4), a supplier may rely on a consumer's consent to the material change if that consent is made by any method that permits the supplier to produce evidence to establish the consumer's consent.

(4) A supplier does not establish a consumer's consent by providing notice to the consumer to the effect that the supplier will supply the materially changed goods or services to the consumer unless the consumer instructs the supplier not to supply the goods or services.

SBC 2004-2-13, effective July 4, 2004 (B.C. Reg. 274/2004).

*Consumer's remedy if unsolicited
goods or services*

14 (1) A consumer who pays for unsolicited goods or services may give to the supplier a demand, in writing, for a refund from the supplier within 2 years after the consumer first received the goods or services if the consumer did not expressly acknowledge to the supplier in writing his or her intention to accept the goods or services.

(2) A demand is sufficient if it indicates, in any way, the intention of the consumer to demand a refund of a payment made for unsolicited goods or services.

(3) If a supplier receives a demand for a refund, the supplier must refund to the consumer, within 15 days after the supplier received the demand, all money received in respect of the unsolicited goods or services.

SBC 2004-2-14, effective July 4, 2004 (B.C. Reg. 274/2004).

Part 3 -- Rights of Assignees and Guarantors Respecting Consumer Credit

Assignee's obligations

15 (1) Subject to subsection (2), an assignee of a right of a supplier in a consumer transaction has no greater right than, and is subject to the same obligations as, the assignor respecting the credit given to the consumer.

(2) A consumer must not receive from, and is not entitled to set off against, an assignee of the supplier an amount greater than the balance owing on the contract at the time of the assignment.

SBC 2004-2-15, effective July 4, 2004 (B.C. Reg. 274/2004).

*Guarantor has same rights as
consumer*

16 A guarantor may rely on a defence that is available to a consumer in an action commenced by a supplier against the guarantor, whether or not the consumer is a party to the action, but a guarantor must not use the infancy or bankruptcy of the consumer as a defence.

SBC 2004-2-16, effective July 4, 2004 (B.C. Reg. 274/2004).

Part 4 -- Consumer Contracts

Division 1 -- Definitions and Application

Definitions

17 In this Part:

"continuing services contract" means a future performance contract that provides for the performance of services on a continuing basis and is designated by regulation;

"direct sales contract" means a contract between a supplier and a consumer for the supply of goods or services that is entered into in person at a place other than the supplier's permanent place of business, but does not include

- (a) a funeral contract, interment right contract or preneed cemetery or funeral services contract, or
- (b) a contract for which the total price payable by the consumer, not including the total cost of credit, is less than a prescribed amount;

"distance sales contract" means a contract for the supply of goods or services between a supplier and a consumer that is not entered into in person and, with respect to goods, for which the consumer does not have the opportunity to inspect the goods that are the subject of the contract before the contract is entered into;

"funeral contract" means a contract that provides for funeral services for

- (a) an infant who is stillborn, or
- (b) a person who is deceased

at the time the contract is entered into;

"future performance contract" means a contract between a supplier and a consumer for the supply of goods or services for which the supply or payment in full of the total price payable is not made at the time the contract is made or partly executed, but does not include

- (a) a contract for which the total price payable by the consumer, not including the total cost of credit, is less than a prescribed amount,
- (b) a contract for the supply of goods or services under a credit agreement, as defined in section 57 [definitions], if the goods or services have been supplied, or
- (c) a time share contract;

"interment right contract" means a contract that provides for a right of interment for human remains or cremated remains in a lot;

"preneed cemetery or funeral services contract" means a future performance contract that provides for cemetery or funeral services for one or more persons who are alive at the time the contract is entered into;

"supply date" means, in respect of a contract, the date on which goods or services will be, or will begin to be, supplied to the consumer.

SBC 2004-2-17, effective July 4, 2004 (B.C. Reg. 274/2004).

Application

18 (1) Subject to subsection (2), if a contract meets the definition of more than one type of contract referred to in this Part, all of the applicable provisions in this Part apply to the contract unless a contrary intention appears in this Part.

(2) If there is a conflict or inconsistency between provisions that apply to a contract, the provision that is most beneficial to the consumer applies to the contract.

SBC 2004-2-18, effective July 4, 2004 (B.C. Reg. 274/2004).

**Division 2 -- Direct Sales, Future Performance
and Time Share Contracts**

Required contents

19 A direct sales contract, future performance contract or time share contract must contain the following information:

- (a) the supplier's name and, if different, the name under which the supplier carries on business;
- (b) the supplier's business address and, if different, the supplier's mailing address;
- (c) the supplier's telephone number and, if available, facsimile number;
- (d) the date on which the contract is entered into;
- (e) a detailed description of the goods or services to be supplied under the contract;
- (f) an itemized purchase price for the goods or services to be supplied under the contract;
- (g) other costs payable by the consumer, including taxes and shipping charges;
- (h) if any customs duties, brokerage fees or other additional charges that may apply to the contract cannot reasonably be determined by the supplier, a description of those charges;
- (i) a detailed statement of the terms of payment;
- (j) the total price under the contract, including the total cost of credit;
- (k) if applicable, a description and dollar value of any trade-in;

- (l) if credit is extended or arranged by the supplier, a description of the subject matter of any security interest in accordance with Part 5 [Disclosure of the Cost of Consumer Credit];
- (m) a notice of the consumer's rights of cancellation, in the prescribed form and manner, if any;
- (n) any other restrictions, limitations or other terms or conditions that may apply to the supply of the goods or services;
- (o) any other prescribed information.

SBC 2004-2-19, effective July 4, 2004 (B.C. Reg. 274/2004).

Direct sales contracts

20 (1) In addition to the information required under section 19, a direct sales contract must contain

- (a) the name, in a readable form, of the individual who signs the contract on behalf of the supplier,
- (b) the place where the contract is entered into, and
- (c) the signatures of
 - (i) the individual who signs the contract on behalf of the supplier,
 - (ii) the consumer, and
 - (iii) if applicable, the guarantor.

(2) Despite section 23 (3) [future performance contract], if that section applies, a supplier must give a copy of the direct sales contract to the consumer at the time the contract is entered into.

(3) A direct sales contract is not binding on a consumer if

- (a) the supplier does not give to the consumer a copy of the contract at the time the contract is entered into, or
- (b) the supplier requires the consumer to make a down payment in excess of the prescribed amount.

SBC 2004-2-20, effective July 4, 2004 (B.C. Reg. 274/2004).

Direct sales contract

-- cancellation

21 (1) A consumer may cancel a direct sales contract by giving notice of cancellation to the supplier not later than 10 days after the date that the consumer receives a copy of the contract.

(2) A consumer may cancel a direct sales contract by giving notice of cancellation to the supplier not later than one year after the date that the consumer receives a copy of the contract if one or more of the following applies:

- (a) the contract does not meet the requirements of sections 19 and 20 (1) [required contents of contract];
- (b) at the time the contract was made, the supplier was under a direct sales prohibition order;
- (c) the goods or services to be supplied under the contract are not supplied to the consumer within 30 days of the supply date.

(3) The consumer is not entitled to cancel the contract under subsection (2) (c) if the consumer accepts delivery of the goods or services after the end of the 30-day period described in that subsection.

(4) Despite section 15 (2) [assignee's obligations], if a consumer cancels a direct sales contract under this section, the supplier, within 15 days after the notice of cancellation has been given, must return to the consumer any trade-in received under a trade-in arrangement, or an amount equal to the trade-in allowance.

(5) Despite section 28 (1) [return of goods by consumer on cancellation], if a consumer cancels a direct sales contract under this section, the consumer may retain possession of the goods delivered to the consumer

- (a) until all money paid by the consumer is refunded, and
- (b) in the case of a trade-in arrangement, until either
 - (i) the supplier returns to the consumer, in substantially the same condition as when the supplier received them, the goods delivered by the consumer under the trade-in arrangement, or
 - (ii) an amount equal to the trade-in allowance is paid to the consumer.

(6) If a trade-in or an amount equal to the trade-in allowance is not returned to the consumer as required under subsection (4), the consumer may recover from the supplier as a debt due an amount equal to the trade-in allowance.

(7) If a consumer receives an amount equal to the trade-in allowance, the title of the consumer in respect of the goods delivered by the consumer under the trade-in arrangement, if the title had not already passed from the consumer, vests in the person entitled to them under the trade-in arrangement.

SBC 2004-2-21, effective July 4, 2004 (B.C. Reg. 274/2004).

*Credit agreement respecting
direct sales contract*

22 If credit is extended or arranged by the supplier in respect of a direct sales contract,

- (a) the credit agreement, as defined in section 57 [definitions], is conditional on the direct sales contract, whether or not the credit agreement is a part of or attached to the direct sales contract, and
- (b) if the direct sales contract is cancelled under section 21, the credit agreement is cancelled.

SBC 2004-2-22, effective July 4, 2004 (B.C. Reg. 274/2004).

Future performance contract

23 (1) This section does not apply to a future performance contract that is a preneed cemetery or funeral services contract.

(2) In addition to the information required under section 19 [required contents of contract], a future performance contract must contain the following information:

- (a) the supply date;
- (b) the date on which the supply of the goods or services will be complete;
- (c) if there are periodic payments under the contract, the amount of each of the periodic payments.

(3) A supplier must give a copy of the future performance contract to the consumer within 15 days after the contract is entered into.

(4) A future performance contract is not binding on the consumer if

- (a) the supplier gives, or offers to give, a rebate, discount or other value to the consumer in consideration of the consumer giving to the supplier the names of prospective consumers, or otherwise aiding the supplier in making a sale to another person, and
- (b) the earning of the rebate, discount or other value is contingent on the occurrence of an event after the time the consumer agrees to buy.

(5) A consumer may cancel a future performance contract by giving notice of cancellation to the supplier not later than one year after the date that the consumer receives a copy of the contract if the contract does not contain the information required under subsection (2) and section 19 [required contents of contract].

SBC 2004-2-23, effective July 4, 2004 (B.C. Reg. 274/2004).

Continuing services contract

-- terms

24 (1) In addition to the information required under sections 19 and 23 (2) [required contents of contract], a continuing services contract that provides for a supplier supplying services by reference to a number of hours or a number of sessions must state the period of time, in months, over which the

consumer can reasonably expect to receive the services.

(2) The period of time referred to in subsection (1) must not exceed 24 months.

(3) A continuing services contract must not be for a duration, including the cumulative total of all options and rights to extend or renew the contract, of more than 2 years.

(4) Despite subsection (3), a continuing services contract may provide for the consumer renewing the contract by consenting in writing within one month of the expiry of the contract.

(5) For the purpose of subsection (3), all continuing services contracts, except a contract renewed under subsection (4), that

(a) are in effect between the same supplier and the same consumer at the same time,
and

(b) provide for the performance of the same or similar services,

whether or not services are being supplied concurrently under 2 or more of the contracts, are deemed to be one contract.

(6) If a contract does not comply with subsection (3),

(a) the contract is not binding on the consumer in respect of the period in excess of 2 years,

(b) the supplier must refund to the consumer, within 15 days after receiving a request from the consumer, all money paid under the contract for the period in excess of 2 years, and

(c) if the supplier does not comply with paragraph (b), the consumer may recover as a debt due all money paid under the contract for the period in excess of 2 years.

(7) In an action by the consumer against the supplier where the supplier fails to comply with subsection (6) (b), the court must enter judgment against the supplier for 3 times the amount of any refund not paid within the time limited by that subsection.

(8) For certainty, this section applies to a contract renewed under subsection (4).

SBC 2004-2-24, effective July 4, 2004 (B.C. Reg. 274/2004).

Continuing services contract
-- cancellation

25 (1) A consumer may cancel a continuing services contract by giving notice of cancellation to the supplier not later than 10 days after the date that the consumer receives a copy of the contract.

(2) A consumer may cancel a continuing services contract by giving notice of cancellation and the reason for the cancellation to the supplier at any time if there has been a material change

- (a) in the circumstances of the consumer, or
- (b) in the services provided by the supplier.

(3) A material change in the circumstances of the consumer includes, without limitation,

- (a) the consumer's death,
- (b) a physical, medical or mental disability of the consumer, substantiated in writing by a medical practitioner showing that the consumer's continued participation is unreasonable because of the consumer's condition or is likely to endanger the consumer's health, or
- (c) the relocation of the consumer for the remainder of the duration of the contract, or the remainder of the time stated in the contract in accordance with section 24, so that the distance between the consumer and the supplier is more than 30 km greater than when the consumer and the supplier entered into the contract, if the supplier does not provide reasonably comparable alternative facilities for the use of the consumer not more than 30 km from the consumer's new location.

(4) A material change in the services provided by the supplier occurs

- (a) when, for reasons that are wholly or partly the fault of the supplier, the services are not completed, or at any time the supplier appears to be unable to reasonably complete the services within the period of time stated by the supplier under section 24,
- (b) when the services are no longer available, or are no longer substantially available as provided in the contract, because of the supplier's discontinuance of operation or substantial change in operation, or
- (c) when the supplier relocates his or her facility so that the distance between the supplier and the consumer is more than 30 km greater than when the supplier and the consumer entered into the contract, and the supplier does not provide reasonably comparable alternative facilities for the use of the consumer not more than 30 km from the consumer's location.

(5) Section 27 [refunds by supplier on cancellation] does not apply to a cancellation under subsection (2).

(6) If a consumer cancels a continuing services contract under subsection (2), the supplier must

- (a) within 15 days after the notice of cancellation has been given, refund to the consumer,
 - (i) in the case of a cancellation under subsection (2) (a), the portion determined in the prescribed manner of all cash payments made under the contract, less a prescribed amount on account of the supplier's costs, or

(ii) in the case of a cancellation under subsection (2) (b), the portion determined in the prescribed manner of all cash payments made under the contract, and

(b) within 30 days after the notice of cancellation has been given, return to the consumer every negotiable instrument executed by the consumer in connection with the contract.

SBC 2004-2-25, effective July 4, 2004 (B.C. Reg. 274/2004).

Time share contract

26 (1) Subject to subsection (2), a supplier must give a copy of the time share contract to the consumer at the time the contract is entered into.

(2) Section 48 (1) [copy of distance sales contract] applies to the time share contract if the contract is also a distance sales contract.

(3) A consumer may cancel a time share contract by giving notice of cancellation to the supplier not later than 10 days after the date that the consumer receives a copy of the contract.

(4) Subject to any longer cancellation period prescribed, a consumer may cancel a time share contract by giving notice of cancellation to the supplier not later than one year after the date that the consumer receives a copy of the contract if the contract does not contain the information required under section 19 [required contents of contract].

SBC 2004-2-26, effective July 4, 2004 (B.C. Reg. 274/2004).

Refunds by supplier on cancellation

27 Despite section 15 (2) [assignee's obligations], if a contract is cancelled under this Division, the supplier must refund to the consumer,

(a) within 15 days after the notice of cancellation has been given, and

(b) without deduction except as provided for in this Division or in the regulations,

all money received in respect of the contract, whether received from the consumer or any other person.

SBC 2004-2-27, effective July 4, 2004 (B.C. Reg. 274/2004).

Return of goods by consumer on cancellation

28 (1) If a direct sales contract, future performance contract or time share contract is cancelled under this Division, the consumer must return any goods received under the contract by delivering the goods to the person named in the contract as the person to whom notice of cancellation may be given or to the business address of the supplier.

(2) Subject to subsection (3), the return of the goods by the consumer under subsection (1) discharges the consumer from any obligation, in respect of the goods, arising under the contract.

(3) If goods are returned by the consumer under subsection (1), the consumer is liable to the supplier for any damage to the goods caused by the failure of the consumer to take reasonable care of the goods.

SBC 2004-2-28, effective July 4, 2004 (B.C. Reg. 274/2004).

Division 3 -- Preneed Cemetery or Funeral Services, Funeral and Interment Right Contracts

Definition

29 In this Division:

"preneed trust account" means a trust account established by the supplier with a savings institution in British Columbia;

"provider" means an operator, funeral provider or memorial dealer.

SBC 2004-2-29, effective July 4, 2004 (B.C. Reg. 274/2004).

Prohibition on solicitation

30 (1) A supplier must not solicit, offer for sale or sell rights of interment, cemetery services, funeral services or memorials

- (a) by mail, electronic mail or facsimile that is addressed to a specific consumer at the consumer's residential address, electronic mail address or facsimile number,
- (b) in person at the consumer's place of residence, or
- (c) by telephoning the consumer at the consumer's place of residence.

(2) Subsection (1) (b) does not apply to a presentation by a supplier at a consumer's place of residence that was requested at least 24 hours in advance of the presentation by

- (a) the consumer, or
- (b) a relative or friend of the consumer if that relative or friend is not the supplier or an associate of the supplier.

SBC 2004-2-30, effective July 4, 2004 (B.C. Reg. 274/2004).

Requirement for schedule of rates

31 (1) A provider must keep at its business premises a price list that

- (a) indicates the current prices for all goods and services that the provider currently offers to supply,
- (b) indicates each good or service that is necessarily or usually required if another good or service that the provider currently offers to supply is supplied,
- (c) indicates the current amounts of any disbursements or fees that are necessarily or usually required to be paid in connection with any good or service that the provider currently offers to supply,
- (d) either
 - (i) includes the model number, description and manufacturer's name for each of the goods that the provider currently offers to supply, or
 - (ii) includes a reference to a catalogue or binder that is available to the public on request at the provider's business premises and that contains the information mentioned in subparagraph (i),
- (e) expresses each price of a good or service as a fixed charge, an hourly rate, a rate per kilometre or some other unit of compensation, and
- (f) clearly states the price list's effective date and the name and address of the provider.

(2) The provider must

- (a) display the price list in a place on the business premises that is accessible to members of the public, and
- (b) give a copy of the price list to a consumer on request.

SBC 2004-2-31, effective July 4, 2004 (B.C. Reg. 274/2004).

Requirement to give accurate information

32 A provider that receives an inquiry respecting the nature or price of cemetery services, funeral services or memorials offered by the provider must

- (a) give accurate information respecting the nature and price of the cemetery services, funeral services or memorials,
- (b) inform the person making the inquiry of any good or service that is necessarily or usually required in conjunction with the cemetery services, funeral services or memorials to which the inquiry relates,
- (c) inform the person making the inquiry of the current amounts of the disbursements or fees that are necessarily or usually required in conjunction with

- (i) the cemetery services, funeral services or memorials to which the inquiry relates, and
 - (ii) any good or service that is necessarily or usually required in conjunction with the cemetery services, funeral services or memorials to which the inquiry relates, and
- (d) state specifically what goods and services are included in any price quoted.

SBC 2004-2-32, effective July 4, 2004 (B.C. Reg. 274/2004).

*Prohibited charges respecting
containers*

33 A funeral provider or an operator must not charge any fee or disbursement for using or handling a container referred to in section 11 [containers for interment or cremation] of the Cremation, Interment and Funeral Services Act.

SBC 2004-2-33, effective July 4, 2004 (B.C. Reg. 274/2004).

Funeral contract

34 (1) A funeral contract must contain the following information:

- (a) the information referred to in section 19 [required contents of contract];
- (b) the name and address, as applicable, of
 - (i) the consumer,
 - (ii) the deceased person or stillborn infant,
 - (iii) the person who has the right, as determined under section 5 [control of disposition of human remains or cremated remains] of the Cremation, Interment and Funeral Services Act, to control the disposition of the human remains or cremated remains, and
 - (iv) the funeral director;
- (c) the address where the human remains will be sheltered pending disposition;
- (d) a statement that embalming is not a legal requirement but may be required in some cases and, if embalming is required, provide a space for the written acknowledgment of that service by the consumer;
- (e) if the supplier charges a storage fee for storing cremated remains,
 - (i) the fee charged by the supplier, and

(ii) a statement that no fee is charged until 60 days after the date of cremation;

(f) any other prescribed information.

(2) Despite sections 23 (3) [future performance contract] and 48 (1) [distance sales contract], if one or both of those sections apply, a supplier must give a copy of the funeral contract to the consumer at the time the contract is entered into.

(3) If the funeral contract provides for specific goods or services and the supplier must substitute other goods or services of equal or greater value for those specified in the contract,

(a) the supplier must inform the consumer, and

(b) the consumer may cancel that part of the funeral contract.

SBC 2004-2-34, effective July 4, 2004 (B.C. Reg. 274/2004).

*Preneed cemetery or funeral
services contract -- initial
disclosure statement*

35 Before a consumer enters into a preneed cemetery or funeral services contract, the supplier must disclose, in writing, the following information:

(a) if under the contract the consumer is required to obtain and maintain insurance and to assign the right to the amount payable under the insurance to the supplier,

(i) the portion of the insurance premiums paid by the consumer that will be refunded if the insurance is cancelled, and

(ii) that sections 38 and 45 [refunds on cancellation] do not apply if the insurance is cancelled;

(b) if under the contract the supplier is to receive money that must be deposited into a preneed trust account, the portion of the price paid by the consumer that will be refunded if the contract is cancelled.

SBC 2004-2-35, effective July 4, 2004 (B.C. Reg. 274/2004).

*Preneed cemetery or funeral
services contract*

36 (1) A preneed cemetery or funeral services contract must contain the following information:

(a) the information referred to in section 19 [required contents of contract];

(b) if under the contract the supplier is to receive money that must be deposited into a

preneed trust account,

- (i) the portion of the price paid by the consumer that will be refunded if the contract is cancelled,
 - (ii) the name of the savings institution that is the trustee of the preneed trust account, and
 - (iii) information respecting the administration of the preneed trust account, including information respecting the investment of money in the account;
- (c) if the supplier charges a storage fee for storing cremated remains,
- (i) the fee charged by the supplier, and
 - (ii) a statement that no fee is charged until 60 days after the date of cremation;
- (d) provide a space for the written acknowledgment by the consumer that the consumer has received the information required by section 35 to be disclosed;
- (e) any other prescribed information.

(2) A supplier must give a copy of the preneed cemetery or funeral services contract to the consumer within 15 days after the contract is entered into.

(3) Subject to subsection (4), a consumer may cancel a preneed cemetery or funeral services contract at any time by giving notice of cancellation to the supplier.

(4) The cancellation of a preneed cemetery or funeral services contract by the personal representative of the deceased is subject to section 6 [disposition to be in accordance with preference of deceased] of the Cremation, Interment and Funeral Services Act.

(5) If a consumer fails to make a payment under a preneed cemetery or funeral services contract within 60 days after the payment is due, the supplier may demand payment and give notice that the plan may be cancelled if payment is not received within 30 days from the date the demand and notice were sent to the consumer.

(6) If payment is not received within the 30-day period under subsection (5), the supplier may cancel the contract by giving notice of cancellation to the consumer.

(7) A supplier must not assign a preneed cemetery or funeral services contract except in accordance with the regulations.

SBC 2004-2-36, effective July 4, 2004 (B.C. Reg. 274/2004).

*Special provisions for right of
interment*

37 If a contract is a preneed cemetery and funeral services contract and an interment right contract, the contract must clearly indicate that the right of interment is governed by section 43 [interment right contract] with respect to cancellation or refund.

SBC 2004-2-37, effective July 4, 2004 (B.C. Reg. 274/2004).

*Preneed cemetery or funeral
services contracts -- refunds on
cancellation*

38 (1) This section does not apply to

- (a) a preneed cemetery or funeral services contract cancelled by the consumer not later than 30 days after the date that the consumer receives a copy of the contract if the supplier did not comply with section 36 (2) [provided copy of contract], and
- (b) insurance referred to in section 35 [initial disclosure statement] that is cancelled.

