

CREDIT REPORTING ACT

CHAPTER 78

Interpretation

1. In this Act

- “consumer” means a person other than a corporation, but does not include a person engaging in a transaction in the course of carrying on business, other than seeking employment;
- “credit information” means information about a consumer’s credit, which may include his 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;
- “file”, when used as a noun, means all of the information about a consumer that is recorded or retained by a reporting agency, regardless of the manner or form in which the information is stored;
- “medical information” means any information or record obtained, with the consent of the consumer to whom it relates, from a medical practitioner, or a chiropractor, or a hospital, clinic, or other medically related facility about the health of the consumer;
- “minister” includes a person designated in writing by the minister;
- “personal information” means information other than credit information about a consumer’s character, reputation, medical information, physical or personal characteristics, or mode of living, or about any other matter respecting the consumer;
- “registrar” means the person appointed under this Act, and includes a person duly authorized in writing by the registrar to perform his duties under this Act;
- “report” means a written, oral or other communication made by a reporting agency of credit information or personal information, about a consumer, in connection with a purpose set out in section 10 (1) (a);
- “reporting agency” means a person who furnishes reports for gain or profit or who furnishes reports on a routine, nonprofit basis as an ancillary part of a business carried on for gain or profit.

1973-139-1; 1975-54-1.

Registrar

2. (1) There shall be a registrar of reporting agencies, who shall be appointed by the Lieutenant Governor in Council, on terms and conditions he may determine, and he may appoint as registrar a member of the public service.

(2) The registrar has the powers and duties conferred or imposed on him by this Act or the regulations.

1973-139-2.

Registration required

- 3.** A person shall not
- (a) carry on business as a reporting agency unless he is registered under this Act;
 - (b) carry on business as a reporting agency otherwise than in his registered name or elsewhere than at or from his registered address or addresses; or
 - (c) advertise or in any other way indicate that he is a reporting agency other than under his registered name.

1973-139-3.

Register

4. The registrar shall keep a register to be called Reporting Agencies Register in which he shall enter the name of every reporting agency registered under this Act, the address or the addresses, if more than one, at or from which the business is carried on, and other matters prescribed by the regulations.

1973-139-4.

Application for registration

5. (1) A reporting agency that intends to carry on business shall in the Province apply to the registrar for registration under this Act.

(2) The registrar shall grant registration or renewal of registration to an applicant unless, under section 6, he determines that the applicant is unsuitable for registration.

(3) The registrar shall not refuse to grant, or refuse to renew, registration without giving the applicant an opportunity to be heard.

(4) The registrar may, in his discretion, grant the registration or renewal of registration on terms, conditions or restrictions he considers necessary or advisable.

1973-139-5.

Unsuitable applicants

6. The registrar may consider an applicant unsuitable for registration under this Act where

- (a) he has been convicted of an offence that, in the opinion of the registrar, involves a dishonest or fraudulent act, or an intent to commit a dishonest or fraudulent act;
- (b) having regard to his financial position, the applicant cannot reasonably be expected to be financially responsible in the conduct of his business;
- (c) the past conduct of the applicant affords reasonable grounds to believe that he may not carry on business in accordance with the law, or with integrity and honesty;
- (d) the applicant is a corporation and the past conduct of any of its officers or directors affords reasonable grounds to believe that its business may not be carried on in accordance with the law or with integrity and honesty;
- (e) he would be unable to comply with section 14 or other provisions of this Act or the regulations; or
- (f) he has committed an offence against this Act.

1973-139-6.

Suspension or cancellation

7. (1) The registrar may, after giving the person registered under this Act an opportunity to be heard if a hearing is requested, suspend or cancel his registration where, in his opinion, that person

- (a) would be unsuitable for registration under section 6 if he were an applicant;
- (b) is in breach of a condition of registration, or of any of the provisions of this Act or regulations; or
- (c) has conducted or is conducting his business in a manner that is prejudicial to the public interest.

(2) Where the length of time required to give the person an opportunity to be heard under subsection (1) would, in the registrar's opinion, be prejudicial to the public interest, he may suspend registration without giving the person registered under this Act an opportunity to be heard; but, in that case, he shall promptly notify the person of the suspension of his registration and that a hearing and review will be held before him on a date that is within 21 days from the date of suspension.

1973-139-7.

Appeal from decision of registrar

8. (1) A person affected by a direction, decision, order, or ruling of the registrar may, by notice in writing sent by registered mail to the registrar within 30 days of the date of the mailing of the direction, decision, order or ruling, request, and is entitled to, a hearing and review by the Corporate and Financial Services Commission appointed under the *Securities Act*.

(2) For the purposes of subsection (1), the Corporate and Financial Services Commission has full jurisdiction to hear and review the matter, and section 5 and Part 4 of the *Securities Act*, apply, with the necessary changes and so far as they are applicable, to a hearing and review under this section.

(3) The registrar is a party and entitled to be represented at a hearing.

(4) A party to the hearing may appeal the direction, decision, order or ruling of the Corporate and Financial Services Commission to the Court of Appeal as provided in Part 4 of the *Securities Act*, and that Part applies, with the necessary changes and so far as are applicable, to an appeal under this section.

1973-139-8; 1974-82-58.