(2) Despite section 45 [refunds by supplier on cancellation] but subject to subsection (3), if a preneed cemetery or funeral services contract is cancelled under section 36 (3) or (6), the supplier must refund to the consumer, within 15 days after the notice of cancellation has been given, the amount required to be deposited in respect of the contract into the preneed trust account.

(3) The supplier may deduct from the refund under subsection (2) the itemized cost of goods if

- (a) those goods have been specially preordered under the contract and because of some unique characteristic, personalization or extraordinary cost, the goods cannot be used in the ordinary course of business, or
- (b) a vault or liner provided under the contract has been installed in a lot.

(4) Despite section 15 (2) [assignee's obligations], if the supplier must pay a refund to the consumer under subsection (2) in respect of a contract cancelled under section 36 (3), the supplier must pay the consumer, with the refund, interest on the refund at the prescribed rate.

SBC 2004-2-38, effective July 4, 2004 (B.C. Reg. 274/2004).

*Preneed cemetery or funeral
services contract -- failure to
provide services*

39 (1) In this section, "services" means

- (a) in respect of cemetery services, the disposition of human remains by interment or cremation, or
- (b) in respect of funeral services, the services referred to in paragraph (a), (b) or (c) of the definition of "funeral services" in the Cremation, Interment and Funeral

Services Act.

(2) If a supplier fails to provide the services contracted for under a preneed cemetery or funeral services contract when those services are required, the personal representative of the deceased for whom the services were contracted may give notice of the failure to the supplier.

(3) The supplier, within 15 days after the notice under subsection (2) has been given, must

(a) refund all money received in respect of the contract, whether received from the consumer or any other person, without deduction, and

(b) pay interest on the refund at the prescribed rate

to the personal representative.

SBC 2004-2-39, effective July 4, 2004 (B.C. Reg. 274/2004).

*Money received under contract to
be held in trust*

40 (1) In this section, "preneed interim account" means an account established by the supplier with a savings institution in British Columbia.

(2) This section does not apply to proceeds of insurance paid to a supplier.

(3) A supplier that receives an amount of money under a preneed cemetery or funeral services contract must deposit, within 5 days of receipt, any of the amount that is not a deduction for selling expenses into a preneed interim account or preneed trust account.

(4) If the supplier deposits money into the preneed interim account, the supplier must

(a) retain in the preneed interim account, until transferred under paragraph (b),

(i) the money, and

(ii) all interest received in relation to that money during the period in which that money is held in the preneed interim account, and

(b) transfer, within 21 days of deposit into the preneed interim account,

(i) into a preneed trust account, any of the money and related interest retained in the preneed interim account that is not a deduction for selling expenses, and

(ii) out of the preneed interim account, any of the money that is a deduction for selling expenses.

(5) A supplier must not deduct for selling expenses more than 20% of the amount of money received

under the preneed cemetery or funeral services contract.

(6) The savings institution is the trustee of the preneed trust account established with it and must administer the account

- (a) in accordance with the regulations, and
- (b) subject to paragraph (a), in accordance with the terms of a written trust agreement between the savings institution and the supplier.

(7) The savings institution must not make a payment out of a preneed trust account except in accordance with this section or to pay the savings institution's fees and expenses.

(8) The savings institution must pay to the supplier the whole or part of any money in the preneed trust account and any interest due on that amount if the supplier gives a written notice to the savings institution that

- (a) all or part of the obligations under the preneed cemetery or funeral services contract for which the money is held in the preneed trust account have been discharged, or
- (b) the preneed cemetery or funeral services contract for which the money is held in trust has been cancelled.

(9) The savings institution is not liable to the beneficiary of a preneed trust account for any refunds made in response to a notice under subsection (8), unless the savings institution knew, or ought to have known, that the notice was invalid.

(10) The supplier must

- (a) give notice to the consumer within 15 days of the first time that money is deposited or transferred into the preneed trust account, and
- (b) on the request of the consumer, give the consumer an annual report respecting the money in the preneed trust account paid under the consumer's preneed cemetery or funeral services contract.

SBC 2004-2-40, effective July 4, 2004 (B.C. Reg. 274/2004).

Funds exempt from seizure

41 Money paid under a preneed cemetery or funeral services contract is not subject to any process of garnishment, attachment, execution or seizure under any legal process against

- (a) the consumer,
- (b) the legal representative of the consumer,
- (c) the beneficiary,

- (d) the legal representative of the beneficiary,
- (e) the trustee of the money, or
- (f) the supplier obligated to provide the cemetery services or funeral services covered by the contract.

SBC 2004-2-41, effective July 4, 2004 (B.C. Reg. 274/2004).

*Restrictions on representations
respecting right of interment*

42 An operator must not offer a right of interment on a representation or inducement of resale at a profit.

SBC 2004-2-42, effective July 4, 2004 (B.C. Reg. 274/2004).

Interment right contract

43 (1) An interment right contract must contain the following information:

- (a) the information referred to in section 19 [required contents of contract];
- (b) the consumer's right to a refund, if any, in respect of a right of interment that is not exercised, including
 - (i) the terms or conditions under which the refund will be made,
 - (ii) the amount of the refund or the percentage of the purchase price that is refundable, and
 - (iii) any other prescribed matter respecting the refund;
- (c) if the contract provides for a consumer exercising a right of interment after the development of a lot,
 - (i) that the right of interment applies to a lot to be developed for later use, and
 - (ii) the earliest date on which that right of interment may be exercised;
- (d) the circumstances under the Cremation, Interment and Funeral Services Act in which the supplier may reclaim a right of interment.

(2) A supplier must give a copy of the interment right contract to the consumer within 15 days after the contract is entered into.

(3) If the supplier does not give the consumer a copy of the interment right contract within 15 days after the contract is entered into, the consumer may cancel the contract by giving notice of cancellation

to the supplier not later than 30 days after the date that the consumer receives a copy of the contract.

(4) Subsection (3) does not apply if the interment is scheduled to occur within 10 days after the contract is entered into.

(5) If an error is made in an interment right contract and the lot in which the human remains or cremated remains were to be interred under the contract is unavailable, the operator must

(a) amend the contract to provide for interment of the human remains or cremated remains in another lot that

(i) is of equal or greater value and in a similar location, and

(ii) is acceptable

(A) to the interment right holder, if the person to be interred in the lot is still alive, or,

(B) to the person who, under section 5 [control of disposition of human remains or cremated remains] of the Cremation, Interment and Funeral Services Act, has the right to control the disposition of the human remains or cremated remains of the person, if the person to be interred in the lot is deceased, or

(b) cancel the contract and refund

(i) the full amount of money paid, and

(ii) accrued interest at the prescribed rate.

(6) An operator required to act under subsection (5) must not charge any fee or disbursement in respect of any action taken under subsection (5), including a fee or disbursement to recover any difference in value between the lot in which human remains or cremated remains are to be interred after the contract is amended and any lot in which the remains were to be interred before the contract was amended.

SBC 2004-2-43, effective July 4, 2004 (B.C. Reg. 274/2004).

*Rights not held by interment
right holder*

44 An interment right holder does not acquire any right or interest in

(a) the roads, paths and other areas allowing access to and from any lot of a cemetery, mausoleum or columbarium, other than as a means of access, or

(b) the gardens, structures, buildings or other property of a cemetery, mausoleum or columbarium.

SBC 2004-2-44, effective July 4, 2004 (B.C. Reg. 274/2004).

*Refunds by supplier on
cancellation*

45 Despite section 15 (2) [assignee's obligations], if all or part of a contract is cancelled under this Division, the supplier must refund to the consumer,

- (a) within 15 days after the notice of cancellation has been given, and
- (b) without deduction except as provided for in this Division or in the regulations,

all money received in respect of, or in respect of that part of, the contract, whether received from the consumer or any other person.

SBC 2004-2-45, effective July 4, 2004 (B.C. Reg. 274/2004).

Division 4 -- Distance Sales Contracts

Disclosure of information

46 (1) A supplier must disclose the following information to a consumer before the consumer enters into a distance sales contract:

- (a) the information referred to in sections 19 (a) to (c), (f) to (j) and (n) [required contents of contract] and 23 (2) [required contents of future performance contract];
- (b) if available, the supplier's electronic mail address;
- (c) a detailed description of the goods or services to be supplied under the contract, including any relevant technical or system specifications;
- (d) the currency in which amounts owing under the contract are payable;
- (e) the supplier's delivery arrangements, including the identity of the shipper, the mode of transportation and the place of delivery to the consumer;
- (f) the supplier's cancellation, return, exchange and refund policies, if any;
- (g) any other prescribed information.

(2) The supplier must disclose the information required under subsection (1) in a clear and comprehensible manner.

SBC 2004-2-46, effective July 4, 2004 (B.C. Reg. 274/2004).

*Distance sales contract in
electronic form*

47 (1) In this section, "electronic" has the same meaning as in the Electronic Transactions Act.

- (2) Before a consumer enters into a distance sales contract that is in electronic form, a supplier must
- (a) make the information required under section 46 available in a manner that
 - (i) requires the consumer to access the information, and
 - (ii) allows the consumer to retain and print the information, and
 - (b) provide a consumer with an express opportunity
 - (i) to correct errors in the contract, and
 - (ii) to accept or decline the contract.

SBC 2004-2-47, effective July 4, 2004 (B.C. Reg. 274/2004).

Copy of distance sales contract

48 (1) A supplier must give a consumer who enters into a distance sales contract a copy of the contract within 15 days after the contract is entered into.

(2) The copy of the distance sales contract given under subsection (1) must contain

- (a) the information described in section 46 [disclosure of information],
- (b) the consumer's name, and
- (c) the date the contract was entered into.

(3) In addition to section 183 (2) [how to give or serve documents generally], the supplier may give a copy of the distance sales contract to the consumer

- (a) by sending the copy by electronic mail to the electronic mail address provided by the consumer to the supplier for the provision of information related to the contract, or
- (b) by giving the copy by any other manner that enables the supplier to prove that the consumer has received and retained the copy.

(4) A copy of the distance sales contract given in accordance with subsection (3) (a) is deemed to be received on the 3rd day after it is sent.

SBC 2004-2-48, effective July 4, 2004 (B.C. Reg. 274/2004).

Cancellation of distance sales contract

49 (1) A consumer may cancel a distance sales contract by giving notice of cancellation to the

supplier

- (a) not later than 7 days after the date that the consumer receives a copy of the contract if
 - (i) the supplier does not comply with section 47 [distance sales contract in electronic form], or
 - (ii) the contract does not comply with section 48 (2) [required contents of contract],
- (b) not later than 30 days after the date that the contract is entered into if the supplier does not provide the consumer with a copy of the contract in accordance with section 48 (1),
- (c) at any time before the goods or services are delivered if the goods or services to be delivered under the contract are not delivered to the consumer within 30 days of the supply date, or
- (d) at any time before the goods or services are delivered if the supply date is not specified in the contract and the supplier does not deliver the goods or services within 30 days from the date the contract is entered into.

(2) If a distance sales contract is cancelled under subsection (1), the following are also cancelled:

- (a) any other related consumer transaction;
- (b) any guarantee given in respect of the total price under the contract;
- (c) any security given by the consumer in respect of the total price under the contract;
- (d) if credit is extended or arranged by the supplier in respect of a distance sales contract, the credit agreement, as defined in section 57 [definitions], whether or not the credit agreement is a part of or attached to the distance sales contract.

SBC 2004-2-49, effective July 4, 2004 (B.C. Reg. 274/2004).

*Refunds by supplier on
cancellation*

50 If a distance sales contract is cancelled under section 49, the supplier, within 15 days after the notice of cancellation has been given, must refund to the consumer, without deduction, all money received in respect of the contract and in respect of any related consumer transaction, whether received from the consumer or any other person.

SBC 2004-2-50, effective July 4, 2004 (B.C. Reg. 274/2004).

*Return of goods by consumer on
cancellation*

51 (1) If a distance sales contract is cancelled under section 49, the consumer must return any goods received under the contract by delivering the goods

- (a) to the person or place named in the contract as the person to whom or as the place where notice of cancellation may be given, and
- (b) within 15 days after the notice of cancellation has been given or after the goods have been delivered to the consumer, whichever is later.

(2) The consumer must return the goods unused and in the same condition as that in which they were delivered.

(3) The consumer may return the goods by any method that permits the consumer to produce confirmation of the delivery to the supplier.

(4) The supplier must accept the goods returned under subsection (2).

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

(6) Goods that are returned by the consumer other than by delivery in person are deemed to have been returned at the time the goods are sent.

SBC 2004-2-51, effective July 4, 2004 (B.C. Reg. 274/2004).

*Consumer's recourse regarding
credit card charges*

52 (1) In this section, "credit card" and "interest" have the same meaning as in section 57 [definitions].

(2) A consumer who has charged to a credit card all or any part of the total price under a distance sales contract or any related consumer transaction may request the credit card issuer to cancel or reverse the credit card charge and any associated interest or other charges if the consumer has cancelled the contract under section 49 and the supplier has not refunded all money as required under section 50.

(3) The request under subsection (2) must contain the following information:

- (a) the supplier's name;
- (b) the date the distance sales contract was entered into;
- (c) the amount charged to the credit card in respect of the distance sales contract and any related consumer transaction;
- (d) a description of the goods or services sufficient to identify them;
- (e) the reason for cancellation under section 49, of the distance sales contract;
- (f) the date and method of cancellation of the distance sales contract.

(4) The credit card issuer must

- (a) acknowledge the consumer's request within 30 days of receiving it, and
- (b) if the request meets the requirements of subsection (3), cancel or reverse the credit card charge and any associated interest or other charges within the earlier of
 - (i) 2 complete billing cycles of the credit card issuer, and
 - (ii) 90 days.

SBC 2004-2-52, effective July 4, 2004 (B.C. Reg. 274/2004).

Division 5 -- General

When goods and services supplied

53 For the purposes of this Part,

- (a) a supplier is considered to have supplied the goods if
 - (i) delivery of the goods was attempted but, at the time of the attempt, the consumer refused delivery, or
 - (ii) the supplier provided reasonable notice of the delivery and delivery was attempted but did not occur because no person was available to accept delivery for the consumer on the day the delivery was attempted, and
- (b) a supplier is considered to have begun delivering the services if
 - (i) delivery of the services was attempted but, at the time of the attempt, the consumer refused the services, or
 - (ii) the supplier provided reasonable notice of the delivery and delivery was attempted but did not occur because no person was available to enable the services to begin on the day the delivery was attempted.

SBC 2004-2-53, effective July 4, 2004 (B.C. Reg. 274/2004).

*How to give notice of
cancellation*

54 (1) A consumer or supplier may give a notice of cancellation under this Part by any method that permits a person to produce evidence that the consumer or supplier cancelled the contract on a specific date, including

- (a) delivering the notice in person, and
- (b) sending the notice by registered mail, electronic mail or facsimile, to
 - (i) the consumer or supplier, as applicable, or
 - (ii) the postal address, electronic mail address or facsimile number shown in the contract for the person named in the contract as a person to whom notice of cancellation may be given.

(2) A notice of cancellation is sufficient if it indicates, in any way, the intention of the consumer or supplier to cancel the contract and, except in the case of cancellation under sections 21 (1) [direct sales contract -- cancellation], 25 (1) [continuing services contract -- cancellation] or 26 (3) [time share contract -- cancellation], if it states the reason for cancellation.

(3) For the purposes of this section, a notice of cancellation that is given other than by delivery in person is deemed to have been given at the time it is sent.

SBC 2004-2-54, effective July 4, 2004 (B.C. Reg. 274/2004).

Recovery of refund

55 If a supplier does not provide a refund as required under Division 2 [direct sales, future performance and time share contracts] or section 50 [distance sales contract], the consumer may recover the refund from the supplier as a debt due.

SBC 2004-2-55, effective July 4, 2004 (B.C. Reg. 274/2004).

Cancellation of preauthorized payments

56 If a contract is cancelled under this Part, the supplier must cancel any future payments or charges that have been authorized by the consumer.

SBC 2004-2-56, effective July 4, 2004 (B.C. Reg. 274/2004).

Part 5 -- Disclosure of the Cost of Consumer Credit

Division 1 -- Definitions and Application

Definitions

57 (1) In this Part:

"advance", in respect of an advance under a credit agreement, means value received, within the meaning of subsection (2), by the borrower;

"APR" means the annual percentage rate calculated in accordance with the regulations;

"borrower" means a consumer who has entered into, or who is negotiating to enter into, a credit agreement if that consumer, under that agreement, receives or is to receive credit from another party to the agreement, but does not include a guarantor;

"cash customer" means a consumer who buys a product and who provides full payment for the product at or before the time of its receipt;

"cash price", in relation to a product, means,

- (a) for a sale to a borrower by a credit grantor, or by an associate of the credit grantor, who sells the product to cash customers in the ordinary course of business,
 - (i) an amount that fairly represents the price for which the credit grantor or associate of the credit grantor sells that product to cash customers, or
 - (ii) if the credit grantor or associate of the credit grantor and the borrower agree on a lower price, that lower price,
- (b) for a sale to which paragraph (a) does not apply, the price agreed on by the parties, or
- (c) for an advertisement by a credit grantor or an associate of the credit grantor,
 - (i) the price at which the product is currently offered to cash customers or,
 - (ii) if the credit grantor or associate of the credit grantor does not currently offer the product to cash customers, the credit grantor's reasonable estimate of the price at which cash customers would buy those goods,

and, for the purpose of determining the amount advanced under a credit agreement, includes discounts, taxes and any other charges payable by a cash customer;

"credit agreement" means an agreement under which credit is extended and includes

- (a) an agreement in relation to
 - (i) a loan of money,
 - (ii) a credit sale,
 - (iii) a line of credit, or
 - (iv) a credit card, and
- (b) a renewal of an agreement referred to in this definition;

"credit card" means a card or other device that can be used to obtain advances under a credit agreement

for open credit;

"credit grantor" means, subject to a regulation under section 196 (2) (a),

- (a) a supplier who entered into, or who is negotiating to enter into, a credit agreement if that supplier, under that agreement, extends or is to extend credit to another party to the agreement, or
- (b) if the rights of the supplier referred to in paragraph (a) under the credit agreement are assigned to an assignee, that assignee, on notice of the assignment being given to the borrower unless the assignment was requested by the borrower,

and includes a credit card issuer within the meaning of section 94 [definitions];

"credit sale" means a sale of a product in which the purchase is financed by the seller or manufacturer of the product or by an associate of the seller or manufacturer;

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

"fixed credit" means credit under a credit agreement that is not for open credit;

"floating rate" means an interest rate that bears a specified mathematical relationship to an index rate, and includes an interest rate that

- (a) is subject to a minimum or maximum rate, or
- (b) is determined at the beginning of a period and applies throughout the period regardless of changes in the index rate during the period;

"grace period" means a period during which interest accrues but will be forgiven if the borrower satisfies conditions specified in the credit agreement;

"high-ratio mortgage" means a mortgage of real property under the security of which is advanced an amount that, when added to amounts advanced under mortgages ranking equally with or in priority to the mortgage, exceeds 75% of the value of the real property;

"index rate" means, in relation to a credit agreement, the rate that is specified in the credit agreement and published at least weekly in a manner that provides ready access to the rate by borrowers;

"initial disclosure statement" means, in relation to a credit agreement or lease, the disclosure statement that, under section 66 [disclosure statements must be given], is required for that credit agreement or lease;

"interest" means charges that accrue over time and are determined by applying a rate to an amount that is owing from time to time under a credit agreement;

"interest-free period" means a period, following the making of an advance, during which interest does

not accrue on the advance;

"lease" means any agreement for the hire of goods, except an agreement for the hire of goods in connection with a tenancy agreement;

"lessee" means an individual who entered into, or who is negotiating to enter into, a lease if that individual, under that lease, hires or is to hire goods from another party to the agreement;

"lessor" means a person who entered into, or who is negotiating to enter into, a lease if that person, under that lease, leases or is to lease goods to another party to the agreement;

"loan broker" means, subject to a regulation under section 196 (2) (a), a person who, for compensation, arranges, negotiates or facilitates an extension of credit;

"mortgage loan" means a loan of money secured by an interest in real property, but does not include a prescribed loan;

"non-interest finance charge" means any charge that a borrower is required to pay in connection with a credit agreement, other than

- (a) interest,
- (b) a prepayment charge,
- (c) a default charge,
- (d) a charge for an optional service,
- (e) a charge for a service referred to in subsection (2) (d), (e) or (f), or
- (f) in the case of a credit sale, any charge that would also be payable by a cash customer;

"open credit" means credit under a credit agreement if the credit agreement

- (a) anticipates multiple advances that are to be made when requested by the borrower in accordance with the agreement, and
- (b) does not establish the total amount to be advanced to the borrower under the agreement, although it may impose a credit limit;

"optional service" means a service that is offered to a borrower in connection with a credit agreement and that the borrower does not have to accept in order to enter into the credit agreement;

"outstanding balance" means the total amount owing at any particular time under a credit agreement;

"payment", in respect of a payment under a credit agreement, means value given, within the meaning of subsection (4), by a borrower;

"payment period" means one of the intervals into which the term of a credit agreement or lease is divided for the purpose of determining the amount and timing of payments;

"periodic payment" means the payment that, under a credit agreement or a lease, is to be made in respect of each payment period;

"product" means goods or services, but does not include credit;

"security interest" means any interest in property that secures the borrower's obligations under a credit agreement;

"statement of account" means a statement of account referred to in section 92 (1) [statements of account];

"term" means,

- (a) in relation to the duration of a credit agreement, except in respect of a credit agreement that is a lease, the period between the first advance and the end of the period in respect of which payments are required under the credit agreement, and
- (b) in relation to the duration of a lease, means the period during which the lessee is entitled to retain possession of the leased goods;

"total cost of credit" means the difference between

- (a) the payments made or to be made by the borrower in connection with a credit agreement, and
- (b) the advance received or to be received by the borrower in connection with the credit agreement, disregarding the possibility of prepayment or default.

(2) The following constitute value received or to be received by a borrower in connection with a credit agreement:

- (a) money transferred or to be transferred by the credit grantor to the borrower or to the order of the borrower under the credit agreement;
- (b) the cash price of a product purchased or to be purchased under the credit agreement;
- (c) the amount of a pre-existing monetary obligation of the borrower that is paid, discharged or consolidated or is to be paid, discharged or consolidated by the credit grantor under the credit agreement;
- (d) the amount of money obtained or to be obtained or the cash price of a product obtained or to be obtained through the use of a credit card obtained under the credit agreement;
- (e) any of the following expenses, if the credit grantor incurred or is to incur the expense for the purpose of arranging, documenting, insuring or securing the credit agreement:

- (i) fees to a third party to record or register a document or information in, or to

obtain a document or information from, a public registry of interests in real or personal property;

(ii) fees for professional services required for the purpose of confirming the value, condition, conformity to law or location of property that serves as security for a credit agreement, if the borrower is given a report signed by the person providing the professional services and is free to give the report to third persons;

(iii) premiums for

(A) insurance that protects the credit grantor against default on a high- ratio mortgage,

(B) casualty insurance on the subject matter of a security interest, if the borrower is a beneficiary of the insurance and the insured amount is the full insurable value of the subject matter, and

(C) any insurance provided or paid for by the credit grantor in connection with a credit agreement if the insurance is optional;

(iv) an application fee for insurance referred to in subparagraph (iii) (A);

(f) service provided or to be provided by the credit grantor to maintain a tax account on a high-ratio mortgage, expressed in the amount of a reasonable fee charged for that service, whether the tax account is required in connection with the credit agreement or is requested by the borrower;

(g) any other thing prescribed for the purposes of this subsection.

(3) Despite subsection (2), the following do not constitute value received or to be received by a borrower in connection with a credit agreement unless they relate to an optional service, to an expense or service under subsection (2) (e) or (f), or to a thing prescribed under subsection (2) (g) that is designated by regulation for the purposes of this subsection:

(a) money paid or to be paid, an expense incurred or to be incurred, or anything done or to be done by the credit grantor for the purpose of arranging, documenting, securing, administering or renewing the credit agreement;

(b) insurance provided or paid for or to be provided or paid for by the credit grantor in connection with the credit agreement;

(c) any other thing prescribed for the purposes of this subsection.

(4) The following constitute value given or to be given by a borrower in connection with a credit agreement:

(a) money transferred or to be transferred from the borrower to the credit grantor in connection with the credit agreement;

(b) money transferred or to be transferred from the borrower to a person other than the credit grantor in respect of a charge for services that the credit grantor requires the borrower to obtain or pay for in connection with the credit agreement, unless the charge

(i) is for an expense to which subsection (2) (e) or (g) would have applied if the expense had been incurred initially by the credit grantor and then charged directly to the borrower,

(ii) is for services provided by a lawyer or notary public chosen by the borrower, or

(iii) is for charges for shares in a credit union that a borrower must buy as a condition of entering into a credit agreement with the credit union;

(c) any other thing prescribed for the purposes of this subsection.

**** Editor's Table ****

Provision	Changed by	In force	Authority
57	BC Reg 274/04	2006 Jul 1	BC Reg 274/04

SBC 2004-2-57, effective July 1, 2006 (B.C. Reg. 274/2004, as amended by B.C. Reg. 520/2004 and 349/2005).

Application of this Part

58 (1) In this section:

"borrower" includes a lessee;

"credit agreement" includes a lease;

"credit grantor" includes a lessor.

(2) Subject to subsection (3), this Part applies to a credit agreement if

(a) the borrower is an individual,

(b) the borrower enters into the credit agreement for primarily personal, family or household purposes, and

(c) the credit agreement

(i) is entered into by the credit grantor in the ordinary course of carrying on a

business,

- (ii) is arranged by a loan broker, or
- (iii) is a prescribed credit agreement.

(3) This Part does not apply to the following:

(a) a lease unless the lease

- (i) is for a fixed term of 4 months or more,
- (ii) is for an indefinite term or is renewed automatically until one of the parties takes positive steps to terminate it, or
- (iii) is a residual obligation lease within the meaning of section 100 (1);

(b) a credit agreement if

- (i) the credit grantor is provided with a statement, in the credit agreement or other document, to the effect that the borrower has entered into the credit agreement for primarily business purposes,
- (ii) the statement is signed by the borrower, and
- (iii) the credit grantor believes in good faith that the statement is true;

(c) a credit sale if

- (i) the credit sale agreement requires that the full amount of the sale price for the product will be paid by a single payment within a specified period and does not provide for a schedule of interest payments, or of payments of both principal and interest, to apply if the sale price is not paid within that period,
- (ii) the credit sale is unconditionally interest-free during the period referred to in subparagraph (i),
- (iii) the credit sale is unsecured, apart from any lien on the product that may arise by operation of law,
- (iv) the credit sale is not assigned in the ordinary course of the credit grantor's business other than as security, and
- (v) the credit sale does not provide for any non-interest finance charges;

(d) a credit agreement exempt by regulation.

Provision	Changed by	In force	Authority
58	BC Reg 274/04	2006 Jul 1	BC Reg 274/04

SBC 2004-2-58, effective July 1, 2006 (B.C. Reg. 274/2004, as amended by B.C. Reg. 520/2004 and 349/2005).

Division 2 -- Advertising

Disclosure in advertisements

59 (1) In this section, "credit grantor" includes a lessor.

(2) For the purpose of applying section 57 [definitions] to this section:

"borrower" includes a lessee;

"credit agreement" includes a lease.

(3) If a credit grantor who publishes an advertisement, or on whose behalf an advertisement is published, is required under this Part, as a result of disclosing certain information in the advertisement, to include other information in the advertisement, the credit grantor must ensure that

- (a) if the required information is the APR, the APR is disclosed at least as prominently as is the information that necessitated the inclusion of the APR, and
- (b) any other required information is prominently displayed in a clear and comprehensible manner.

** Editor's Table **

Provision	Changed by	In force	Authority
59	BC Reg 274/04	2006 Jul 1	BC Reg 274/04

SBC 2004-2-59, effective July 1, 2006 (B.C. Reg. 274/2004, as amended by B.C. Reg. 520/2004 and 349/2005).

Advertising requirements applicable to fixed credit

60 (1) This section applies only to advertisements that

- (a) offer credit under a credit agreement that extends fixed credit, and
- (b) state the interest rate or amount of any payment.

(2) A credit grantor must ensure that every advertisement published by or on behalf of the credit grantor discloses, in relation to the proposed credit agreement,

- (a) the APR, and
- (b) the term.

(3) In addition to complying with subsection (2), the credit grantor must ensure that,

- (a) if the advertisement is for a credit sale of a specifically identified product, the advertisement discloses the cash price of that product, or
- (b) if the advertisement is for a credit sale of a specifically identified product in connection with which a non-interest finance charge is to be payable, the advertisement discloses
 - (i) the cash price of the product, and
 - (ii) the total cost of credit.

** Editor's Table **

Provision	Changed by	In force	Authority
60	BC Reg 274/04	2006 Jul 1	BC Reg 274/04

SBC 2004-2-60, effective July 1, 2006 (B.C. Reg. 274/2004, as amended by B.C. Reg. 520/2004 and 349/2005).

*Advertising requirements
applicable to open credit*

61 (1) This section applies only to advertisements that offer credit under a credit agreement that extends open credit.

(2) A credit grantor must ensure that every advertisement published by or on behalf of the credit grantor that gives specific information about the cost of open credit must disclose,

ENACTMENT NOT IN FORCE

[Editor's note: On a date to be determined by regulation (B.C. Reg. 274/2004 as amended by B.C. Reg. 520/04 and 349/05) the

following provision is enacted:

- (a) if the open credit is not associated with a credit card, the APR for the open credit, or

(b) if the open credit is associated with a credit card,

- (i) the current annual interest rate, and
- (ii) any initial or periodic non-interest finance charges.

** Editor's Table **

Provision	Changed by	In force	Authority
61(1)	BC Reg 274/04	2006 Jul 1	BC Reg 274/04
61(2)(b)	BC Reg 274/04	2006 Jul 1	BC Reg 274/04

SBC 2004-2-61 (1) and (2) (b), effective July 1, 2006 (B.C. Reg. 274/2004, as amended by B.C. Reg. 520/2004 and 349/2005).

Advertising interest-free periods

62 (1) This section applies to an advertisement to which section 60 [advertising requirements applicable to fixed credit] or 61 [advertising requirements applicable to open credit] applies.

(2) An advertisement that states or implies that no interest is payable for a certain period in respect of a consumer transaction must disclose whether, under the credit agreement, the transaction

- (a) has an interest-free period, or
- (b) has a grace period.

(3) If, under the credit agreement, the transaction has a grace period, the advertisement must also disclose the conditions under which the interest accrued during the period will be forgiven and,

- (a) if the credit agreement extends fixed credit or open credit that is not associated with a credit card, the APR that will apply to the period if those conditions are not met, or
- (b) if the credit agreement extends open credit that is associated with a credit card, the annual interest rate that will apply to the period if those conditions are not met.

(4) An advertisement to which subsection (2) applies that does not disclose the information required under subsections (2) (b) and (3) is deemed to represent that the transaction is unconditionally interest-free during the relevant period.

** Editor's Table **

Provision	Changed by	In force	Authority
62	BC Reg 274/04	2006 Jul 1	BC Reg 274/04

SBC 2004-2-62, effective July 1, 2006 (B.C. Reg. 274/2004, as amended by B.C. Reg. 520/2004 and 349/2005).

*Advertising requirements
applicable to leases*

63 (1) In this section, "estimated residual cash payment" and "estimated residual value" have the same meaning as in section 100 (1) [definitions].

(2) For the purpose of applying section 57 [definitions] to this section, a reference in that section to "borrower", "cash price", "credit agreement", "credit grantor" or "purchased" is deemed to be a reference to "lessee", "cash value", "lease", "lessor" or "leased", respectively.

(3) Subject to the regulations, a lessor must ensure that every advertisement published by or on behalf of the lessor that gives specific information about the cost of a lease discloses the following information:

- (a) a statement that the consumer transaction is a lease;
- (b) the term of the lease;
- (c) the nature and amount of any payments that are payable by the lessee on or before the beginning of the term;
- (d) the amount, timing and number of the periodic payments;
- (e) the nature and amount of any other payments that are payable by a lessee in the ordinary course of events;
- (f) the lease APR;
- (g) if required by regulations under this or any other enactment, prescribed information regarding extra charges based on usage of the leased goods.

** Editor's Table **

Provision	Changed by	In force	Authority
63	BC Reg 274/04	2006 Jul 1	BC Reg 274/04

SBC 2004-2-63, effective July 1, 2006 (B.C. Reg. 274/2004, as amended by B.C. Reg. 520/2004 and

349/2005).

Advertising a representative transaction

64 (1) If this Part requires that certain information be included in an advertisement and if that information is different for different credit agreements to which the advertisement relates, the advertisement must disclose that information as it applies to a representative transaction and must identify the transaction as a representative transaction.

(2) For the purposes of subsection (1), a transaction is a representative transaction if its terms are reasonably typical of the terms of the credit agreements to which the advertisement relates.

**** Editor's Table ****

Provision	Changed by	In force	Authority
64	BC Reg 274/04	2006 Jul 1	BC Reg 274/04

SBC 2004-2-64, effective July 1, 2006 (B.C. Reg. 274/2004, as amended by B.C. Reg. 520/2004 and 349/2005).

**Division 3 -- Disclosure Requirements
Applicable to All Credit Agreements**

Definitions

65 In this Division:

"borrower" includes a lessee;

"credit agreement" includes a lease;

"credit grantor" includes a lessor.

**** Editor's Table ****

Provision	Changed by	In force	Authority
65	BC Reg 274/04	2006 Jul 1	BC Reg 274/04

SBC 2004-2-65, effective July 1, 2006 (B.C. Reg. 274/2004, as amended by B.C. Reg. 520/2004 and 349/2005).

66 (1) In this section, "business day", in relation to a credit grantor, means a day on which the credit

grantor is open for business.

(2) Subject to subsection (3), a credit grantor who has entered into, or who is negotiating to enter into, a credit agreement with a borrower must give the borrower a disclosure statement in relation to the credit agreement before the earlier of

- (a) the borrower entering into the credit agreement, and
- (b) the borrower making any payment in connection with the credit agreement.

(3) Subject to subsection (4), a credit grantor who has entered into, or who is negotiating to enter into, a credit agreement to provide a mortgage loan to a borrower must give a disclosure statement in relation to the credit agreement to the borrower at least 2 business days before the earlier of

- (a) the date on which the borrower incurs any obligation to the credit grantor in connection with the mortgage loan, other than an obligation in respect of an expense referred to in section 57 (2) (e) [value received or to be received by a borrower] or a prescribed expense, and
- (b) the date on which the borrower makes any payment to the credit grantor in connection with the mortgage loan, other than a payment in respect of an expense referred to in section 57 (2) (e) [value received or to be received by a borrower] or a prescribed expense.

(4) The borrower under a credit agreement referred to in subsection (3) may waive the time period referred to in that subsection subject to and in accordance with any prescribed terms and conditions.

** Editor's Table **

Provision	Changed by	In force	Authority
66	BC Reg 274/04	2006 Jul 1	BC Reg 274/04

SBC 2004-2-66, effective July 1, 2006 (B.C. Reg. 274/2004, as amended by B.C. Reg. 520/2004 and 349/2005).

Form of disclosure statements and statements of account

67 (1) A credit grantor who is required to give a disclosure statement or a statement of account under this Part must ensure that the statement

- (a) is in writing,
- (b) contains the information required under this Part, and
- (c) prominently displays that information in a clear and comprehensible manner.

(2) A disclosure statement or a statement of account may be a separate document or part of another document.

**** Editor's Table ****

Provision	Changed by	In force	Authority
67	BC Reg 274/04	2006 Jul 1	BC Reg 274/04

SBC 2004-2-67, effective July 1, 2006 (B.C. Reg. 274/2004, as amended by B.C. Reg. 520/2004 and 349/2005).

Giving of documents if multiple borrowers

68 If there is more than one borrower under a credit agreement, a disclosure statement, notice or other document that, under this Part, is required to be given to the borrower may be given to any one of the borrowers, and the credit grantor is not required to give a separate disclosure statement, notice or other document to each borrower.

**** Editor's Table ****

Provision	Changed by	In force	Authority
68	BC Reg 274/04	2006 Jul 1	BC Reg 274/04

SBC 2004-2-68, effective July 1, 2006 (B.C. Reg. 274/2004, as amended by B.C. Reg. 520/2004 and 349/2005).

Estimates and assumptions

69 Information disclosed under this Part, whether in a disclosure statement or advertisement or otherwise, may be based on an estimate or assumption if

- (a) the disclosure depends on information that is not ascertainable by the credit grantor at the time of disclosure, and
- (b) the estimate or assumption is reasonable and is clearly identified as an estimate or assumption.

**** Editor's Table ****

Provision	Changed by	In force	Authority
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SBC 2004-2-69, effective July 1, 2006 (B.C. Reg. 274/2004, as amended by B.C. Reg. 520/2004 and 349/2005).

Inconsistency between disclosure statement and credit agreement

70 If information in a disclosure statement is inconsistent with any information or provision set out in the credit agreement, the credit agreement is presumed to incorporate the information or provision that is more favourable to the borrower, unless it is proven that the less favourable information or provision reflects the borrower's actual understanding of the provisions of the agreement.

** Editor's Table **

Provision	Changed by	In force	Authority
70	BC Reg 274/04	2006 Jul 1	BC Reg 274/04

SBC 2004-2-70, effective July 1, 2006 (B.C. Reg. 274/2004, as amended by B.C. Reg. 520/2004 and 349/2005).

Division 4 -- Rights and Obligations of Borrowers and Credit Grantors

Borrowers may choose insurer

71 (1) A borrower who is required by a credit grantor to purchase insurance may purchase it from any insurer authorized to provide that type of insurance in British Columbia, except that the credit grantor may reserve the right to disapprove, on reasonable grounds, an insurer selected by the borrower.

(2) A credit grantor who offers to provide or to arrange insurance referred to in subsection (1) must clearly disclose to the borrower in writing, at the time of that offer, that the borrower may, subject to subsection (1), purchase the required insurance through an insurance agent and insurer of the borrower's choice.

** Editor's Table **

Provision	Changed by	In force	Authority
71	BC Reg 274/04	2006 Jul 1	BC Reg 274/04

SBC 2004-2-71, effective July 1, 2006 (B.C. Reg. 274/2004, as amended by B.C. Reg. 520/2004 and 349/2005).

Borrowers entitled to mortgage discharge

72 (1) In this section, "revolving mortgage loan" means a mortgage loan that

- (a) secures the money owing to the credit grantor under a revolving line of credit, and
- (b) enables the borrower to obtain additional advances from the credit grantor following full repayment of the principal and interest owing under the mortgage loan.

(2) The credit grantor must give to the borrower a discharge of the mortgage loan, registrable under the Land Title Act, within 30 days after

- (a) the whole amount of principal and interest owing under the mortgage loan has been repaid to the credit grantor, and
- (b) if the mortgage loan is a revolving mortgage loan, the borrower has requested a registrable discharge of the mortgage loan from the credit grantor.

(3) A credit grantor must not charge or accept any amount for or in relation to the provision to the borrower of a discharge of mortgage under subsection (2) that exceeds the maximum amount prescribed.

** Editor's Table **

Provision	Changed by	In force	Authority
72	BC Reg 274/04	2006 Jul 1	BC Reg 274/04

SBC 2004-2-72, effective July 1, 2006 (B.C. Reg. 274/2004, as amended by B.C. Reg. 520/2004 and 349/2005).

Borrowers may cancel optional services

73 (1) A borrower may cancel an optional service of a continuing nature that is provided by the credit grantor or by an associate of the credit grantor by giving 30 days' notice, or a shorter period of notice as is provided for by the agreement under which the service is provided.

(2) A borrower who cancels an optional service in accordance with subsection (1)

- (a) is not liable for charges relating to any portion of the service that has not been provided at the time of the effective date of the cancellation, and

(b) is entitled to a refund of any amount already paid for those charges.

**** Editor's Table ****

Provision	Changed by	In force	Authority
73	BC Reg 274/04	2006 Jul 1	BC Reg 274/04

SBC 2004-2-73, effective July 1, 2006 (B.C. Reg. 274/2004, as amended by B.C. Reg. 520/2004 and 349/2005).

Prepayment of credit

74 (1) This section does not apply to a credit agreement that is a mortgage loan.

(2) A borrower is entitled to prepay the full outstanding balance owing under a credit agreement at any time without incurring any prepayment charge or penalty.

(3) If a prepayment under subsection (2) is made in relation to a credit agreement for fixed credit, the credit grantor must refund or credit to the borrower the prescribed portion of any non-interest finance charges paid by the borrower or added to the outstanding balance.

(4) A borrower is entitled, on any scheduled payment date, or at least monthly, to prepay less than the full outstanding balance owing under a credit agreement for fixed credit, without any prepayment charge or penalty, but, in that event, is not entitled to a refund or credit of any non-interest finance charges.

**** Editor's Table ****

Provision	Changed by	In force	Authority
74	BC Reg 274/04	2006 Jul 1	BC Reg 274/04

SBC 2004-2-74, effective July 1, 2006 (B.C. Reg. 274/2004, as amended by B.C. Reg. 520/2004 and 349/2005).

Default charges

75 A credit grantor must not impose, under a credit agreement, any default charges other than the following:

- (a) court ordered costs incurred in collecting or attempting to collect a debt;
- (b) reasonable charges in respect of costs, including legal costs, incurred in realizing a

security interest or protecting the subject matter of a security interest after default;

- (c) reasonable charges that reflect costs incurred by the credit grantor because a cheque or other payment instrument given by the borrower to the credit grantor was dishonoured.

**** Editor's Table ****

Provision	Changed by	In force	Authority
75	BC Reg 274/04	2006 Jul 1	BC Reg 274/04

SBC 2004-2-75, effective July 1, 2006 (B.C. Reg. 274/2004, as amended by B.C. Reg. 520/2004 and 349/2005).

Invitation to defer payment

76 (1) If a credit grantor invites a borrower to defer making a payment that would otherwise be due under a credit agreement, the credit grantor must clearly disclose, in that invitation, whether or not interest will accrue on the unpaid amount during the period for which payment is deferred.

(2) If an invitation referred to in subsection (1) does not disclose whether or not interest will accrue on the unpaid amount during the period for which payment is deferred, the credit grantor is deemed to waive the interest that would otherwise accrue during that period.

**** Editor's Table ****

Provision	Changed by	In force	Authority
76	BC Reg 274/04	2006 Jul 1	BC Reg 274/04

SBC 2004-2-76, effective July 1, 2006 (B.C. Reg. 274/2004, as amended by B.C. Reg. 520/2004 and 349/2005).

Acceleration clauses

77 (1) This section does not apply to a credit agreement that is a mortgage loan.

(2) A credit agreement may provide that, when the borrower is in default or in any other circumstance provided by the credit agreement, the credit grantor may accelerate payment by the borrower so as to require repayment of the whole amount outstanding under the credit agreement.

(3) Subject to subsection (5), if a credit agreement contains the provision referred to in subsection (2) and the credit grantor wishes, in a situation described in subsection (2), to accelerate payment by the borrower, the credit grantor must give written notice to the borrower of the credit grantor's intention to

accelerate payment.

(4) The notice referred to in subsection (3) must

- (a) be given personally to the borrower or be sent by registered mail to the last known address of the borrower, and
- (b) must contain
 - (i) a description of the default or other circumstances,
 - (ii) a statement of the amount required to satisfy the borrower's obligations and the applicable rate of interest, and
 - (iii) a statement that, unless the default or circumstances described have been remedied within 10 days after the notice was given or sent under paragraph (a), the whole amount outstanding under the credit agreement will be due and payable.

(5) The credit grantor must not accelerate payment under this section if

- (a) the credit grantor fails to comply with subsections (3) and (4), or
- (b) the default by the borrower is remedied within the period specified under subsection (4) (b) (iii).

(6) If there is a conflict between this section and a provision of any other Act, the provision of that other Act prevails.

**** Editor's Table ****

Provision	Changed by	In force	Authority
77	BC Reg 274/04	2006 Jul 1	BC Reg 274/04

SBC 2004-2-77, effective July 1, 2006 (B.C. Reg. 274/2004, as amended by B.C. Reg. 520/2004 and 349/2005).

Division 5 -- Credit Arranged by Loan Brokers

Definition

78 In this Division, "brokerage fee" means an amount that a borrower pays or agrees to pay to a loan broker in consideration of the loan broker's services in arranging, negotiating or facilitating or attempting to arrange, negotiate or facilitate the extending of credit to the borrower, and includes an amount that is

- (a) deducted from the amount of credit that is extended to the borrower under the credit agreement, and
- (b) paid to the loan broker by the credit grantor.

** Editor's Table **

Provision	Changed by	In force	Authority
78	BC Reg 274/04	2006 Jul 1	BC Reg 274/04

SBC 2004-2-78, effective July 1, 2006 (B.C. Reg. 274/2004, as amended by B.C. Reg. 520/2004 and 349/2005).

Non-business credit grantors

79 If a loan broker secures for a borrower an extension of credit from a credit grantor who does not provide credit in the ordinary course of carrying on business,

- (a) the provisions of this Part and the regulations relating to this Part that impose a duty on a credit grantor must be read as imposing that duty on the loan broker rather than on the credit grantor, and
- (b) if the borrower pays or is required to pay a brokerage fee, the loan broker must ensure that the initial disclosure statement for the credit agreement
 - (i) discloses the amount of the brokerage fee, and
 - (ii) accounts for the brokerage fee in the APR and the total cost of credit.

** Editor's Table **

Provision	Changed by	In force	Authority
79	BC Reg 274/04	2006 Jul 1	BC Reg 274/04

SBC 2004-2-79, effective July 1, 2006 (B.C. Reg. 274/2004, as amended by B.C. Reg. 520/2004 and 349/2005).

Business credit grantors

80 (1) If a loan broker secures for a borrower an extension of credit from a credit grantor who provides credit in the ordinary course of carrying on business,

- (a) the credit grantor must ensure that the initial disclosure statement for the credit agreement, if the credit grantor deducts a brokerage fee from the advance,
 - (i) discloses the amount of the brokerage fee, and
 - (ii) accounts for the brokerage fee in the APR and the total cost of credit, and
- (b) the loan broker must give to the borrower, if the loan broker takes a loan application from the borrower and forwards it to the credit grantor,
 - (i) a disclosure statement containing the information referred to in paragraph (a), and
 - (ii) any other information that, under this Part, is required to be disclosed in the initial disclosure statement for the credit agreement.

(2) If the loan broker gives the borrower a disclosure statement under subsection (1) (b), the credit grantor may

- (a) adopt that disclosure statement as its own disclosure statement, in which case the credit grantor is jointly and severally liable with the loan broker for the contents of that statement, or
- (b) elect to give the borrower a separate disclosure statement containing the information that, under this Part, is required to be disclosed.

** Editor's Table **

Provision	Changed by	In force	Authority
80	BC Reg 274/04	2006 Jul 1	BC Reg 274/04

SBC 2004-2-80, effective July 1, 2006 (B.C. Reg. 274/2004, as amended by B.C. Reg. 520/2004 and 349/2005).

Division 6 -- Disclosure Required in Relation to Fixed Credit

Definition

81 In this Division, "scheduled-payments credit agreement" means a credit agreement for fixed credit under which the amount advanced is to be repaid in accordance with a specified schedule of payments, which schedule of payments may be subject to adjustment to accommodate contingencies, including changes in the interest rate.

** Editor's Table **

Provision	Changed by	In force	Authority
81	BC Reg 274/04	2006 Jul 1	BC Reg 274/04

SBC 2004-2-81, effective July 1, 2006 (B.C. Reg. 274/2004, as amended by B.C. Reg. 520/2004 and 349/2005).

Application of this Division

82 This Division applies only to credit agreements that extend fixed credit.

** Editor's Table **

Provision	Changed by	In force	Authority
82	BC Reg 274/04	2006 Jul 1	BC Reg 274/04

SBC 2004-2-82, effective July 1, 2006 (B.C. Reg. 274/2004, as amended by B.C. Reg. 520/2004 and 349/2005).

Credit sales

83 If fixed credit is extended under a credit sale, the credit grantor must ensure that the credit agreement is a scheduled-payments credit agreement.

** Editor's Table **

Provision	Changed by	In force	Authority
83	BC Reg 274/04	2006 Jul 1	BC Reg 274/04

SBC 2004-2-83, effective July 1, 2006 (B.C. Reg. 274/2004, as amended by B.C. Reg. 520/2004 and 349/2005).

Initial disclosure statements for fixed credit

84 A credit grantor who has entered into, or who is negotiating to enter into, a credit agreement must ensure that the initial disclosure statement for that credit agreement discloses the following information:

- (a) the effective date of the statement;

- (b) for a credit sale, a description of the product;
- (c) the outstanding balance after application of every payment made by the borrower on or before the effective date of the statement;
- (d) the nature and amount of each advance, charge or payment accounted for in the outstanding balance disclosed under paragraph (c);
- (e) the date on which interest begins to accrue and the details of any grace period;
- (f) the annual interest rate and the circumstances under which unpaid interest will be compounded;
- (g) if the annual interest rate may change during the term,
 - (i) the initial annual interest rate and the compounding period,
 - (ii) the method of determining the annual interest rate at any time, and
 - (iii) unless the amount of the scheduled payments is adjusted automatically to account for changes in the annual interest rate, the lowest annual interest rate, based on the initial outstanding balance, at which the payments would not cover the interest that would accrue between payments;
- (h) the nature and amount of any charges, other than interest, that are not disclosed under paragraph (d) but that are payable or will become payable by the borrower in connection with the credit agreement;
- (i) the total of all advances made or to be made in connection with the credit agreement;
- (j) the APR;
- (k) the nature of any default charges provided for by the credit agreement;
- (l) a description of the subject matter of any security interest;
- (m) for a mortgage loan, a statement of the conditions, if any, under which the borrower may make prepayments, and any charge for prepayment;
- (n) for a credit agreement that does not relate to a mortgage loan, a statement that the borrower is entitled to prepay the full outstanding balance at any time without any prepayment charge or penalty and is entitled to make partial payments without penalty on any scheduled payment date or at least monthly;
- (o) the nature, amount and timing of payments for any optional services purchased by the borrower for which payments are to be made to or through the credit grantor;
- (p) the conditions under which the borrower may terminate services referred to in paragraph (o);
- (q) if the credit agreement is a scheduled-payments credit agreement,

- (i) the term of the agreement,
 - (ii) the amortization period if it is longer than the term,
 - (iii) the amount and timing of any advances to be made after the effective date of the statement,
 - (iv) the amount and timing of any payments to be made after the effective date of the statement,
 - (v) the total of all payments to be made in connection with the credit agreement, and
 - (vi) the total cost of credit;
- (r) if the credit agreement is not a scheduled-payments credit agreement,
- (i) the circumstances in which the outstanding balance, or any portion of it, must be paid, or
 - (ii) the specific provisions of the credit agreement that describe those circumstances.

** Editor's Table **

Provision	Changed by	In force	Authority
84	BC Reg 274/04	2006 Jul 1	BC Reg 274/04

SBC 2004-2-84, effective July 1, 2006 (B.C. Reg. 274/2004, as amended by B.C. Reg. 520/2004 and 349/2005).

Disclosure regarding changes in interest rate

85 (1) In addition to the disclosure statement required under section 84 [initial disclosure statements for fixed credit], if the interest rate is a floating rate, the credit grantor, at least once every 12 months, must give the borrower a disclosure statement that contains the following information:

- (a) the period covered by the statement, which period must run from the date of the disclosure statement most recently given to the borrower under this section or section 84;
- (b) the annual interest rate at the beginning and end of that period;
- (c) the outstanding balance at the beginning and end of that period;
- (d) for a scheduled-payments credit agreement, the amount and timing of all remaining

payments, based on the annual interest rate that applies at the end of that period.

(2) In addition to the disclosure statement required under section 84 [initial disclosure statements for fixed credit], if the interest rate is not a floating rate but is subject to change, the credit grantor, within 30 days after the date on which the annual interest rate becomes 1% or more higher than the rate most recently disclosed to the borrower in writing, must give the borrower a disclosure statement that contains the following information:

- (a) the date of the statement;
- (b) the new annual interest rate and the date the new rate took effect;
- (c) the new amount, and timing, of any payments to be made after the date referred to in paragraph (b).

** Editor's Table **

Provision	Changed by	In force	Authority
85	BC Reg 274/04	2006 Jul 1	BC Reg 274/04

SBC 2004-2-85, effective July 1, 2006 (B.C. Reg. 274/2004, as amended by B.C. Reg. 520/2004 and 349/2005).

*Disclosure regarding increases in
outstanding principal*

86 (1) In addition to any other documents that the credit grantor must give under this Part to the borrower, the credit grantor must give the borrower a notice in writing in accordance with subsection (2) if

- (a) the outstanding principal on a scheduled-payments credit agreement increases as a result of
 - (i) the compounding of interest on a missed or late payment, or
 - (ii) the imposition of a default charge, and
- (b) as a result of the increase in outstanding principal, the total amount of the payments the borrower is scheduled to make over a payment period does not cover the interest that will accrue during that payment period.

(2) A notice under subsection (1)

- (a) must be given to the borrower, within 30 days after the most recently missed or late payment or default charge imposed, as the case may be, and
- (b) must specify

- (i) that the outstanding principal has increased, and the reason for that increase, and
- (ii) that, because of the increase in principal, the subsequent scheduled payments will not cover the interest that will accrue in each payment period.

** Editor's Table **

Provision	Changed by	In force	Authority
86	BC Reg 274/04	2006 Jul 1	BC Reg 274/04

SBC 2004-2-86, effective July 1, 2006 (B.C. Reg. 274/2004, as amended by B.C. Reg. 520/2004 and 349/2005).

Disclosure regarding amendments

87 (1) Subject to subsection (3), if a credit agreement is amended, the credit grantor must give a supplementary disclosure statement to the borrower within 30 days after the amendment is made.

(2) The supplementary disclosure statement must set out the changed information, but need not repeat any information that is unchanged from the previous disclosure statement.

(3) This section does not apply to changes effected by a renewal to which section 88 [disclosure regarding renewals] or 89 [disclosure regarding mortgage loan renewals] applies.

** Editor's Table **

Provision	Changed by	In force	Authority
87	BC Reg 274/04	2006 Jul 1	BC Reg 274/04

SBC 2004-2-87, effective July 1, 2006 (B.C. Reg. 274/2004, as amended by B.C. Reg. 520/2004 and 349/2005).

Disclosure regarding renewals

88 (1) A credit grantor who is willing to renew a credit agreement must give the borrower, in accordance with subsection (2), a disclosure statement, based on the assumption that the borrower will

make all payments that are due under the current credit agreement, that includes the following information respecting the renewed credit agreement:

- (a) the effective date;
- (b) the outstanding balance of the credit agreement as of the effective date;
- (c) any non-interest finance charges that are payable under or in connection with the credit agreement;
- (d) the term of the renewed credit agreement;
- (e) the relevant interest rate information referred to in section 84 (f) or (g) [initial disclosure statements for fixed credit];
- (f) the APR;
- (g) the amount and timing of all payments to be made under or in connection with the renewed credit agreement;
- (h) the total of all payments to be made under or in connection with the renewed credit agreement;
- (i) the total cost of credit;
- (j) the amortization period;
- (k) a statement of the conditions, if any, under which the borrower may make prepayments, and any charge for prepayment.

(2) The credit grantor must give the disclosure statement to the borrower

- (a) if the credit agreement is a mortgage loan, with the notice referred to in section 89 (1) [disclosure regarding mortgage loan renewals], or
- (b) if the credit agreement is not a mortgage loan, on or before the renewal date.

** Editor's Table **

Provision	Changed by	In force	Authority
88	BC Reg 274/04	2006 Jul 1	BC Reg 274/04

SBC 2004-2-88, effective July 1, 2006 (B.C. Reg. 274/2004, as amended by B.C. Reg. 520/2004 and 349/2005).

*Disclosure regarding mortgage
loan renewals*

89 (1) If the amortization period for a mortgage loan under a scheduled- payments credit agreement

is longer than the term of the mortgage loan, the credit grantor must notify the borrower in writing, at least 21 days before the end of the term, whether or not the credit grantor is willing to renew the mortgage loan for a further term.

(2) In addition to any other legal, equitable or statutory remedy available to the borrower but subject to subsection (3), if a mortgage loan is to be renewed but the credit grantor does not give the borrower, at least 21 days before the effective date of the renewed mortgage loan, a disclosure statement that reflects the terms of the renewed mortgage loan,

- (a) the credit grantor must give the borrower, on or before the effective date of the renewed mortgage loan, a disclosure statement that reflects the terms of the renewed mortgage loan,
- (b) the borrower may pay, within 21 days after receiving the disclosure statement referred to in paragraph (a), the outstanding balance of the mortgage loan without penalty, and
- (c) if the borrower pays the outstanding balance of the mortgage loan in accordance with paragraph (b), the credit grantor must refund to the borrower any non-interest finance charges imposed in connection with the renewal.

(3) Subsection (2) does not apply if

- (a) a credit grantor gives the borrower a disclosure statement in relation to the renewed mortgage loan at least 21 days before the effective date of the renewed mortgage loan, and
- (b) that statement does not reflect the terms of the renewed mortgage loan by reason only that
 - (i) the outstanding balance of the mortgage loan on the effective date of the renewed mortgage loan differs from what was stated in the disclosure statement because of one or more missed, late, early or extra payments,
 - (ii) the interest rate under the renewed mortgage loan is lower than the interest rate stated in the disclosure statement, or
 - (iii) the amortization period or frequency of payments under the renewed mortgage loan differs from what was stated in the disclosure statement.

(4) If subsection (3) applies, the credit grantor must give the borrower, within 30 days after the effective date of the renewed mortgage loan, a revised disclosure statement that reflects the terms of the renewed mortgage loan.

** Editor's Table **

Provision	Changed by	In force	Authority
89	BC Reg 274/04	2006 Jul 1	BC Reg 274/04

SBC 2004-2-89, effective July 1, 2006 (B.C. Reg. 274/2004, as amended by B.C. Reg. 520/2004 and 349/2005).

Division 7 -- Disclosure Required in Relation to Open Credit

Application of this Division

90 This Division applies only to credit agreements that extend open credit.

**** Editor's Table ****

Provision	Changed by	In force	Authority
90	BC Reg 274/04	2006 Jul 1	BC Reg 274/04

SBC 2004-2-90, effective July 1, 2006 (B.C. Reg. 274/2004, as amended by B.C. Reg. 520/2004 and 349/2005).

Initial disclosure statements for open credit

91 (1) A credit grantor who has entered into, or who is negotiating to enter into, a credit agreement must ensure that the initial disclosure statement for that credit agreement discloses the following information:

- (a) the effective date of the statement;
- (b) the credit limit;
- (c) the minimum periodic payment or the method of determining the minimum periodic payment;
- (d) the initial annual interest rate and the compounding period;
- (e) if the annual interest rate may change, the method of determining the annual interest rate at any time;
- (f) when interest begins to accrue on advances or different types of advances and information concerning any grace period;
- (g) the nature of any non-interest finance charges that may become payable by the borrower under the credit agreement and the amount, or the method of determining the amount, of those charges;

[Editor's note: On a date to be determined by regulation (SBC 2004-2-91 (1) (h)) the following provision is enacted:

(h) for open credit that is not associated with a credit card, the APR;

- (i) any optional services purchased by the borrower that are payable to or through the credit grantor, the charges for those optional services and the conditions under which the borrower may terminate the services;
- (j) a description of the subject matter of any security interest;
- (k) the nature of any default charges provided for by the credit agreement;
- (l) how often the borrower will receive statements of account;
- (m) a telephone number in accordance with section 92 (3) [statements of account].

(2) Despite subsection (1),

- (a) the credit limit referred to in subsection (1) (b) may be disclosed
 - (i) in the first statement of account given to the borrower, or
 - (ii) in a separate statement given to the borrower on or before the date on which the borrower receives the first statement of account, and
- (b) the following information may be disclosed in a separate statement given to the borrower before the services are provided or the transaction occurs:
 - (i) information about the nature and amount of charges for any optional service referred to in subsection (1) (i);
 - (ii) information that relates to a specific transaction under the credit agreement.

** Editor's Table **

Provision	Changed by	In force	Authority
91(1)(a) to (g) and (i) to (m)	BC Reg 274/04	2006 Jul 1	BC Reg 274/04
91(2)	BC Reg 274/04	2006 Jul 1	BC Reg 274/04

SBC 2004-2-91 (1) (a) to (g) and (i) to (m) and (2), effective July 1, 2006 (B.C. Reg. 274/2004, as amended by B.C. Reg. 520/ 2004 and 349/2005).

Statements of account

92 (1) Subject to subsection (2), the credit grantor must give the borrower, at least monthly, a statement of account that contains the following information:

- (a) the period covered by the statement, which period must run from the date of the first advance or, if a statement of account has been given under this section, from the date of the statement of account most recently given to the borrower;
- (b) the outstanding balance at the beginning of the statement period;
- (c) the posting date, description and amount of each transaction or charge added to the outstanding balance during the statement period;
- (d) the posting date and amount of each payment or credit subtracted from the outstanding balance during the statement period;
- (e) the annual interest rate or rates in effect during the statement period or any part of that period;
- (f) the total of all amounts added to the outstanding balance during the statement period;
- (g) the total of all amounts subtracted from the outstanding balance during the statement period;
- (h) the outstanding balance at the end of the statement period;
- (i) the credit limit;
- (j) the minimum payment;
- (k) the due date for payment;
- (l) the amount that the borrower must pay on or before the due date in order to take advantage of a grace period;
- (m) the borrower's rights and obligations regarding the correction of billing errors;
- (n) a telephone number in accordance with subsection (3).

(2) A credit grantor is not required to send a statement of account to a borrower at the end of any period during which there has been no advance or payment if

- (a) there is no outstanding balance at the end of the period, or
- (b) the borrower is in default and the credit grantor has
 - (i) demanded payment of the outstanding balance, and
 - (ii) given notice to the borrower that the borrower's privileges to obtain advances under the agreement have been cancelled or suspended because of the default.

(3) For the purposes of subsection (1) (n) and section 91 (1) (m) [initial disclosure statements for open credit], the credit grantor must

- (a) provide a telephone number that the borrower can use, at no charge, to obtain information about the borrower's account during the credit grantor's ordinary business hours, and
- (b) ensure that the information about the borrower's account is available at the number during those hours.

** Editor's Table **

Provision	Changed by	In force	Authority
92	BC Reg 274/04	2006 Jul 1	BC Reg 274/04

SBC 2004-2-92, effective July 1, 2006 (B.C. Reg. 274/2004, as amended by B.C. Reg. 520/2004 and 349/2005).

*Description of transactions,
charges, payments or credits*

93 (1) In this section, "event" means a transaction, charge, payment or credit.

(2) An event is sufficiently described for the purposes of section 92 (1) (c) and (d) [statements of account] if the description in the statement of account, along with any event record included with the statement of account or made available to the borrower at the time of the event, can reasonably be expected to enable the borrower to verify the event.

** Editor's Table **

Provision	Changed by	In force	Authority
93	BC Reg 274/04	2006 Jul 1	BC Reg 274/04

SBC 2004-2-93, effective July 1, 2006 (B.C. Reg. 274/2004, as amended by B.C. Reg. 520/2004 and 349/2005).

Division 8 -- Credit Cards

Definitions

94 In this Division:

"cardholder" means an individual who is a borrower in relation to a credit card;

"credit card issuer" means a person who is a credit grantor in relation to a credit card.

**** Editor's Table ****

Provision	Changed by	In force	Authority
94	BC Reg 274/04	2006 Jul 1	BC Reg 274/04

SBC 2004-2-94, effective July 1, 2006 (B.C. Reg. 274/2004, as amended by B.C. Reg. 520/2004 and 349/2005).

Application of this Division

95 This Division applies only to credit agreements that extend open credit.

**** Editor's Table ****

Provision	Changed by	In force	Authority
95	BC Reg 274/04	2006 Jul 1	BC Reg 274/04

SBC 2004-2-95, effective July 1, 2006 (B.C. Reg. 274/2004, as amended by B.C. Reg. 520/2004 and 349/2005).

Credit cards may be issued only on application

96 (1) A credit card issuer must not issue a credit card to an individual who has not applied for the card.

(2) Subsection (1) does not apply to a credit card that is issued to an individual to replace or renew a card that was applied for and issued to that individual.

**** Editor's Table ****

Provision	Changed by	In force	Authority
96	BC Reg 274/04	2006 Jul 1	BC Reg 274/04

SBC 2004-2-96, effective July 1, 2006 (B.C. Reg. 274/2004, as amended by B.C. Reg. 520/2004 and 349/2005).

Applications for credit cards

97 (1) A credit card issuer who has entered into, or who is negotiating to enter into, a credit agreement for a credit card must ensure that the application form for that credit card discloses the following information or complies with subsection (2):

- (a) if the interest rate payable under the credit agreement is a fixed rate of interest, that interest rate expressed as an annual interest rate;
- (b) if the interest rate payable under the credit agreement is a floating rate, the index rate and the manner by which that rate is to be modified to obtain the interest rate payable under the credit agreement;
- (c) the grace period, if any;
- (d) the nature and amount of any non-interest finance charges that are payable or may become payable by the cardholder;
- (e) the date as of which the information referred to in paragraphs (a) to (d) is in effect.

(2) Instead of disclosing the information required by subsection (1), the credit card issuer

- (a) may disclose in the application form a telephone number that the cardholder can use, at no charge, to obtain that information during the credit card issuer's ordinary business hours, and
- (b) must ensure that the information is available at the number during those hours.

(3) Despite subsection (2), if an individual applies for a credit card in person, by telephone or by any electronic means, the credit card issuer must disclose the information referred to in subsection (1) when the individual makes the application.

(4) An individual who applies for a credit card without signing an application form is deemed, on using the credit card for the first time, to have entered into a credit agreement in relation to that card in the terms of the disclosure statement referred to in subsection (5).

(5) Nothing in this section relieves the credit card issuer from the requirement to give a disclosure statement in accordance with sections 66 [disclosure statements must be given] and 91 [contents of initial disclosure statement for open credit].

**** Editor's Table ****

Provision	Changed by	In force	Authority
97	BC Reg 274/04	2006 Jul 1	BC Reg 274/04

SBC 2004-2-97, effective July 1, 2006 (B.C. Reg. 274/2004, as amended by B.C. Reg. 520/2004 and 349/2005).

Additional disclosure for credit cards

98 (1) In addition to the information required by section 91 [contents of initial disclosure statement for open credit] to be disclosed, a credit card issuer must disclose, in the initial disclosure statement for a credit card, the cardholder's maximum liability for unauthorized use of the credit card if it is lost or stolen.

(2) The credit card issuer must notify the cardholder of any change in the information disclosed in a disclosure statement,

(a) in the case of a change to the following information, in the next statement of account following the change in information or in a document that is given to the cardholder with the next statement of account:

- (i) a change in the credit limit;
- (ii) a decrease in the interest rate or the amount of any other charge;
- (iii) an increase in the length of an interest-free period or grace period;
- (iv) a change in a floating interest rate, or

(b) in any other case, at least 30 days before the date that the change takes effect.

** Editor's Table **

Provision	Changed by	In force	Authority
98	BC Reg 274/04	2006 Jul 1	BC Reg 274/04

SBC 2004-2-98, effective July 1, 2006 (B.C. Reg. 274/2004, as amended by B.C. Reg. 520/2004 and 349/2005).

Limitation of cardholder's liability

99 (1) A cardholder who has reported, orally or in writing, a lost or stolen credit card, or the unauthorized use of the credit card or credit card number, to the credit card issuer is not liable for any debt incurred through the use of that card after the credit card issuer receives the report.

(2) The maximum total liability of a cardholder arising from unauthorized use of a lost or stolen credit card before the issuer receives notice under subsection (1) is the lesser of

- (a) \$50, and
- (b) the maximum amount set by the credit agreement in relation to the credit card.

(3) Subsection (2) does not apply to the use of a credit card in conjunction with a personal identification number at a device commonly referred to as an automated teller machine.

**** Editor's Table ****

Provision	Changed by	In force	Authority
99	BC Reg 274/04	2006 Jul 1	BC Reg 274/04

SBC 2004-2-99, effective until July 1, 2006 (B.C. Reg. 274/ 2004, as amended by B.C. Reg. 520/2004 and 349/2005).

Division 9 -- Leases of Goods

Definitions

100 (1) In this Division:

"assumed residual payment" means,

- (a) for an option lease under which the option price at the end of the term is less than the estimated residual value, that option price, and
- (b) in any other case, the estimated residual value plus any amount that the lessee will be required to pay in the ordinary course of events at the end of the term;

"capitalized amount" means the amount determined by

- (a) adding
 - (i) the cash value of the leased goods, and
 - (ii) the amount of any other advances made to the lessee at or before the beginning of the term, and
- (b) subtracting from the amount determined under paragraph (a) the total amount of all payments made by the lessee at or before the beginning of the term, not including
 - (i) any refundable security deposit, and
 - (ii) any periodic payment;

"cash value", in relation to leased goods, means

- (a) if the lessor or an associate of the lessor sells like goods to cash customers in the ordinary course of carrying on business,
 - (i) a value that fairly represents the price for which the lessor or associate of the lessor sells those goods to cash customers, or
 - (ii) if the lessor and the lessee agree on a lower cash value, that lower cash value, or
- (b) if the lessor or an associate of the lessor does not sell like goods to cash customers in the ordinary course of carrying on business,
 - (i) the lessor's reasonable estimate of the price at which cash customers would buy those goods, or
 - (ii) if the lessor and the lessee agree on a lower cash value, that lower cash value;

"estimated residual cash payment" means the amount that the lessee will be required to pay to the lessor at the end of the term of a residual obligation lease if the realizable value of the leased goods at the end of the term equals their estimated residual value;

"estimated residual value" means the reasonable estimate, made by the lessor at the time the lease was entered into, of the wholesale value of the leased goods at the end of the term;

"implicit finance charge" means the amount determined, in connection with a lease, by

- (a) adding
 - (i) all non-refundable payments required to be made by the lessee at or before the beginning of, or during, the term, and
 - (ii) the assumed residual payment, and
- (b) subtracting from the amount determined under paragraph (a) the total amount of the advances received by the lessee;

"option lease" means a lease that gives the lessee the right to acquire title to or retain permanent possession of the leased goods by making a payment in addition to the payments required under the lease or by satisfying other specified conditions;

"option price" means the amount of the additional payment that the lessee must make in order to exercise the option under an option lease;

"realizable value" means the realizable value of leased goods at the end of the lease term as calculated in accordance with the regulations;

"residual obligation lease" means a lease under which, subject to section 102 [maximum liability under

residual obligation leases], the lessee may be required to pay the lessor at the end of the lease term an amount based wholly or partly on the difference, if any, between the estimated residual value and the realizable value of the leased goods;

"total lease cost" means the total of any non-refundable payments that the lessee will be required to make in the ordinary course of events.

(2) For the purpose of applying section 57 [definitions] to this Division, a reference in that section to "borrower", "cash price", "credit agreement", "credit grantor" or "purchased" is deemed to be a reference to "lessee", "cash value", "lease", "lessor" or "leased", respectively.

**** Editor's Table ****

Provision	Changed by	In force	Authority
100	BC Reg 274/04	2006 Jul 1	BC Reg 274/04

SBC 2004-2-100, effective July 1, 2006 (B.C. Reg. 274/2004, as amended by B.C. Reg. 520/2004 and 349/2005).

Disclosure required in relation to leases

101 (1) A lessor who has entered into, or who is negotiating to enter into, a lease must ensure that the initial disclosure statement for that lease discloses the following information:

- (a) the effective date of the statement;
- (b) a statement that the transaction is a lease;
- (c) a description of the leased goods;
- (d) the term of the lease;
- (e) the cash value of the leased goods;
- (f) the nature and amount of any other advance received, and of each charge incurred, by the lessee in connection with the lease at or before the beginning of the term;
- (g) the nature and amount of each payment made by the lessee at or before the beginning of the term;
- (h) the capitalized amount;
- (i) the amount, timing and number of the periodic payments;
- (j) the estimated residual value of the leased goods;
- (k) for an option lease,

- (i) how and when the option may be exercised,
 - (ii) the option price if the option is exercised at the end of the term, and
 - (iii) the method of determining the option price if the option is exercised before the end of the term;
- (l) for a residual obligation lease,
- (i) the estimated residual cash payment, and
 - (ii) a statement that the lessee's maximum liability at the end of the term is the sum of
 - (A) the estimated residual cash payment, and
 - (B) the estimated residual value less the realizable value of the leased goods;
- (m) the circumstances, if any, under which the lessee or the lessor may terminate the lease before the end of the term and the amount, or the method of determining the amount, of any payment that the lessee will be required to make on early termination of the lease;
- (n) if there are circumstances in which the lessee will be required to make a payment in connection with the lease and if that payment is not a payment required to be disclosed under paragraphs (g) to (m),
- (i) the circumstances, and
 - (ii) the amount of the payment or the method of determining the amount;
- (o) the implicit finance charge;
- (p) the APR;
- (q) the total lease cost.

(2) The circumstances referred to in subsection (1) (n) include, without limitation, unreasonable wear or excess use.

** Editor's Table **

Provision	Changed by	In force	Authority
101	BC Reg 274/04	2006 Jul 1	BC Reg 274/04

SBC 2004-2-101, effective July 1, 2006 (B.C. Reg. 274/2004, as amended by B.C. Reg. 520/2004 and 349/2005).

Maximum liability under residual obligation leases

102 The lessee's maximum liability at the end of the term of a residual obligation lease after returning the leased goods to the lessor is the sum of the following amounts as calculated in accordance with the regulations:

- (a) the estimated residual cash payment;
- (b) the estimated residual value less the realizable value of the leased goods.

** Editor's Table **

Provision	Changed by	In force	Authority
102	BC Reg 274/04	2006 Jul 1	BC Reg 274/04

SBC 2004-2-102, effective July 1, 2006 (B.C. Reg. 274/2004, as amended by B.C. Reg. 520/2004 and 349/2005).

Division 10 -- General

Definitions

103 In this Division:

"borrower" includes a lessee;

"credit agreement" includes a lease;

"credit grantor" includes a lessor and a loan broker.

** Editor's Table **

Provision	Changed by	In force	Authority
103	BC Reg 274/04	2006 Jul 1	BC Reg 274/04

SBC 2004-2-103, effective July 1, 2006 (B.C. Reg. 274/2004, as amended by B.C. Reg. 520/2004 and 349/2005).

Refund of overpayment

104 Despite any agreement to the contrary, if a borrower makes a payment to a credit grantor that the credit grantor is not entitled to receive, the credit grantor must

- (a) refund the payment to the borrower, or
- (b) if the parties agree, credit the payment against the outstanding balance of the credit agreement as of the time the payment was made.

** Editor's Table **

Provision	Changed by	In force	Authority
104	BC Reg 274/04	2006 Jul 1	BC Reg 274/04

SBC 2004-2-104, effective July 1, 2006 (B.C. Reg. 274/2004, as amended by B.C. Reg. 520/2004 and 349/2005).

*Credit grantor must compensate
borrower for contravention*

105 (1) A credit grantor who contravenes this Act or the regulations must compensate a borrower for any loss the borrower suffers because of the contravention, and the compensation to which the borrower is entitled may be set off against any money then due and payable under the credit agreement.

(2) The balance of the compensation, following any set off under subsection (1), may

- (a) in accordance with the request of the borrower, be set off against the outstanding balance of the credit agreement or paid to the borrower, or
- (b) be recovered in an action under section 171 [damages recoverable].

** Editor's Table **

Provision	Changed by	In force	Authority
105	BC Reg 274/04	2006 Jul 1	BC Reg 274/04

SBC 2004-2-105, effective until July 1, 2006 (B.C. Reg. 274/ 2004, as amended by B.C. Reg. 520/2004 and 349/2005).

Part 6 -- Credit Reporting

Definitions

106 In this Part:

"credit information" means information about an individual's credit, including the individual's name, age, place of residence, previous places of residence, marital status, spouse's name and age, number of dependants, particulars of education or professional qualifications, place of employment, previous places of employment, estimated income, paying habits, outstanding debt obligations, cost of living, or obligations and assets;

"report" means a written, oral or other communication respecting credit information of an individual;

"reporting agency" means a person, whether in British Columbia or not, who

- (a) provides reports for gain or profit,
- (b) provides reports on a routine, non-profit basis as an ancillary part of a business carried on for gain or profit, or
- (c) is designated by regulation.

SBC 2004-2-106, effective July 4, 2004 (B.C. Reg. 274/2004).

Consent for report

107 (1) A person must not obtain from a reporting agency a report respecting an individual for a purpose referred to in section 108 (1) (a) [to whom reports may be given] without the consent of the individual.

(2) A person may obtain the consent of the individual by any method that permits the person to produce evidence that the individual consented, including by prominently displaying the information respecting the consent in a clear and comprehensible manner in an application for credit, insurance, employment or tenancy.

SBC 2004-2-107, effective July 4, 2004 (B.C. Reg. 274/2004).

To whom reports may be given

108 (1) A reporting agency must not knowingly provide any credit information about an individual in a report, except in a report given

- (a) to a person who, it has reason to believe,
 - (i) intends to use the report in connection with extending credit to, or collecting a debt of, the individual,
 - (ii) intends to use the report in connection with the individual entering into or renewing a tenancy agreement,

- (iii) intends to use the report for the purpose of evaluating the individual for employment, promotion, reassignment or retention as an employee,
 - (iv) intends to use the report in connection with underwriting insurance involving the individual,
 - (v) intends to use the report to determine the eligibility of the individual under an enactment, if the information is relevant to a lawful requirement, or
 - (vi) otherwise has a direct business requirement for the report in connection with a transaction,
- (b) to the government of Canada, the government of a province or a municipality in Canada or to an agent of the government of Canada, the government of a province or a municipality in Canada,
 - (c) to a law enforcement agency in Canada, concerning an offence under the laws of Canada or of a province, to assist in an investigation or in the making of a decision to undertake an investigation
 - (i) to determine whether the offence has taken place, or
 - (ii) to prepare for the laying of a charge or the prosecution of the offence,
 - (d) in response to a court order,
 - (e) to the director, to assist in an inspection under this Act, or
 - (f) under the written consent of the individual to whom the information relates.

(2) A person must not obtain from a reporting agency a report about an individual except in the circumstances referred to in subsection (1).

SBC 2004-2-108, effective July 4, 2004 (B.C. Reg. 274/2004).

Contents of reports

109 (1) A reporting agency must not include in a report given under section 108 (1) (a) [to whom reports may be given] any of the following:

- (a) information, unless the name and address of the source of the information is recorded in its files or can be readily ascertained by the individual;
- (b) information not based on the most reliable evidence reasonably available;
- (c) unfavourable information, other than unfavourable credit information, unless the reporting agency has
 - (i) corroborated the information, or

- (ii) made reasonable efforts to corroborate the evidence on which the information is based, and the lack of corroboration is noted with and accompanies the information;
- (d) information about a legal proceeding in which the individual is a nominal defendant or in which the cause of action is primarily other than for a liquidated amount;
- (e) information about legal proceedings, accounts or debts that, on their face, are statute barred;
- (f) information about a judgment 6 years after the judgment was given, unless the creditor or the creditor's agent confirms that all or part of the judgment remains unpaid and the confirmation appears in the reporting agency's file;
- (g) information about the bankruptcy of an individual 6 years after the date the individual was discharged from bankruptcy, unless the individual has been bankrupt more than once;
- (h) information about criminal or summary conviction charges against the individual unless the charges have resulted in conviction;
- (i) information about a conviction of the individual under the laws of Canada or a province 6 years after the date of conviction or, if the conviction resulted in imprisonment, after the date of the individual's release or parole, but information about a conviction must not be reported if
 - (i) the individual has been granted an absolute or conditional discharge, or
 - (ii) after the conviction, the individual has been granted a free pardon;
- (j) information given orally, unless the content of the oral report is recorded in the reporting agency's file;
- (k) information about the race, belief, colour, sexual orientation, ancestry, ethnic origin or political affiliation of an individual;
- (l) information concerning any member of the individual's family other than the spouse as provided for in this Part;
- (m) information about the payment or non-payment of lawfully imposed fines 6 years after the fine was imposed;
- (n) information about a legal proceeding 12 months after the date the proceeding began, unless the current status of the proceeding has been ascertained and is included in the report;
- (o) any other information adverse to the individual's interest 6 years after the event that gave rise to the information;
- (p) any other prescribed information.

(2) For the purposes of subsection (1) (a), a person who provides information to a reporting agency for remuneration or other benefit except salary is not a source of information.

(3) In a report given under section 108 (1) (b) [report given to a government], a reporting agency must not provide information about an individual except the following information:

- (a) name;
- (b) current address and former addresses;
- (c) current place of employment and former places of employment.

SBC 2004-2-109, effective July 4, 2004 (B.C. Reg. 274/2004).

*Notice of denial of benefit or
increase of cost of benefit*

110 (1) If a person who receives a report given under section 108 (1) (a) [to whom reports may be given] uses information contained in the report to

- (a) deny all or part of a benefit to an individual, or
- (b) increase the cost of a benefit to an individual,

either wholly or partly because of information contained in the report, the person must give written notice of the denial or increase to the individual and, if the report was about another individual, that other individual.

(2) The person must give the notice

- (a) not later than 30 days after the decision was made, and
- (b) in person or by mail to the last known address of each individual.

(3) For the purpose of this section, a notice that is sent by mail is deemed to have been given at the time it is sent.

(4) On the written request of the individual made within 60 days after receipt of the notice, the person must inform the individual of the name and address of the reporting agency.

(5) The notice must contain a statement of the individual's right to request the information referred to in subsection (4).

SBC 2004-2-110, effective July 4, 2004 (B.C. Reg. 274/2004).

Explanation

111 (1) An individual may give to a reporting agency, in writing of not more than 100 words, an explanation or additional information that relates to the information kept by the reporting agency about

the individual.

(2) The reporting agency must retain the explanation or additional information with the other information the reporting agency keeps about the individual and must include the explanation or additional information in any report given about the individual if the explanation or additional information relates to any information in the report.

SBC 2004-2-111, effective July 4, 2004 (B.C. Reg. 274/2004).

False or misleading information

112 (1) A person must not supply false or misleading information to a reporting agency.

(2) A person does not contravene subsection (1) if, at the time the information was supplied, the person did not know that it was false or misleading and, with the exercise of reasonable diligence, could not have known that it was false or misleading.

SBC 2004-2-112, effective July 4, 2004 (B.C. Reg. 274/2004).

Part 7 -- Debt Collection

Division 1 -- Prohibited Debt Collection Practices

Definition

113 In this division, "collector" means a person, whether in British Columbia or not, who is collecting or attempting to collect a debt.

SBC 2004-2-113, effective July 4, 2004 (B.C. Reg. 274/2004).

Harassment

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

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

- (a) using threatening, profane, intimidating or coercive language;
- (b) exerting undue, excessive or unreasonable pressure;
- (c) publishing or threatening to publish a debtor's failure to pay.

SBC 2004-2-114, effective July 4, 2004 (B.C. Reg. 274/2004).

Disclosure to debtor

115 (1) A collector must not attempt to collect payment of a debt from a debtor until the collector has notified the debtor in writing or the collector has made a reasonable attempt to notify the debtor in

writing of

- (a) the name of the creditor with whom the debt was incurred,
- (b) the amount of the debt, and
- (c) the identity and authority of the collector to collect the debt from the debtor.

(2) A collector must not initiate verbal communication with a debtor with respect to the collection of a debt until 5 days after the collector has sent to the debtor the written notice referred to in subsection (1).

(3) If a debtor informs the collector that the debtor has not received the notice required under subsection (1), the collector must send that information to the debtor at the address provided by the debtor.

SBC 2004-2-115, effective July 4, 2004 (B.C. Reg. 274/2004).

Communication with debtor

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

- (a) the collector does not have the home address or telephone number for the debtor and the collector contacts the debtor solely for the purpose of requesting the debtor's home address or telephone number or both,
- (b) the collector has attempted to contact the debtor at the debtor's home address or telephone number, but the collector has not contacted the debtor in any of those attempts, or
- (c) the collector has been authorized by the debtor to communicate with the debtor at the debtor's place of employment.

(2) The collector must not make more than one verbal attempt, under subsection (1) (b), to contact the debtor at the debtor's place of employment.

(3) At the time a collector communicates with a debtor, the collector must first indicate to the debtor

- (a) the name of the creditor with whom the debt was incurred,
- (b) the amount of the debt, and
- (c) the identity and authority of the collector to collect the debt from the debtor.

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

- (a) except in writing, if the debtor

- (i) has notified the collector to communicate in writing only, and
 - (ii) has provided a mailing address at which the debtor may be contacted,
- (b) except through the debtor's lawyer, if the debtor
- (i) has notified the collector to communicate only with the debtor's lawyer, and
 - (ii) has provided an address for the lawyer, or
- (c) if the debtor has notified the collector and the creditor that the debt is in dispute and that the debtor would like the creditor to take the matter to court.

SBC 2004-2-116, effective July 4, 2004 (B.C. Reg. 274/2004).

Communication with persons other than debtor

117 (1) Except for the purpose of obtaining the debtor's home address or telephone number, a collector must not communicate or attempt to communicate with a member of the debtor's family or household, or a relative, neighbour, friend or acquaintance of the debtor unless

- (a) the person contacted has guaranteed to pay the debt and is being contacted in respect of that guarantee, or
 - (b) the debtor has authorized the collector to discuss the debt with the person contacted.
- (2) A collector must not communicate with a debtor's employer except
- (a) for the purpose of confirming the debtor's employment, business title and business address, or
 - (b) for other purposes authorized in writing by the debtor.

SBC 2004-2-117, effective July 4, 2004 (B.C. Reg. 274/2004).

Time of communication

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

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

- (a) on a statutory holiday,

- (b) subject to paragraph (a), on a Sunday, except between the hours of 1 p.m. and 5 p.m. local time for the person contacted, or
- (c) on any other day, except between the hours of 7 a.m. and 9 p.m. local time for the person contacted.

SBC 2004-2-118, effective July 4, 2004 (B.C. Reg. 274/2004).

Cost of communication

119 A collector must not communicate or attempt to communicate with a person for the purpose of collecting, negotiating or demanding payment of a debt by a means that results in the costs of the communication being payable by the person.

SBC 2004-2-119, effective July 4, 2004 (B.C. Reg. 274/2004).

*Collection from person not liable
for debt or in excess of amount
of debt*

120 A collector must not

- (a) collect or attempt to collect money that exceeds the amount of the debt owing,
- (b) collect or attempt to collect money from a person who is not liable for the debt, or
- (c) if a person has informed the collector that the person is not the debtor, continue to communicate with that person unless the collector first makes all reasonable efforts to ensure that the person is in fact the debtor.

SBC 2004-2-120, effective July 4, 2004 (B.C. Reg. 274/2004).

Legal proceedings

121 (1) If a debt has been assigned to a collector, the collector must not

- (a) bring or continue a legal proceeding for the recovery of a debt as plaintiff unless the debtor has been given notice of the assignment, or
- (b) bring a legal proceeding unless the collector first gives notice to the debtor that the collector intends to bring the proceeding.

(2) A collector must not recommend to a creditor that a legal proceeding be brought, unless the collector first gives notice to the debtor that the collector intends to recommend that a proceeding be brought.

(3) Nothing in subsection (2) affects solicitor-client privilege.

(4) A collector must not directly or indirectly threaten, or state an intention, to bring or continue a

legal proceeding for the recovery of a debt

- (a) for which the collector does not have the written authority of the creditor, or
- (b) for which there is no lawful authority.

SBC 2004-2-121, effective July 4, 2004 (B.C. Reg. 274/2004).

*Removal, seizure, repossession
and distress*

122 A collector must not do any of the following, whether on the collector's own behalf or on behalf of another person, directly or indirectly:

- (a) unless there is a court order to the contrary, remove from inside the debtor's private dwelling any personal property claimed under seizure, distress or repossession, in the absence of the debtor, the debtor's spouse, the debtor's agent or an adult resident in the debtor's dwelling;
- (b) seize, repossess or levy distress against personal property that is not specifically charged or mortgaged, or to which legal claim may not be made under a statute, court judgment or court order;
- (c) remove, seize, repossess or levy distress against personal property during a day or during the hours of a day when removal, seizure, repossession or distress is prohibited by the regulations.

SBC 2004-2-122, effective July 4, 2004 (B.C. Reg. 274/2004).

*False or misleading information
and misrepresentations*

123 In collecting or attempting to collect payment of a debt, a collector must not

- (a) supply any false or misleading information,
- (b) misrepresent the purpose of a communication,
- (c) misrepresent the identity of the collector or, if different, the creditor, or
- (d) use, without lawful authority, a summons, notice, demand, or other document that suggests or implies a connection with any court inside or outside of Canada.

SBC 2004-2-123, effective July 4, 2004 (B.C. Reg. 274/2004).

Additional prohibited practices

124 A collector must not commit or engage in a prescribed act or practice.

SBC 2004-2-124, effective July 4, 2004 (B.C. Reg. 274/2004).

Division 2 -- Collection Agents and Debt Poolers

Definitions

125 In this Division:

"bailiff" means a person, whether in British Columbia or not, who in the course of business acts, or assists a person to act, on behalf of another person in repossessing, distraining or seizing any personal property or in evicting a person from property;

"collection agent" means a person, whether in British Columbia or not, who

- (a) in the course of business collects or attempts to collect payment of a debt for another person, or
- (b) in the course of business takes an assignment of a debt due to another person for the purpose of collecting or attempting to collect payment of the debt,

and includes a bailiff;

"debt pooler" means a person, whether in British Columbia or not, who in the course of business arranges or operates a debt pooling system;

"debt pooling system" means an arrangement or procedure under which a debtor pays to a debt pooler money to be distributed or paid, according to a system, by that debt pooler to 3 or more creditors of the debtor.

SBC 2004-2-125, effective July 4, 2004 (B.C. Reg. 274/2004).

Accounting for and payment of money collected

126 (1) In this section, "administrator" has the same meaning as in the Unclaimed Property Act.

(2) A collection agent or debt pooler must do the following without notice or demand:

- (a) account for and pay the money collected, less the collection agent or debt pooler's proper charges, to the creditor on whose behalf the money was collected
 - (i) within 30 days after the end of a month during which the collection agent or debt pooler collected \$100 or more for a creditor, or
 - (ii) within 60 days after the end of a month during which the collection agent or debt pooler collected less than \$100 for a creditor;
- (b) if the collection agent or debt pooler cannot locate the creditor within the applicable period of time under paragraph (a), pay the money, without deduction, within 60 days to the debtor from whom it was collected;

- (c) if the collection agent or debt pooler has collected from a debtor more money than the amount owing to the debtor's creditors, pay any surplus money, without deduction, within 60 days to the debtor;
- (d) if the collection agent or debt pooler cannot locate the debtor to whom money is due under paragraph (b) or (c), pay the money to the administrator within 7 days after the end of the applicable period of time under those paragraphs.

(3) If the director, or a creditor or debtor who is entitled to money collected, makes demand, the collection agent or debt pooler must immediately account for the money collected and pay it to the person who is entitled under this section.

(4) Money paid to the administrator under subsection (2) (d) is deemed to be an unclaimed money deposit under the Unclaimed Property Act.

SBC 2004-2-126, effective July 4, 2004 (B.C. Reg. 274/2004).

Debt pooling

127 (1) If, under a debt pooling system, a debtor pays money to a debt pooler for distribution to the debtor's creditors, that debt pooler

- (a) must not act for or represent any of the creditors, and
- (b) is deemed to act for and represent the debtor.

(2) A contract between a debt pooler and a debtor must be in writing and signed by the debtor.

(3) A debt pooler must not charge fees or disbursements in excess of the prescribed amount.

SBC 2004-2-127, effective July 4, 2004 (B.C. Reg. 274/2004).

Collection agent and bailiff fees and disbursements

128 (1) A collection agent must not charge the collection agent's fees and disbursements to a debtor except as authorized by an enactment.

(2) For the purposes of subsection (3), a bailiff's reasonable fees and disbursements are deemed to be part of the amount owing by the debtor.

(3) A bailiff may collect the amount of the debt from the debtor instead of repossessing, distraining or seizing any personal property.

(4) Despite an agreement to the contrary between a debtor and a creditor,

- (a) any charges, except fees and disbursements deemed under subsection (2) and charges authorized under section 75 (b) [default charges], made or incurred by a collection agent or made or incurred by a creditor in employing a collection agent

to collect a debt, are not part of the amount owing by the debtor, and

- (b) a collection agent must not collect from the debtor any charges that are not part of the amount owing by the debtor.

SBC 2004-2-128, effective July 4, 2004 (B.C. Reg. 274/2004).

Part 8 -- Compensation Funds and Consumer Advancement Fund

Division 1 -- Compensation Funds

Definition

129 In this Part, "contributor" means, in relation to a compensation fund, a person designated by regulation to make payments to the fund.

SBC 2004-2-129, effective July 4, 2004 (B.C. Reg. 274/2004).

Establishment and continuation of compensation funds

130 (1) The Lieutenant Governor in Council, by regulation, may

- (a) establish one or more compensation funds, and
- (b) designate contributors to each fund.

(2) The Travel Assurance Fund is continued as a compensation fund under this Act.

(3) A compensation fund consists of the following:

- (a) payments made to the fund under section 131 [prescribed payments to compensation fund], 135 [claimant must repay compensation fund for money received from another source], 136 [contributor must repay compensation fund for claims caused by contributor] or 163 (3) [forfeiture of property];
- (b) money recovered by the director in respect of a claim against the fund;
- (c) any interest or other income of the fund;
- (d) borrowings made on behalf of the fund under subsection (5);
- (e) any additional source of revenue prescribed.

(4) The director is the trustee of a compensation fund.

(5) Subject to the regulations, the director may borrow money on behalf of a compensation fund to enable the payment of claims.

(6) Subject to section 138 [if administrative authority is director], a compensation fund is a trust fund under the Financial Administration Act.

SBC 2004-2-130, effective July 4, 2004 (B.C. Reg. 274/2004).

Payments to compensation fund

131 Subject to section 179 [power of administrative authority to set fees], a contributor must make payments to a compensation fund in the prescribed amount and manner and at the prescribed times.

SBC 2004-2-131, effective July 4, 2004 (B.C. Reg. 274/2004).

Claims against compensation fund

132 (1) A person may apply to the director for compensation from a compensation fund in the prescribed circumstances and manner.

(2) The director must not compensate a person who has applied for compensation in respect of a default judgment or judgment by consent unless the director is satisfied that the claim would otherwise be payable under this Part.

SBC 2004-2-132, effective July 4, 2004 (B.C. Reg. 274/2004).

Payments from compensation fund

133 (1) The director must pay the following from a compensation fund:

- (a) subject to this Part and the regulations, claims that the director determines meet the circumstances prescribed under section 132 (1);
- (b) prescribed payments in prescribed emergency circumstances to a person who would be eligible to make a claim under section 132 (1);
- (c) the principal amount of any borrowings and associated interest and costs;
- (d) the costs of administering the fund, including any costs incurred in investigating and processing claims against the fund.

(2) The director may do one or more of the following:

- (a) pay a claimant in one or more instalments;
- (b) prorate payments between claimants if the compensation fund is insufficient to pay all claims;
- (c) pay to the claimant all or part of the money recovered by the director in respect of the claim after deducting

- (i) the amount paid out of the compensation fund in respect of the claim,

- (ii) interest on the amount referred to in subparagraph (i) at the prescribed annual rate from the date of payment, and
- (iii) any costs of recovery, including actual legal costs.

SBC 2004-2-133, effective July 4, 2004 (B.C. Reg. 274/2004).

Assignment of rights

134 (1) The director must not make a payment from a compensation fund under section 133 (1) (a) unless the claimant has assigned to the director all the claimant's rights in respect of the loss that gave rise to the claim.

(2) If the director makes a payment under section 133 (1) (b), all the claimant's rights are deemed to have been assigned to the director with respect to the loss that gave rise to the payment.

SBC 2004-2-134, effective July 4, 2004 (B.C. Reg. 274/2004).

Claimant must repay compensation fund for money received from another source

135 (1) If money is paid from a compensation fund to a claimant, the claimant must pay to the fund any money, or the value of any other thing, received by the claimant from another source on account of the loss that gave rise to the claim, up to the amount paid from the fund to the claimant.

(2) If the claimant fails to comply with subsection (1), the director has a cause of action against the claimant for the amount unpaid.

SBC 2004-2-135, effective July 4, 2004 (B.C. Reg. 274/2004).

Contributor must repay compensation fund for claims caused by contributor

136 If a claim is paid out of a compensation fund, the contributor who caused the claim must pay to the fund the amount paid or incurred in respect of that claim under section 133 (1) [payments from compensation fund].

SBC 2004-2-136, effective July 4, 2004 (B.C. Reg. 274/2004).

Powers and duties of director

137 (1) Subject to the regulations, the director has exclusive jurisdiction to hear and decide claims against a compensation fund.

(2) Subject to subsection (3), a decision, order or ruling of the director made under this Act in respect of a matter that relates to a compensation fund and that is within the director's jurisdiction is final and conclusive and is not open to question or review in a court except on a question of law or excess of jurisdiction.

(3) A decision, order or ruling referred to in subsection (2) may be reconsidered in accordance with Division 1 of Part 12 [reconsiderations].

SBC 2004-2-137, effective July 4, 2004 (B.C. Reg. 274/2004).

*If administrative authority is
director*

138 (1) If, in respect of a compensation fund, the administrative authority is designated as the director,

- (a) the fund, including all investments of and borrowings on behalf of the fund, is transferred to the administrative authority,
- (b) on transfer, the fund ceases to be a trust fund under the Financial Administration Act,
- (c) the administrative authority must hold the fund in trust,
- (d) money paid into the fund, or received by the authority for the fund, is not subject to any process of garnishment, attachment, execution or seizure under any legal process by any creditor of the administrative authority, and
- (e) the authority may invest the fund only as permitted under the provisions of the Trustee Act respecting the investment of trust property by a trustee.

(2) A reference to the government or to the director designated by the minister under section 175 (1) (a) [director] in any commercial paper, contract, lease, licence, permit or other instrument or document that relates to an investment of or borrowing on behalf of the fund that is transferred to the administrative authority is deemed to be a reference to the authority.

(3) If, in respect of a compensation fund, the designation of the administrative authority as director in respect of that fund is revoked,

- (a) a director designated by the minister under section 175 (1) (a) [director] is trustee of the fund,
- (b) the fund, including all investments of and borrowings on behalf of the fund, is transferred to the director referred to in paragraph (a),
- (c) on transfer, the fund is a trust fund under the Financial Administration Act, and
- (d) a reference to the authority in any commercial paper, contract, lease, licence, permit or other instrument or document that relates to an investment of or borrowing on behalf of the fund that is transferred to the government is deemed to be a reference to the government.

SBC 2004-2-138, effective July 4, 2004 (B.C. Reg. 274/2004).

Division 2 -- Consumer Advancement Fund

*Establishment of Consumer
Advancement Fund*

139 (1) The Consumer Advancement Fund is established for the purposes referred to in section 140.

(2) The Consumer Advancement Fund consists of the following:

- (a) payments made to the fund under sections 163 (3) [forfeiture of property], 169 [revenue from administrative penalties] and 191 [additional penalty];
- (b) any interest or other income of the fund;
- (c) any additional source of revenue prescribed.

(3) The director is the trustee of the Consumer Advancement Fund.

(4) Subject to section 141 [if administrative authority is director], the Consumer Advancement Fund is a trust fund under the Financial Administration Act.

SBC 2004-2-139, effective July 4, 2004 (B.C. Reg. 274/2004).

*Payments from Consumer
Advancement Fund*

140 The director may expend the Consumer Advancement Fund only

- (a) for the purpose of educating consumers and suppliers about any matters relating to this Act,
- (b) for the purpose of increasing compliance with this Act,
- (c) to pay the costs associated with imposing an administrative penalty,
- (d) to pay the costs of administering the Consumer Advancement Fund, and
- (e) for other prescribed purposes.

SBC 2004-2-140, effective July 4, 2004 (B.C. Reg. 274/2004).

*If administrative authority is
director*

141 Section 138 [if administrative authority is director] applies to the Consumer Advancement Fund.

SBC 2004-2-141, effective July 4, 2004 (B.C. Reg. 274/2004).

Part 9 -- Licences

Definitions

142 In this Division:

"bailiff" has the same meaning as in section 125 [definitions];

"collection agent" has the same meaning as in section 125 [definitions], but does not include a bailiff;

"debt pooler" has the same meaning as in section 125 [definitions];

"telemarketer" means a supplier who initiates contact with a consumer by telephone or facsimile for the purpose of conducting a consumer transaction;

ENACTMENT NOT IN FORCE

NOTE: On a date to be fixed by regulation (SBC 2004-2-142

(part) (Act, s. 238)) the following is enacted:

"tow truck driver" means a tow truck driver as defined by regulation;

SBC 2004-2-142 (part) NOT IN FORCE, requires regulation (Act, s. 238).

"travel agent" means a person who, in the course of business, sells or otherwise provides to the public travel services supplied by another person;

"travel service" means transportation, accommodation or other service for the use or benefit of a traveller, tourist or sightseer;

"travel wholesaler" means a person who, in the course of business,

- (a) supplies the person's own travel transportation to the public on an irregular basis at nonfixed times,
- (b) purchases or acquires from another person rights to travel services for the purpose of resale, or
- (c) deals with travel agents or other travel wholesalers for the sale of travel services supplied by another person.

SBC 2004-2-142 (part), effective July 4, 2004 (B.C. Reg. 274/ 2004); SBC 2004-2-142 (part), effective October 1, 2005 (B.C. Reg. 83/2005).

Licence required

143 A person must not act or hold himself, herself or itself out as any of the following, unless the person is licensed for that purpose or is exempt by regulation from the requirement to be licensed:

- (a) bailiff;
- (b) collection agent;
- (c) debt pooler;

(d) telemarketer;

ENACTMENT NOT IN FORCE

NOTE: On a date to be fixed by regulation (SBC 2004-2-143 (e) (Act, s. 238)) the following is enacted:

(e) tow truck driver;

SBC 2004-2-143 (e) NOT IN FORCE, requires regulation (Act, s. 238).

(f) travel agent;

(g) travel wholesaler.

SBC 2004-2-143 (a)-(c), (f), (g), effective July 4, 2004 (B.C. Reg. 274/2004); SBC 2004-2-143 (d), effective October 1, 2005 (B.C. Reg. 83/2005).

Application for licence

144 A person may apply to the director for a licence by submitting to the director

- (a) the information, application form and other records required by the director,
- (b) the information and records required by the regulations, and
- (c) the fees and other payments required by the regulations or set under section 179 [power of administrative authority to set fees].

SBC 2004-2-144, effective July 4, 2004 (B.C. Reg. 274/2004).

Licences

145 (1) The director may issue a licence to an applicant and impose conditions on the licence.

(2) A licence is not transferable.

SBC 2004-2-145, effective July 4, 2004 (B.C. Reg. 274/2004).

Actions by director respecting licence

146 (1) The director may

- (a) refuse to issue or renew a licence,
- (b) suspend or cancel a licence, or
- (c) amend, impose or rescind conditions on a licence.

(2) Without limiting the authority of the director under subsection (1), the director may make a decision under subsection (1) if the applicant or licensee does any of the following:

- (a) contravenes this Act or the regulations;
- (b) fails to meet or no longer meets the minimum requirements for a licence as specified in the regulations;
- (c) contravenes a condition of a licence;
- (d) engages in a pattern of conduct that shows, in the director's opinion, that the person is unfit to have a licence;
- (e) is convicted of an offence under
 - (i) this Act or any other enactment, or
 - (ii) a law enacted by the government of Canada, another province of Canada or a foreign jurisdiction

for conduct that shows, in the director's opinion, that the person is unfit to have a licence.

(3) Without limiting the authority of the director under subsection (1), the director may make a decision under subsection (1) if the applicant or licensee is an employer, employee, officer, director or agent of a licensee against whom the director has made a decision under subsection (1).

(4) A licensee must immediately give a cancelled licence to the director.

SBC 2004-2-146, effective July 4, 2004 (B.C. Reg. 274/2004).

*Opportunity to be heard and
reconsideration*

147 (1) Before the director makes a decision under section 146 [actions by the director respecting licence], the director must give the applicant or licensee an opportunity to be heard.

(2) Despite subsection (1), if, in the director's opinion, the length of time required to give the applicant or licensee the opportunity to be heard would be prejudicial to the public interest, the director may make the decision before giving the applicant or licensee an opportunity to be heard.

(3) If the director makes the decision before giving the applicant or licensee an opportunity to be heard, the director must notify in writing the applicant or licensee of the decision and of the right of the applicant or licensee to request, within 30 days, an opportunity to be heard.

(4) The director must give the applicant or licensee an opportunity to be heard within 30 days from the date the director received the request referred to in subsection (3).

(5) The director must give the applicant or licensee written reasons for the decision.

(6) The decision may be reconsidered in accordance with Division 1 of Part 12 [reconsiderations].

SBC 2004-2-147, effective July 4, 2004 (B.C. Reg. 274/2004).

Trust account required by licensee

148 (1) If required by the regulations, a licensee must establish a trust account with a savings institution in British Columbia.

(2) The licensee is the trustee of the trust account.

(3) Money paid into the trust account is not subject to any process of garnishment, attachment, execution or seizure under any legal process by a creditor of the licensee.

SBC 2004-2-148, effective July 4, 2004 (B.C. Reg. 274/2004).

Part 10 -- Inspections and Enforcement

Division 1 -- Inspections

Inspections

149 An inspector may conduct an inspection for the following purposes:

- (a) determining compliance with
 - (i) this Act and the regulations,
 - (ii) the conditions of a licence, or
 - (iii) a compliance order, direct sales prohibition order, property freezing order, undertaking or court order made under this Act;
- (b) assessing an applicant for a licence.

SBC 2004-2-149, effective July 4, 2004 (B.C. Reg. 274/2004).

Inspection powers

150 (1) For the purposes of an inspection, an inspector may do any of the following:

- (a) enter the business premises of a person at any reasonable time;
- (b) inquire into any business, affairs or conduct of a person;
- (c) inspect, audit or examine any record, goods or other thing or the provision of services in the premises;

- (d) inspect a vehicle or vessel that is being used for business purposes;
- (e) require any person who has possession or control of any of the records, goods or other things in the premises, vehicle or vessel to produce the records, goods or things;
- (f) make a record, including a record on film, audio tape, video tape or otherwise, of the premises, vehicle or vessel and any thing in or on the premises, vehicle or vessel;
- (g) remove any record from the premises, vehicle or vessel for the purpose of making copies;
- (h) remove and retain any record, good or other thing that may be required as evidence from the premises, vehicle or vessel.

(2) The authority under subsection (1) must not be used to enter a private dwelling except with the consent of the occupant or with the authority of a warrant under section 152 [inspection under warrant].

SBC 2004-2-150, effective July 4, 2004 (B.C. Reg. 274/2004).

*Inspection powers -- additional
powers of director*

151 (1) For the purposes of an inspection, the director has the same powers that the Supreme Court has for the trial of civil actions to do the following:

- (a) summon and enforce the attendance of witnesses;
- (b) compel witnesses to give evidence on oath or in any other manner;
- (c) compel witnesses to produce records and things.

(2) When the director exercises a power under subsection (1), a person who fails or refuses to do any of the following is liable, on application to the Supreme Court, to be committed for contempt as if in breach of an order or judgment of the Supreme Court:

- (a) attend;
- (b) take an oath;
- (c) answer questions;
- (d) produce the records or things in the person's custody or possession.

(3) Section 34 (5) [non-compellability of financial institutions and officers of financial institutions] of the Evidence Act does not apply to the exercise of powers of the director under this section.

SBC 2004-2-151, effective July 4, 2004 (B.C. Reg. 274/2004).

Inspection under warrant

152 (1) If satisfied by evidence given under oath that entry on or into a building, receptacle or place, including a private dwelling, is necessary for any purpose related to carrying out an inspection, a justice may issue a warrant authorizing an inspector to enter on or into that building, receptacle or place and conduct an inspection.

(2) In the warrant, a justice may authorize an inspector to do one or both of the following:

- (a) enter at a specified time or within a specified period;
- (b) enter by force, if necessary.

(3) An inspector may make an application for a warrant under subsection (1) without notice to any other person.

SBC 2004-2-152, effective July 4, 2004 (B.C. Reg. 274/2004).

Records or things retained

153 Subject to the regulations, an inspector must return, within a reasonable time, any record or thing retained by the inspector to the person from whom it was taken.

SBC 2004-2-153, effective July 4, 2004 (B.C. Reg. 274/2004).

**Division 2 -- Undertakings, Compliance Orders and Direct Sales
Prohibition
Orders**

Undertakings

154 (1) If the director has reason to believe that a person is contravening, is about to contravene or has contravened this Act or the regulations, the director may accept from the person a written undertaking that is in a form and that contains the terms and conditions the director determines are appropriate in the circumstances.

(2) Without limiting subsection (1), an undertaking may include one or more of the following terms and conditions:

- (a) an undertaking to comply with this Act and the regulations;
- (b) an undertaking to refrain from engaging in an act or practice;
- (c) an undertaking to compensate consumers or a class of consumers, including reimbursing any money or returning any other property or thing received from consumers in connection with a consumer transaction;
- (d) an undertaking to provide a bond in accordance with the Bonding Act or other security and the circumstances under which the security may be realized;
- (e) an undertaking to reimburse to the director the costs of any inspection, including actual legal costs;

- (f) an undertaking with respect to the form, content and maintenance of trust accounts, records, contracts, advertisements or other documents;
- (g) if two or more persons give the undertaking, all the persons named in the undertaking are jointly and severally responsible for complying with the undertaking and are jointly and severally liable for the payment of any amounts under the undertaking.

(3) The director may terminate an inspection of or proceeding against a person on the acceptance of an undertaking from the person.

SBC 2004-2-154, effective July 4, 2004 (B.C. Reg. 274/2004).

Compliance orders

155 (1) After giving a person an opportunity to be heard, an inspector may order the person to comply with this Act and the regulations if satisfied that the person is contravening, is about to contravene or has contravened this Act or the regulations.

(2) A compliance order must

- (a) name the person in respect of whom the order is issued,
- (b) describe the person's act or practice that is contravening, is about to contravene or has contravened this Act or the regulations,
- (c) identify the section of this Act or the regulations that is being contravened, is about to be contravened or has been contravened,
- (d) be dated and signed by the inspector issuing the order, and
- (e) inform the recipient that the director may file the compliance order with the Supreme Court and that a filed order is deemed to be an order of the Supreme Court.

(3) In a compliance order, an inspector may order a person to stop engaging in or not engage in a specified act or practice.

(4) The director may include one or more of the following orders in a compliance order:

- (a) that a person reimburse any money or return any other property or thing received to a consumer or a class of consumers;
- (b) that a person compensate other persons or a class of persons who have suffered loss or damage as a result of a contravention of this Act or the regulations;
- (c) that a person take specified action to remedy an act or practice by which the person is contravening, is about to contravene or has contravened this Act or the regulations;
- (d) that a person reimburse to the director all or a portion of the actual costs of any

inspection, including actual legal costs, incurred by the director for the inspection of that person in respect of the contravention referred to in the compliance order.

(5) The inspector must serve a copy of the compliance order on the person named in the order.

(6) If a compliance order is made against two or more persons, all the persons against whom the order is made are jointly and severally responsible for complying with the order and are jointly and severally liable for the payment of any amounts the persons are required to pay under the order.

(7) A compliance order may be reconsidered in accordance with Division 1 of Part 12 [reconsiderations].

SBC 2004-2-155, effective July 4, 2004 (B.C. Reg. 274/2004).

Direct sales prohibition orders

156 (1) In this section:

"direct sales contract" has the same meaning as in section 17 [definitions];

"direct seller" means

- (a) a supplier who enters into direct sales contracts, solicits consumers to enter into direct sales contracts, or both, or a salesperson of that supplier, and
- (b) a person, including an officer and a director, who performs services related to the management of the business of a supplier referred to in paragraph (a).

(2) After giving a direct seller an opportunity to be heard, the director may order the direct seller to stop entering into direct sales contracts or soliciting consumers to enter into direct sales contracts, for a period of time specified in the order or until the director rescinds the order, if there are reasonable grounds to believe that

- (a) based on the past conduct of the direct seller, it is contrary to the public interest for the person to carry on the business of a direct seller, or
- (b) the direct seller has contravened this Act or the regulations.

(3) A direct sales prohibition order may be reconsidered in accordance with Division 1 of Part 12 [reconsiderations].

SBC 2004-2-156, effective July 4, 2004 (B.C. Reg. 274/2004).

*Filing undertakings or orders in
Supreme Court*

157 (1) The director may file with the Supreme Court

- (a) an undertaking,
- (b) a compliance order, or
- (c) a direct sales prohibition order.

(2) An undertaking, compliance order or direct sales prohibition order filed under subsection (1) is deemed for all purposes, except appeal from the undertaking or order filed, to be an order of the Supreme Court and enforceable as an order of the court.

SBC 2004-2-157, effective July 4, 2004 (B.C. Reg. 274/2004).

Division 3 -- Appointment of Receivers and Property Freezing Orders

Receivers and trustees

158 (1) In this section, "receiver" includes a trustee or receiver manager.

(2) If an inspector has begun an inspection of a person, the director may apply to the court, on notice or without notice to anyone, for the appointment of a receiver of the property of that person.

(3) On application under subsection (2), the court may appoint a receiver of the property of the person if it is satisfied the appointment is in the best interest of any of the following:

- (a) that person's creditors;
- (b) persons whose property is in the possession of or under the control of that person;
- (c) consumers.

(4) A receiver appointed under this section is the receiver of all the property belonging to, held by, held on behalf of or held in trust for the person named in the order, and the receiver has authority, if directed by the court, to wind up or manage the business and affairs of the person named and all necessary or incidental powers.

(5) If the director applies for the appointment of a receiver without notice to anyone, the receiver

- (a) is to be appointed for a period not longer than 8 days, and
- (b) is not to be authorized to wind up the business or affairs of the person named in the order

unless the court, after the hearing, otherwise orders.

(6) On application with notice, the court may vary or rescind an order made under this section.

SBC 2004-2-158, effective July 4, 2004 (B.C. Reg. 274/2004).

Order to freeze property

159 (1) The director may make a property freezing order under subsection (2) in respect of a person under inspection if the director believes the order is advisable for the protection of persons dealing with the person under inspection.

(2) The director may order, on terms the director considers reasonable, one or more of the following:

(a) that the person under inspection

(i) not take any of the person's property from the possession of another person named in the order who has the property on deposit, under control or for safe keeping, and

(ii) not dispose of the person's property or otherwise deal with the person's property in a way that reduces the value of the property, whether the property is acquired by the person before, on or after the date of the order;

(b) that a person to whom the order is directed hold property in trust, if the person has, in British Columbia, on deposit, under control or for safe keeping any property of the person under inspection;

(c) that a debtor of the person under inspection

(i) hold in trust property that is payable or transferable in satisfaction of the debt, or

(ii) transfer to a receiver property that is payable or transferable in satisfaction of the debt;

(d) that a lessor, to whom the order is directed, of safety deposit boxes, safes or compartments in safes, not permit the opening or removal of a safety deposit box, safe or compartment in a safe leased to the person under inspection;

(e) that a person to whom the order is directed hold the property affected by the order in that person's possession, safe keeping or control in trust for an interim receiver, custodian, trustee, receiver manager, receiver or liquidator who has been appointed or whose appointment has been applied for under any of section 158 [receivers and trustees], the Business Corporations Act, the Law and Equity Act, the Personal Property Security Act, the Supreme Court Act, the Bankruptcy and Insolvency Act (Canada) or the Winding-up and Restructuring Act (Canada).

(3) A property freezing order does not apply to assets in a stock exchange clearing house or to securities in process of transfer by a transfer agent unless the order expressly states that it applies to those assets or securities.

(4) The director must serve a property freezing order on each person to whom it is directed and on each person under inspection who is named in the order.

(5) A property freezing order takes effect in respect of a person at the time the property freezing order is served on the person or at a later time specified by the director in the order.

(6) Any property affected by a property freezing order continues to be affected by the order and remains frozen under it until the director, in writing,

(a) rescinds the order, or

(b) orders the release of that property.

Editor's note:

Section 159 (2) (e) was amended by SBC 2004-2-236 effective
July 4, 2004

SBC 2004-2-159, effective July 4, 2004 (B.C. Reg. 274/2004); SBC 2004-2-236.

Payment into court

160 (1) A person who receives a property freezing order may pay money into the Supreme Court if

(a) the person is in doubt as to the application of the order to any money on deposit with, or under the control of, the person, or

(b) a person not named in the order claims a right to or interest in the money.

(2) If a person pays money into court under subsection (1), the person is discharged from liability to the extent of that payment.

SBC 2004-2-160, effective July 4, 2004 (B.C. Reg. 274/2004).

Notice filed in land title office

161 (1) The director may

(a) file in a land title office, if the director makes a property freezing order, a notice that proceedings are being or are about to be taken that may affect land belonging to the person referred to in the notice, and

(b) revoke or amend the notice by filing the revocation or amendment in the land title office.

(2) The registrar under the Land Title Act must register a notice, revocation or amendment filed under subsection (1) against the land described in the notice.

(3) A registered notice has the same effect as a registered certificate of pending litigation.

SBC 2004-2-161, effective July 4, 2004 (B.C. Reg. 274/2004).

*Application to court respecting
property freezing order or filed
notice*

162 (1) The following persons may apply to the Supreme Court for an order cancelling or varying a property freezing order or registered notice under section 161:

- (a) a person to whom the order is directed;
- (b) a person under inspection in respect of a contravention of this Act or the regulations who is named in the order;
- (c) a person who has an interest in land in respect of the registered notice that is filed in the land title office;
- (d) a person not referred to in paragraphs (a) to (c) who is otherwise affected by the property freezing order.

(2) The court may cancel or vary a property freezing order or registered notice, as the court considers just, if the court finds that

- (a) all or part of the order or notice is not required to protect persons who are dealing with the person under inspection who is named in the order, or
- (b) affected persons are unduly prejudiced by the order or notice.

(3) In an application under this section, the court must give greater weight to the protection of persons who are dealing with the person under inspection than to the carrying on of the business of the person under inspection.

SBC 2004-2-162, effective July 4, 2004 (B.C. Reg. 274/2004).

*Application to court for
disposition of property frozen*

163 (1) The director may apply to the Supreme Court for an order for the disposition of property that is subject to a property freezing order under section 159 (2) (a) to (d) [order to freeze property].

(2) On an application under subsection (1), the court may make any order that the court considers just.

(3) Without limiting subsection (2), the court may order that

- (a) the property is forfeited to the director for disposal by the director, and
- (b) after deducting the actual costs of disposal, including actual legal costs, the director is to pay the proceeds from the disposal to

- (i) a compensation fund, or
- (ii) the Consumer Advancement Fund.

(4) Property that is the subject of a court order under this section must not be forfeited or disposed of until the later of the following:

- (a) 30 days after the order;
- (b) if the order is appealed, 30 days after the decision on the appeal has been given.

SBC 2004-2-163, effective July 4, 2004 (B.C. Reg. 274/2004).

Division 4 -- Administrative Penalties

Administrative penalties

164 (1) After giving the person an opportunity to be heard, the director may impose an administrative penalty on the person if the person contravenes

- (a) a prescribed provision of this Act or the regulations,
- (b) a condition of a licence,
- (c) a compliance order,
- (d) a direct sales prohibition order,
- (e) a property freezing order, or
- (f) an undertaking.

(2) Before the director imposes an administrative penalty on a person, the director must consider the following:

- (a) previous enforcement actions for contraventions of a similar nature by the person;
- (b) the gravity and magnitude of the contravention;
- (c) the extent of the harm to others resulting from the contravention;
- (d) whether the contravention was repeated or continuous;
- (e) whether the contravention was deliberate;
- (f) any economic benefit derived by the person from the contravention;
- (g) the person's efforts to correct the contravention.

(3) If the director imposes an administrative penalty on a person, a prosecution for an offence under this Act for the same contravention may not be brought against the person.

(4) A person who has been charged with an offence under this Act may not be subject to an administrative penalty in respect of the circumstances that gave rise to the charge.

(5) If a corporation contravenes

- (a) a prescribed provision of this Act or the regulations,
- (b) a condition of a licence,
- (c) a compliance order,
- (d) a direct sales prohibition order,
- (e) a property freezing order, or
- (f) an undertaking,

an officer, director or agent of the corporation who authorized, permitted or acquiesced in the contravention is also liable under this section, whether or not an administrative penalty is imposed on the corporation.

SBC 2004-2-164, effective July 4, 2004 (B.C. Reg. 274/2004).

Amount of penalty

165 (1) An individual on whom an administrative penalty is imposed is liable to a penalty of not more than \$5 000.

(2) A corporation on which an administrative penalty is imposed is liable to a penalty of not more than \$50 000.

SBC 2004-2-165, effective July 4, 2004 (B.C. Reg. 274/2004).

Notice of penalty

166 (1) If the director imposes an administrative penalty on a person, the director must give to the person a notice imposing the administrative penalty that specifies the following:

- (a) the contravention;
- (b) the amount of the penalty;
- (c) the date by which the penalty must be paid;
- (d) the person's right to have this decision reconsidered;
- (e) an address to which a request for a reconsideration may be given.

(2) A notice imposing an administrative penalty may be reconsidered in accordance with Division 1 of Part 12 [reconsiderations].

SBC 2004-2-166, effective July 4, 2004 (B.C. Reg. 274/2004).

Due date of penalty

167 The person on whom an administrative penalty is imposed must pay the administrative penalty

- (a) within 30 days after the date on which the notice referred to in section 166 is served on the person, or
- (b) if the person requests a reconsideration, within 30 days after the date on which the decision of the director respecting the reconsideration is served on the person.

SBC 2004-2-167, effective July 4, 2004 (B.C. Reg. 274/2004).

Enforcement of administrative penalty

168 (1) Subject to a reconsideration or the expiry of the period in which to request a reconsideration, an administrative penalty constitutes a debt payable by the person on whom the penalty is imposed.

(2) If a person fails to pay an administrative penalty as required under section 167, the director may file with the Supreme Court or Provincial Court a certified copy of the notice imposing the administrative penalty and, on being filed, the notice has the same force and effect, and all proceedings may be taken on the notice, as if it were a judgment of that court.

SBC 2004-2-168, effective July 4, 2004 (B.C. Reg. 274/2004).

Revenue from administrative penalties

169 The director must pay all amounts derived from administrative penalties to the Consumer Advancement Fund.

SBC 2004-2-169, effective July 4, 2004 (B.C. Reg. 274/2004).

Limitation period

170 The time limit for giving a notice imposing an administrative penalty is 2 years after the date on which the contravention occurred.

SBC 2004-2-170, effective July 4, 2004 (B.C. Reg. 274/2004).

Division 5 -- Court Proceedings

Damages recoverable

171 (1) Subject to subsection (2), if a person, other than a person referred to in paragraphs (a) to (e), has suffered damage or loss due to a contravention of this Act or the regulations, the person who suffered damage or loss may bring an action against a

- (a) supplier,

- (b) reporting agency, as defined in section 106 [definitions],
- (c) collector, as defined in section 113 [definitions],
- (d) bailiff, collection agent or debt pooler, as defined in section 125 [definitions], or
- (e) a person required to hold a licence under Part 9 [Licences]

who engaged in or acquiesced in the contravention that caused the damage or loss.

(2) A person must not bring an action under this section if an application has been made, on the person's behalf, to the court in respect of the same defendant and transaction under section 192 [compensation to consumers].

(3) The Provincial Court has jurisdiction for the purposes of this section, even though a contravention of this Act or the regulations may also constitute a libel or slander.

SBC 2004-2-171, effective July 4, 2004 (B.C. Reg. 274/2004).

Court actions respecting consumer transactions

172 (1) The director or a person other than a supplier, whether or not the person bringing the action has a special interest or any interest under this Act or is affected by a consumer transaction that gives rise to the action, may bring an action in Supreme Court for one or both of the following:

- (a) a declaration that an act or practice engaged in or about to be engaged in by a supplier in respect of a consumer transaction contravenes this Act or the regulations;
- (b) an interim or permanent injunction restraining a supplier from contravening this Act or the regulations.

(2) If the director brings an action under subsection (1), the director may sue on the director's own behalf and, at the director's option, on behalf of consumers generally or a designated class of consumers.

(3) If the court grants relief under subsection (1), the court may order one or more of the following:

- (a) that the supplier restore to any person any money or other property or thing, in which the person has an interest, that may have been acquired because of a contravention of this Act or the regulations;
- (b) if the action is brought by the director, that the supplier pay to the director the actual costs, or a reasonable proportion of the costs, of the inspection of the supplier conducted under this Act;
- (c) that the supplier advertise to the public in a manner that will assure prompt and reasonable communication to consumers, and on terms or conditions that the court considers reasonable, particulars of any judgment, declaration, order or injunction granted against the supplier under this section.

(4) The director may apply, without notice to anyone, for an interim injunction under subsection (1) (b).

(5) In an application for an interim injunction under subsection (1) (b),

- (a) the court must give greater weight and the balance of convenience to the protection of consumers than to the carrying on of the business of a supplier,
- (b) the applicant is not required to post a bond or give an undertaking as to damages, and
- (c) the applicant is not required to establish that irreparable harm will be done to the applicant, consumers generally or any class of consumers if the interim injunction is not granted.

(6) If the director applies, without notice to anyone, for an interim injunction under subsection (1) (b), the court must grant the interim injunction, on the terms and conditions it considers just, if the court is satisfied that there are reasonable grounds for believing there is an immediate threat to the interests of consumers dealing with the supplier because of an alleged contravention of this Act or the regulations in respect of a consumer transaction.

(7) In an action brought under subsection (1), or an appeal from it, the plaintiff is not required to provide security for costs.

SBC 2004-2-172, effective July 4, 2004 (B.C. Reg. 274/2004).

Notice to director

173 (1) A person who

- (a) brings an action under section 171 [damages recoverable] must serve the director with a copy of the writ of summons or notice of claim, or
- (b) brings an action under section 172 [court actions respecting consumer transactions] must serve the director with a copy of the writ of summons.

(2) On being served under subsection (1) (b), the director, on application to the court, may intervene in the action as a party, on the terms and conditions the court considers just.

(3) The court may proceed with the action even if the director has not been served under subsection (1).

SBC 2004-2-173, effective July 4, 2004 (B.C. Reg. 274/2004).

Part 11 -- Administration

Definition

174 In this Part, "administrative agreement" means the agreement referred to in section 177

[administrative agreement with administrative authority required].

SBC 2004-2-174, effective July 4, 2004 (B.C. Reg. 274/2004).

Director

175 (1) The minister may designate as a director either or both of the following:

- (a) an individual appointed under the Public Service Act;
- (b) the administrative authority, if the Lieutenant Governor in Council has approved the administrative agreement.

(2) If the minister designates both an individual and the administrative authority as directors and both directors may carry out powers, functions and duties under this Act at the same time, the minister must specify in each designation

- (a) the powers, functions and duties that the individual or administrative authority may carry out as director, and
- (b) the restrictions to the carrying out of those powers, functions and duties.

(3) The director may delegate, with or without conditions, any of the director's powers, functions or duties under this Act, including, without restriction, powers, functions or duties relating to compensation funds, licensing or enforcement, to a person or a class of persons.

(4) In making a determination under this Act, sections 1, 11, 14 (a) and (c), 15, 18, 28, 29, 33, 35 to 37, 39, 40 (5) and 57 of the Administrative Tribunals Act apply to the director as if the director were a tribunal under that Act.

**** Editor's Table ****

Provision	Changed by	In force	Authority
175(4)	2004-45-78	2004 Oct 15	BC Reg 425/04

SBC 2004-2-175, effective July 4, 2004 (B.C. Reg. 274/2004); SBC 2004-45-78.

Inspector

176 (1) The director may designate persons or a class of persons as inspectors.

(2) The director may impose restrictions on the powers, duties and functions that an inspector may carry out under this Act.

SBC 2004-2-176, effective July 4, 2004 (B.C. Reg. 274/2004).

*Administrative agreement with
administrative authority required*

177 (1) Subject to the approval of the Lieutenant Governor in Council, the minister may enter into an administrative agreement with the administrative authority permitting the authority to carry out some or all of the powers, functions and duties of a director under this Act.

(2) An administrative agreement must include provisions that specify all of the following:

- (a) the expected outcomes to be achieved by the authority in carrying out the powers, functions and duties of a director under this Act;
- (b) the performance objectives of the authority;
- (c) the acceptance by the authority of the responsibility to carry out powers, functions and duties the authority is permitted to carry out under subsection (1);
- (d) the terms for financial arrangements between the authority and the government, including the collection and payment of fees due to the authority or the government and any other financial transitional matters;
- (e) the right of access of the authority to records created by the government and the right of access of the government to records created by the authority;
- (f) the requirements for records management by the authority;
- (g) the requirement that the authority report to the government any matters in respect of the authority carrying out the powers, functions and duties of a director under this Act;
- (h) a requirement that the authority carry adequate insurance;
- (i) indemnification between the authority and the government;
- (j) the obligations of the parties if the agreement is terminated;
- (k) the time period of the agreement or the procedure for the review of the agreement by the authority and the government;
- (l) procedures for the settlement of disputes;
- (m) the liability of the authority arising out of the authority carrying out the powers, functions and duties of the director under this Act.

(3) The administrative authority must comply with the terms of the administrative agreement, and may not carry out the powers, functions and duties of the director under this Act except in accordance with that agreement.

(4) Subject to the approval of the Lieutenant Governor in Council, the minister may amend or revoke the administrative agreement without the consent of the administrative authority if the minister gives the authority prior written notice.

SBC 2004-2-177, effective July 4, 2004 (B.C. Reg. 274/2004).

*Designation does not make
administrative authority an agent
of the government*

178 If the administrative authority is designated as a director, the authority is not an agent of the government for the purpose of that designation.

SBC 2004-2-178, effective July 4, 2004 (B.C. Reg. 274/2004).

*Power of administrative authority
to set fees*

179 (1) Despite the power of the Lieutenant Governor in Council to make regulations prescribing the amount of payments to a compensation fund or respecting any fees or charges payable in respect of a licence, the administrative authority may set the amounts, fees or other charges if the administrative authority is designated as a director and, as director, is authorized to carry out powers, functions and duties related to the imposition of the amount, fee or charges payable to a compensation fund or for a licence.

(2) In setting amounts, fees and charges under subsection (1), the administrative authority must comply with a fee setting process that

- (a) is established by the administrative authority, and
- (b) is in accordance with criteria that the minister may establish by regulation.

SBC 2004-2-179, effective July 4, 2004 (B.C. Reg. 274/2004).

Part 12 -- General

Division 1 -- Reconsiderations

Definition

180 In this Division, "determination" means

- (a) a decision, order or ruling in respect of a matter that relates to a compensation fund,
- (b) a decision under section 146 [actions by director respecting licence],
- (c) a compliance order,
- (d) a direct sales prohibition order, or
- (e) a notice imposing an administrative penalty.

SBC 2004-2-180, effective July 4, 2004 (B.C. Reg. 274/2004).

Reconsideration by director

181 (1) A person may request the director to reconsider a determination

(a) within 30 days of receiving the later of

(i) the determination, and

(ii) any written reasons respecting the determination, or

(b) within the time period specified by the director, if the director is satisfied that

(i) special circumstances existed which precluded the filing of a request for reconsideration within the time period required in paragraph (a), and

(ii) an injustice would otherwise result.

(2) The person must make the request in writing and must identify the error the person believes was made or the other grounds for which reconsideration is requested.

(3) If the director decides to reconsider a determination,

(a) the director must give notice to any person that the director considers will be affected by the reconsideration of the determination, and

(b) the determination is stayed unless the director orders that the determination is not stayed.

SBC 2004-2-181, effective July 4, 2004 (B.C. Reg. 274/2004).

*Powers of director on
reconsideration*

182 (1) If the director reconsiders a determination, the director

(a) has all the powers and duties the director had with respect to the determination, and

(b) subject to subsection (2), may confirm, vary or cancel the determination.

(2) The director may vary or cancel a determination referred to in paragraphs (a), (c) and (e) of the definition of "determination", only if the director is satisfied that new evidence has become available or has been discovered that

(a) is substantial and material to the determination, and

(b) did not exist at the time of the review or did exist at that time but was not discovered and could not through the exercise of reasonable diligence have been discovered.

(3) If the director has delegated powers and duties respecting a determination referred to in paragraphs (b) and (d) of the definition of "determination", the director must not delegate the reconsideration of the determination to the same person.

(4) If the director made a determination referred to in paragraph (b) or (d) of the definition of "determination", the director must delegate the reconsideration to one or more persons who did not participate in the determination.

(5) The director must give written reasons for the director's decision in respect of the reconsideration to the person who made the request under section 181 (2) or a person given notice under section 181 (3).

(6) For certainty, a decision made under this section may not be reconsidered.

SBC 2004-2-182, effective July 4, 2004 (B.C. Reg. 274/2004).

Division 2 -- How to Give or Serve Documents

*How to give or serve documents
generally*

183 (1) This section does not apply to the following:

- (a) providing a distance sales contract under section 48 [copy of distance sales contract];
- (b) giving a notice of cancellation under Part 4 [Consumer Contracts] in accordance with section 54 [how to give a notice of cancellation];
- (c) giving a notice under section 77 [notice of intention to accelerate payment];
- (d) giving a notice under section 110 [notice of denial of benefit or increase of cost of benefit];
- (e) serving the director with a writ of summons or notice of claim under section 173 [notice of director].

(2) All documents that are required or permitted under this Act to be given to or served on a person must be given or served in one of the following ways:

- (a) by leaving a copy with the person;
- (b) if the person is a consumer, an individual who is the subject of a report, as defined in section 106 [definitions respecting credit reporting], or a debtor,
 - (i) by leaving a copy at that person's residence with an adult who apparently resides with that person,
 - (ii) by sending a copy by ordinary mail or registered mail to the address at which that person resides or to a forwarding address provided by that person,

- (iii) by leaving a copy in a mail box or mail slot for the address at which that person resides, or
 - (iv) by attaching a copy to a door or other conspicuous place at the address at which that person resides;
- (c) if the person is a supplier or a person not referred to in paragraph (b),
- (i) by leaving a copy with an agent of that person,
 - (ii) by sending a copy by ordinary mail or registered mail to the address at which that person carries on business,
 - (iii) by sending a copy by electronic mail to the electronic mail address provided by that person,
 - (iv) by leaving a copy in a mail box or mail slot for the address at which that person carries on business, or
 - (v) by attaching a copy to a door or other conspicuous place at the address at which that person carries on business;
- (d) by transmitting a copy to a facsimile number provided as an address for service by the person;
- (e) by any other method of service prescribed.

SBC 2004-2-183, effective July 4, 2004 (B.C. Reg. 274/2004).

*When documents are considered to
have been received*

184 A document given or served in accordance with section 183 (2) is deemed to be received as follows:

- (a) if given or served by sending a copy by ordinary or registered mail, on the 5th day after it is mailed;
- (b) if given or served by sending a copy by electronic mail, on the 3rd day after it is sent;
- (c) if given or served by leaving a copy in a mail box or mail slot, on the 3rd day after it is left;
- (d) if given or served by attaching a copy to a door or other conspicuous place, on the 3rd day after it is attached;
- (e) if given or served by transmitting a copy by facsimile, on the 3rd day after it is transmitted;
- (f) if given or served by any other method of service prescribed under section 183 (2)

(e), as prescribed.

SBC 2004-2-184, effective July 4, 2004 (B.C. Reg. 274/2004).

Division 3 -- Disclosure of Information and Evidence in Proceedings

Confidentiality

185 (1) A person who is engaged in the administration of this Act or the regulations and who has custody of, access to or control over information or records under this Act must not disclose the information or records to any other person except

- (a) if disclosure is for the purposes of the administration of this Act or the regulations,
- (b) with the consent of the person to whom the information or record relates,
- (c) in court proceedings related to this Act, or other similar enactments of British Columbia, another province or Canada,
- (d) if an enactment of British Columbia, another province or Canada requires the disclosure,
- (e) to the person's counsel,
- (f) to a law enforcement agency in Canada, or
- (g) under an agreement with the government.

(2) The person referred to in subsection (1) is not, except in a proceeding under this Act, compellable to disclose or give evidence about information or records the person has custody of, access to or control over.

SBC 2004-2-185, effective July 4, 2004 (B.C. Reg. 274/2004).

Publication by director

186 (1) The director may publish information respecting the following:

- (a) the suspension or cancellation of a licence;
- (b) an undertaking;
- (c) a compliance order;
- (d) a direct sales prohibition order;
- (e) a property freezing order;
- (f) the imposition of an administrative penalty;
- (g) a court order made under this Act;

(h) a conviction of an offence under this Act.

(2) Without limiting subsection (1), the director may publish

- (a) the name of the person against whom action is taken,
- (b) the amount of any penalty, and
- (c) the reason for the action taken or the nature of the contravention.

SBC 2004-2-186, effective July 4, 2004 (B.C. Reg. 274/2004).

Admissibility of parole evidence

187 In a proceeding in respect of a consumer transaction, a provision in a contract or a rule of law respecting parole or extrinsic evidence does not operate to exclude or limit the admissibility of evidence relating to the understanding of the parties as to the consumer transaction or as to a particular provision of the contract.

SBC 2004-2-187, effective July 4, 2004 (B.C. Reg. 274/2004).

Certificate as proof of ministerial consent or appointment

188 (1) If it is necessary in a proceeding to prove that a person has been designated by the minister as director, a certificate purporting to be signed by the minister is proof, in the absence of evidence to the contrary, of the fact so stated, without proof of the signature or the authority of the minister.

(2) A statement respecting any of the following purporting to be signed by the director is proof, in the absence of evidence to the contrary, of the facts stated in the statement for all purposes in a proceeding, without proof of the signature or the authority of the director:

- (a) the existence, non-existence or status of a licence;
- (b) the designation of a person as an inspector;
- (b) the filing or submission of information or a record to the director.

SBC 2004-2-188, effective July 4, 2004 (B.C. Reg. 274/2004).

Part 13 -- Offences and Penalties

Offences

189 (1) Section 5 of the Offence Act [general offence] does not apply to this Act or the regulations.

(2) A person who contravenes subsection (5) or any of the following sections commits an offence:

- (a) section 5 (1) [deceptive act or practice];
- (b) section 6 (3) [record of advertisement];
- (c) section 9 (1) [unconscionable act or practice];
- (d) section 30 (1) [prohibition on solicitation];
- (e) section 31 (1) and (2) [requirement for schedule of rates];
- (f) section 32 [requirement to give accurate information];
- (g) section 33 [prohibited charges respecting containers]
- (h) section 35 [preneed cemetery or funeral services contract -- initial disclosure statement];
- (i) section 40 (3), (4), (5) or (10) [money received under preneed cemetery or funeral services contract to be held in trust];
- (j) section 42 [restrictions on representations respecting right of interment];
- (k) section 46 (1) [disclosure of information respecting distance sales contract];
- (l) section 56 [cancellation of preauthorized payments];
- (m) section 59 (3) [disclosure in advertisements];
- (n) section 60 (2) or (3) [advertising requirements applicable to fixed credit];
- (o) section 61 (2) [advertising requirements applicable to open credit];
- (p) section 63 (3) [advertising requirements applicable to leases];
- (q) section 64 (1) [advertising a representative transaction].

(3) A person who contravenes any of the following sections commits an offence:

- (a) section 66 (2) or (3) [disclosure statements must be given];
- (b) section 67 (1) [form of disclosure statements and statements of account];
- (c) section 71 (2) [borrowers may choose insurer];
- (d) section 72 (2) or (3) [borrowers entitled to mortgage discharge];
- (e) section 74 (3) [refund of non-interest finance charges if prepayment of credit];
- (f) section 75 [default charges];
- (g) section 77 (5) [acceleration clauses];
- (h) section 79 [loan broker securing credit from non-business credit grantors];
- (i) section 80 (1) [business credit grantors];
- (j) section 83 [credit sales require scheduled-payments credit agreement];

- (k) section 84 [initial disclosure statements for fixed credit];
- (l) section 85 (1) or (2) [disclosure regarding changes in interest rate];
- (m) section 86 (1) or (2) [disclosure regarding increases in outstanding principal];
- (n) section 87 (1) or (2) [disclosure regarding amendments];
- (o) section 88 (1) or (2) [disclosure regarding renewals];
- (p) section 91 (1) [initial disclosure statements for open credit];
- (q) section 92 (1) or (3) [statements of account];
- (r) section 96 (1) [credit cards may be issued only on application];
- (s) section 97 (1) or (3) [applications for credit cards];
- (t) section 98 (1) or (2) [additional disclosure for credit cards];
- (u) section 101 (1) [disclosure required in relation to leases];
- (v) section 104 [refund of overpayment].

(4) A person who contravenes any of the following sections commits an offence:

- (a) section 107 (1) [obtaining credit report without consent];
- (b) section 108 (1) [providing information except in a report] or (2) [obtaining report in unauthorized circumstances];
- (c) section 109 (1) or (3) [contents of credit report];
- (d) section 110 (1), (4) or (5) [notice of denial of benefit or increase of cost of benefit];
- (e) section 111 (2) [explanation];
- (f) section 112 (1) [false or misleading information];
- (g) section 114 (1) [harassment];
- (h) section 115 (1), (2) or (3) [disclosure to debtor];
- (i) section 116 (1), (2), (3) or (4) [communication with debtor];
- (j) section 117 (1) or (2) [communication with persons other than debtor];
- (k) section 118 (2) [time of communication];
- (l) section 119 [cost of communication];
- (m) section 120 [collection from person not liable for debt or in excess of amount of debt];
- (n) section 121 (1), (2) or (4) [legal proceedings];
- (o) section 122 [removal, seizure, repossession and distress];

- (p) section 123 [false or misleading information and misrepresentations];
- (q) section 126 (2) or (3) [accounting for and payment of money collected];
- (r) section 127 (1) (a) or (3) [debt pooling];
- (s) section 128 (1) or (4) (b) [collection agent and bailiff fees and disbursements];
- (t) section 131 [payments to compensation fund];
- (u) section 143 [licence required].

(5) A person must not do any of the following:

- (a) supply false or misleading information to a person acting under this Act;
- (b) refuse or fail to provide information as required under this Act;
- (c) fail to comply with
 - (i) an undertaking,
 - (ii) a compliance order,
 - (iii) a direct sales prohibition order,
 - (iv) a property freezing order, or
 - (v) an order of a court under this Act;
- (d) contravene a provision of a trust agreement under section 40 [preneed cemetery or funeral services contract];
- (e) obstruct, hinder or interfere with an inspection under this Act;
- (f) purport to have a licence when the person does not.

(6) A person does not commit an offence under subsection (5) (a) if, at the time the information was supplied, the person did not know that it was false or misleading and, with the exercise of reasonable diligence, could not have known that it was false or misleading.

(7) Each day that an offence continues under subsection (5) (e) constitutes a separate offence.

(8) If a corporation commits an offence under this Act, an employee, officer, director or agent of the corporation who authorizes, permits or acquiesces in the commission of the offence also commits an offence, whether or not the corporation is prosecuted for the offence.

(9) In a prosecution for an offence under this Act, it is sufficient proof of the offence to establish that it was committed by an employee, officer, director or agent of the defendant, whether or not the employee, officer, director or agent is identified or has been prosecuted for the offence.

(10) Subsection (9) does not apply if the defendant establishes that the defendant exercised due diligence to prevent the commission of the offence.

SBC 2004-2-189, effective July 4, 2004 (B.C. Reg. 274/2004).

Penalty

190 (1) An individual who commits an offence under this Act is liable to a fine of not more than \$10 000 or to imprisonment for not more than 12 months or to both.

(2) A corporation who commits an offence under this Act is liable to a fine of not more than \$100 000.

(3) Despite subsections (1) and (2), the court may increase a fine imposed under this section by an amount of up to 3 times the court's estimation of the amount of monetary benefit acquired or accrued as a result of the commission of the offence.

SBC 2004-2-190, effective July 4, 2004 (B.C. Reg. 274/2004).

*Additional penalty -- Consumer
Advancement Fund*

191 (1) In addition to a penalty imposed under section 190 [penalty], a court that convicts a defendant of an offence under this Act may order, at the time the penalty is imposed, the defendant to pay to the Consumer Advancement Fund an amount of not more than \$1 000.

(2) The director may recover the amount owing to the Consumer Advancement Fund under subsection (1) as a debt due.

SBC 2004-2-191, effective July 4, 2004 (B.C. Reg. 274/2004).

Compensation to consumer

192 (1) In addition to a penalty imposed under section 190 [penalty], a court that convicts a defendant of an offence under this Act may order, at the time the penalty is imposed, the defendant to pay to an aggrieved consumer or guarantor, as compensation for pecuniary loss suffered by the aggrieved consumer or guarantor as a result of the commission of the offence, an amount not greater than the monetary jurisdiction specified in the Small Claims Act.

(2) An aggrieved consumer or guarantor, or the Crown prosecutor at the request and on behalf of the aggrieved consumer or guarantor, may apply for an order under subsection (1), unless the aggrieved consumer or guarantor has commenced an action against the defendant under section 171 [damages recoverable] in respect of the same transaction.

(3) If the defendant does not comply with an order made under subsection (1)

(a) within the time ordered by the court, or

(b) within 30 days of the order being made, if no time is specified in the order,

the aggrieved consumer or guarantor may enter judgment in the Provincial Court by filing the order with the registrar of the Provincial Court hearing matters under the Small Claims Act in or near the place where the conviction was entered.

(4) A judgment entered in the Provincial Court under subsection (3) is enforceable against the defendant in the same manner as if it were a judgment rendered in that court in civil proceedings.

SBC 2004-2-192, effective July 4, 2004 (B.C. Reg. 274/2004).

Limitation period

193 The time limit for laying an information for an offence under this Act is 2 years after the time when the subject matter of the proceedings arose.

SBC 2004-2-193, effective July 4, 2004 (B.C. Reg. 274/2004).

Part 14 -- Regulations

General power to make regulations

194 (1) The Lieutenant Governor in Council may make regulations referred to in section 41 of the Interpretation Act.

(2) The authority to make regulations under another provision of this Act does not limit subsection (1).

(3) The Lieutenant Governor in Council may make regulations as follows:

- (a) defining a word or expression used but not defined in this Act;
- (b) prescribing classes of unmarried persons as spouses;
- (c) exempting a person from the application of all or part of this Act or the regulations or establishing circumstances when all or part of this Act or the regulations do not apply;
- (d) prescribing information or records that must be submitted to the director;
- (e) respecting records, goods or things that are retained during an inspection and the detention or disposal of those records, goods or things;
- (f) respecting the disclosure of information and handling of money related to consignment sales of goods by suppliers.

SBC 2004-2-194, effective July 4, 2004 (B.C. Reg. 274/2004).

*Preneed cemetery or funeral
services, funeral and interment
right contracts*

195 The Lieutenant Governor in Council may make regulations as follows:

- (a) respecting the administration of a preneed trust account, as defined in section 29, including, without limitation, respecting
 - (i) financial controls,
 - (ii) audit requirements,
 - (iii) required and restricted disclosure, and
 - (iv) investment powers;
- (b) prescribing information required to be contained in the annual report referred to in section 40 [money received under contract to be held in trust];
- (c) prescribing the maximum fees an operator may charge for recording the sale or transfer of a right of interment by an interment right holder.

SBC 2004-2-195, effective July 4, 2004 (B.C. Reg. 274/2004).

*Disclosure of the cost of
consumer credit*

196 (1) In this section, "credit grantor", "lease", "lessor" and "loan broker" have the same meaning as in section 57 [definitions].

(2) The Lieutenant Governor in Council may make regulations as follows:

- (a) prescribing, in relation to circumstances in which there is more than one credit grantor or more than one loan broker, which member of that class constitutes the credit grantor or the loan broker, as the case may be, for the purposes of Part 5 or of one or more specified provisions of that Part;
- (b) respecting the manner in which the following are to be calculated:
 - (i) the penalty payable for the early termination of a lease;
 - (ii) any other matter that, under Part 5, is to be determined by a calculation if Part 5 does not specify the manner of that calculation;
- (c) respecting the form and manner in which information required to be disclosed under Part 5, including information that is required under that Part to be disclosed in an advertisement, must be disclosed;
- (d) requiring credit grantors, lessors or loan brokers to retain one or more records required under Part 5 for a specified period and prescribing when, how and to whom those records must be made available for examination, extracts and copying.

** Editor's Table **

Provision	Changed by	In force	Authority
196	BC Reg 274/04	2006 Jul 1	BC Reg 274/04

SBC 2004-2-196, effective July 1, 2006 (B.C. Reg. 274/2004, as amended by B.C. Reg. 520/2004 and 349/2005).

Credit reporting

197 (1) In this section, "reporting agency" has the same meaning as in section 106.

(2) The Lieutenant Governor in Council may make regulations as follows:

- (a) prescribing the records to be kept by reporting agencies;
- (b) prescribing information that a reporting agency must not keep in its files.

SBC 2004-2-197, effective July 4, 2004 (B.C. Reg. 274/2004).

Compensation funds

198 The Lieutenant Governor in Council may make regulations as follows:

- (a) respecting claims for compensation from a compensation fund, including, without limitation, prescribing
 - (i) circumstances in which the director may defer the payment of claims,
 - (ii) a maximum amount payable from a fund to a claimant,
 - (iii) a maximum amount payable from a fund in respect of all claims relating to an event, and
 - (iv) a period in which a person must file an application with the director in respect of a claim;
- (b) respecting the administration of a compensation fund or the Consumer Advancement Fund, including, without limitation, respecting financial controls and audit requirements.

SBC 2004-2-198, effective July 4, 2004 (B.C. Reg. 274/2004).

Licences

199 (1) The Lieutenant Governor in Council may make regulations as follows:

- (a) establishing the qualifications to be met by an applicant for a licence;
- (b) respecting fees and charges payable for a licence, licence application and amendments to a licence;
- (c) respecting the conditions that may be imposed on a licence;
- (d) requiring a licensee to have a licence for each location from which the licensee conducts business;
- (e) prohibiting or regulating an act or practice by a licensee;
- (f) requiring a licensee to provide security to ensure the performance of an obligation arising under this Act;
- (g) respecting the display and production of licences;
- (h) respecting the term and expiration of licences;
- (i) respecting the replacement of a licence;
- (j) respecting the collection, maintenance and retention of information or records by a licensee and the reporting of any information or records to the director;
- (k) respecting the maintenance of trust accounts by licensees, including, without limitation,
 - (i) prescribing circumstances in which licensees must deposit money that is received in the course of business into a trust account,
 - (ii) respecting the duties and responsibilities of trustees,
 - (iii) respecting who is entitled to the money in trust accounts,
 - (iv) respecting the disbursement of money from trust accounts,
 - (v) respecting the records to be kept for trust accounts, and
 - (vi) respecting the audit of trust accounts.

(2) Without limiting subsection (1) (f), the Lieutenant Governor in Council may make regulations respecting the following:

- (a) the type of security that is acceptable;
- (b) the form and content of the security;
- (c) the circumstances under which the security may be realized.

SBC 2004-2-199, effective July 4, 2004 (B.C. Reg. 274/2004).

Administrative penalties

200 The Lieutenant Governor in Council may make regulations as follows:

- (a) prescribing persons who are subject to the imposition of administrative penalties;
- (b) subject to section 165 [amount of penalty], prescribing the amount of the administrative penalties that may be imposed;
- (c) authorizing administrative penalties to be imposed on a daily basis for continuing contraventions;
- (d) prescribing, in relation to a contravention described in section 164 (1) [administrative penalties], whether a notice imposing an administrative penalty must be cancelled if the person on whom it was served demonstrates to the satisfaction of a director that the person exercised due diligence to prevent the specified contravention;
- (e) prescribing the consequences of failing to pay an administrative penalty, which consequences may include, but are not limited to, imposing additional penalties.

SBC 2004-2-200, effective July 4, 2004 (B.C. Reg. 274/2004).

Authority in relation to regulations

201 In making regulations under this Act, the Lieutenant Governor in Council or minister may do one or more of the following:

- (a) define classes of persons, things or transactions;
- (b) make different regulations for different classes of persons, things or transactions;
- (c) delegate a matter to a person;
- (d) confer a discretion on a person.

SBC 2004-2-201, effective July 4, 2004 (B.C. Reg. 274/2004).

Part 15 -- Transitional Provisions, Repeals and Consequential Amendments

Transitional Provisions

Definitions

202 In this Part:

"appointee" means the following persons:

- (a) the director under the Consumer Protection Act;
- (b) the director under the Credit Reporting Act;
- (c) the director under the Debt Collection Act;

- (d) the director under the Trade Practice Act;
- (e) the registrar under section 2 of the Travel Agents Act;
- (f) a member of the Travel Assurance Board under section 11 of the Travel Agents Act;

"Cemetery and Funeral Services Act" means the Cemetery and Funeral Services Act, R.S.B.C. 1996, c. 45;

"former Act" means the

- (a) Consumer Protection Act, R.S.B.C. 1996, c. 69,
- (b) Credit Reporting Act, R.S.B.C. 1996, c. 81,
- (c) Debt Collection Act, R.S.B.C. 1996, c. 92,
- (d) Trade Practice Act, R.S.B.C. 1996, c. 457, or
- (e) Travel Agents Act, R.S.B.C. 1996, c. 459.

SBC 2004-2-202, effective July 4, 2004 (B.C. Reg. 274/2004).

Transitional -- contracts

203 (1) Subject to subsection (2), Parts 2 to 4 apply to contracts and consumer transactions entered into before, on or after the coming into force of those Parts.

(2) Subject to subsection (3), a contract or consumer transaction entered into before the coming into force of Parts 2 to 4 is not invalid or does not contravene this Act if the contract or consumer transaction complies with the provisions of a former Act or the Cemetery and Funeral Services Act.

(3) Subsection (2) does not apply to contracts that are renewed or amended after the coming into force of Parts 2 to 4.

SBC 2004-2-203, effective July 4, 2004 (B.C. Reg. 274/2004).

Transitional -- exemption from section

40 for Gardens of Gethsemani

204 Section 40 [money received under contract to be held in trust funds] does not apply to the cemetery, mausoleum and columbarium operated, under the name of Gardens of Gethsemani, by the Roman Catholic Archbishop of Vancouver while money paid to the Archbishop, as trustee, under a preneed cemetery or funeral services contract is held in a manner satisfactory to the director.

SBC 2004-2-204, effective July 4, 2004 (B.C. Reg. 274/2004).

Transitional -- trust accounts

205 Despite the repeal of the Cemetery and Funeral Services Act, that Act, as it read on the date of its repeal, continues to apply to a trust agreement established under section 102 [money as trust funds] of that Act.

SBC 2004-2-205, effective July 4, 2004 (B.C. Reg. 274/2004).

*Transitional -- claims under the
Travel Assurance Fund*

206 Despite the repeal of the Travel Agents Act, if a person files a claim against the Travel Assurance Fund in respect of a loss that occurred within one year before the repeal of that Act, sections 17 to 20 [matters in respect of claims against the fund] of that Act, as they read on the date of their repeal, continue to apply to the determination of the claim.

SBC 2004-2-206, effective July 4, 2004 (B.C. Reg. 274/2004).

*Transitional for Part 5
-- disclosure of the cost of
consumer credit*

207 (1) The definitions in section 57 [definitions] apply to this section.

(2) Subject to subsections (3), (4) and (5), Part 5 applies only to credit agreements and leases entered into on or after the coming into force of that Part.

(3) Part 5 applies to all credit agreements for open credit, whether they are entered into before, on or after the coming into force of that Part.

(4) Part 5 applies to credit agreements for fixed credit and leases that are renewed or amended on or after the coming into force of that Part.

(5) Section 72 [borrowers entitled to mortgage discharge] applies to the discharge of all mortgages, whether the mortgage for which the discharge is being furnished is entered into before, on or after the coming into force of Part 5.

**** Editor's Table ****

Provision	Changed by	In force	Authority
207	BC Reg 274/04	2006 Jul 1	BC Reg 274/04

SBC 2004-2-207, effective July 1, 2006 (B.C. Reg. 274/2004, as amended by B.C. Reg. 520/2004 and 349/2005).

*Transitional -- licences issued
under the former Acts*

208 (1) A licence to carry on business as a collection agent or collector issued under the Debt Collection Act is deemed to be a licence issued under section 145 (1) [licences] of this Act to carry on business as a

- (a) debt pooler, if, before the repeal of the Debt Collection Act, the licensee was primarily engaged in arranging or operating a debt pooling system, or
- (b) collection agent, if paragraph (a) does not apply.

(2) A licence under the Debt Collection Act to act as a bailiff is deemed to be a licence, issued under section 145 (1) of this Act, to act as a bailiff.

(3) A registration to act as a travel agent or travel wholesaler under section 4 [application for registration] of the Travel Agents Act is deemed to be a licence, issued under section 145 (1) of this Act, to act as a travel agent or travel wholesaler, as applicable.

SBC 2004-2-208, effective July 4, 2004 (B.C. Reg. 274/2004).

Transitional -- enforcement

209 (1) An inspector may conduct an inspection for the purposes of determining whether a person

- (a) has contravened a provision of a former Act or of regulations made under a former Act, within 2 years before its repeal, and no final determination has been made in respect of the contravention,
- (b) has contravened a term or condition of a licence issued under a former Act within 2 years before its repeal, and no final determination has been made in respect of the contravention,
- (c) is complying with a compliance order, an order requiring a person to stop direct sales, a property freezing order or a court order made under a former Act, or
- (d) is complying with an undertaking given under the Trade Practice Act.

(2) During an inspection under subsection (1), an inspector may exercise any of the powers of inspection available under this Act.

(3) If, following an inspection under subsection (1), an inspector finds that there has been a contravention or failure to comply, the inspector may take any action in respect of the contravention that is authorized by the former Act, despite the repeal of the former Act, to which the contravention or failure to comply relates.

(4) An inquiry or hearing commenced under section 7 [persons who are unsuitable to act as reporting agencies] of the Credit Reporting Act that was not finished at the time of the repeal of that Act is terminated.

(5) Despite the repeal of the Trade Practice Act, that Act, as it read on the date of its repeal, continues to apply to an undertaking given under section 17 [supplier's undertaking or assurance] of that Act.

SBC 2004-2-209, effective July 4, 2004 (B.C. Reg. 274/2004).

Transitional -- persons acting under former Acts

210 (1) On the date that a former Act is repealed, the appointment of the appointee under that Act is rescinded.

(2) Despite subsection (1), an appointee whose appointment is rescinded under subsection (1) may, on or after the rescission date,

(a) continue to hear any matter to which the appointee was attending while holding office, and

(b) make a decision or an order in a matter referred to in paragraph (a).

(3) For the purpose of subsection (2) (b), section 147 (6) [opportunity to be heard and reconsideration] applies.

(4) On the date that a former Act is repealed, an inspector appointed under the former Act is deemed to be an inspector under this Act.

(5) On the date that a former Act is repealed, a receiver, receiver manager, trustee or liquidator appointed under the former Act is deemed to be a receiver, as defined in section 158 [receivers and trustees], appointed under this Act.

SBC 2004-2-210, effective July 4, 2004 (B.C. Reg. 274/2004).

Transitional -- regulations

211 (1) The Lieutenant Governor in Council may make regulations the Lieutenant Governor in Council considers necessary or advisable to bring this Act into operation and facilitate the transition from any former Act, or from the Cemetery and Funeral Services Act, to this Act.

(2) A regulation made under subsection (1) may be made retroactive to a date on or after the date that this section comes into force, and a regulation made retroactive is deemed to have come into force on the date specified in the regulation.

(3) A regulation made under subsection (1) is repealed one year after the later of the date that the regulation is deposited and the date the regulation comes into force.

(4) Subsections (1) to (3) are repealed 2 years after section 212 [Repeals] comes into force.

(5) Despite subsection (4), a regulation made under subsection (1) that is in effect 2 years after section 212 comes into force continues to have effect until repealed under subsection (3).

SBC 2004-2-211, effective July 4, 2004 (B.C. Reg. 274/2004).

Repeals

Repeals

212 The following may be repealed by regulation of the Lieutenant Governor in Council:

- (a) the Consumer Protection Act, R.S.B.C. 1996, c. 69;
- (b) the Supplement to the Consumer Protection Act;
- (c) the Cost of Consumer Credit Disclosure Act, S.B.C. 2000, c. 13;
- (d) the Credit Reporting Act, R.S.B.C. 1996, c. 81;
- (e) the Supplement to the Credit Reporting Act;
- (f) the Debt Collection Act, R.S.B.C. 1996, c. 92;
- (g) the Supplement to the Debt Collection Act;
- (h) the Trade Practice Act, R.S.B.C. 1996, c. 457;
- (i) the Travel Agents Act, R.S.B.C. 1996, c. 459;
- (j) the Supplement to the Travel Agents Act.

SBC 2004-2-212, effective July 4, 2004 (B.C. Reg. 274/2004).

Consequential Amendments

213 to 237 [Sections 213 to 237 contained amendments to the Business Corporations Amendment Act, the Community Financial Services Act, the Family Maintenance Enforcement Act, the Finance and Corporate Relations Statutes Amendment Act, 1998, the Financial Administration Amendment Act, 2003, the Miscellaneous Statutes Amendment Act (No. 3), 1999, the Mortgage Brokers Act, the Motor Dealer Act, the Personal Information Protection Act, the Personal Property Security Act, the Private Investigators and Security Agencies Act, the Real Estate Act, the Repairers Lien Act and to this Act. The amendments have been or will be incorporated into the relevant sections of the Acts.]