Changes of reporting agencies

9. Every reporting agency shall, within 5 days after the event, notify the registrar in writing of

- (a) any change in its registered address or addresses;
- (b) any change in its officers or directors in the case of a corporation, or of its members in the case of a partnership; and
- (c) in the case of a corporation, any change in the beneficial ownership of its shares.

1973-139-9.

To whom reports may be given

10. (1) A reporting agency, officer or employee shall not knowingly furnish any information from the files of the reporting agency except in a report given

- (a) to a person who, it has reason to believe,
 - (i) intends to use the information in connection with the extension of credit to, or the collection of a debt of, the consumer to whom the information pertains;
 - (ii) intends to use the information in connection with the entering into or renewal of a tenancy agreement by the consumer;
 - (iii) intends to use the information for employment purposes;
 - (iv) intends to use the information in connection with the underwriting of insurance involving the consumer;
 - (v) intends to use the information to determine the eligibility of a consumer under a statute or regulation, where the information is relevant to a requirement prescribed by law; or
 - (vi) otherwise has a direct business requirement for the information in connection with a business transaction respecting the consumer;
 - (b) under the written instructions of the consumer about whom the information relates; or
 - (c) in response to the order of a court.
- (2) No person shall knowingly obtain any information from the files of a reporting agency about a consumer except for the purposes referred to in subsection (1).
- (3) Notwithstanding subsections (1) and (2), a reporting agency may furnish identifying information about a consumer, limited to his name, address, former addresses and places of employment, to the government of Canada or of a province, or to a government agency, a municipality in Canada, or a municipal agency.
- (4) A reporting agency shall not sell, lease or transfer title to all or part of its files except to another reporting agency registered under this Act.

1973-139-10.

Contents of reports

- 11.** (1) Every reporting agency shall adopt all reasonable procedures for ensuring accuracy and fairness in the contents of its reports.
- (2) A reporting agency shall not report information that is not
- (a) stored in a form capable of being produced under section 14; or
 - (b) extracted from information appearing in files stored or collected in a repository located in Canada, regardless of whether or not the information was obtained from a source outside Canada.
- (3) A reporting agency shall not include in a report
- (a) information, unless the name and address of the source of the information is recorded or retained in its files, or can be readily ascertained by the consumer;
 - (b) information not based on the most reliable evidence reasonably available;
 - (c) unfavourable personal information, unless it has made reasonable efforts to corroborate the evidence on which the personal information is based, and the lack of corroboration is noted with and accompanies the information;
 - (d) information about a writ or other originating court proceeding in which the consumer is a nominal defendant, or the cause of action is primarily other than for a liquidated sum;

- (e) information about actions, accounts or debts that, on their face, are statute barred;
- (f) information about judgments 6 years after the judgment was given, unless the creditor or his agent confirms that the judgment remains unpaid in whole or in part, and the confirmation appears in the file;
- (g) information about the bankruptcy of a consumer 6 years after the date he was last discharged from bankruptcy, unless he has been bankrupt more than once;
- (h) information about criminal or summary conviction charges against the consumer unless the charges have resulted in conviction;
- (i) information about a conviction of the consumer for crimes or summary conviction offences 6 years after the date of conviction or, where the conviction resulted in imprisonment, after the date of his release or parole; but information about a conviction shall not be reported if, after the conviction, he has been granted a free pardon;
- (j) information given orally, unless the content of the oral report is noted in writing in the file;
- (k) any other information adverse to the consumer's interest that is more than 6 years old, unless the information is voluntarily supplied by the consumer to the reporting agency;
- (l) information about the race, creed, colour, ancestry, ethnic origin or political affiliation of a consumer;
- (m) information about the payment or nonpayment of lawfully imposed fines after 6 years after the fine was imposed;
- (n) information about a writ or other court proceeding after 12 months after the date of issue, unless the current status of the action or proceedings has been ascertained and is included in the report; or
- (o) any other information prescribed by regulation.

1973-139-11.

Consent or notice for report

12. (1) No person shall obtain from a reporting agency a report respecting a consumer

- (a) without the expressed written consent of the consumer; or
- (b) unless he promptly notifies the consumer in writing that a consumer report will be obtained.

(2) The consent may be contained in an application for credit, insurance, employment or tenancy, if it is clearly set forth in type not less than 10 point in size above the signature of the consumer.

(3) This section does not apply to a report the primary purpose of which is to supply information respecting the location or address of the consumer.

1973-139-12; 1975-54-2.

Notice of denial of benefit or increase of cost

13. (1) Where a user of information contained in a report denies a benefit in whole or in part to a consumer, or increases the cost of a benefit to a consumer, either wholly or partly because of information received from a reporting agency or a person other than a reporting agency, the user shall promptly deliver to the consumer written notice of the denial or increase.

(2) The user of information shall, on the request of the consumer made in writing within 60 days after delivery of the notice under subsection (1), inform the consumer of the name and address of the reporting agency if the information is furnished by a reporting agency, or of the source and nature of the information obtained elsewhere than from a reporting agency. The notice under subsection (1) shall contain notice of the consumer's right to request the information referred to in this subsection.

(3) Where a user of information receives a report about a person other than the consumer referred to in subsection (1) and subsequently denies a benefit in whole or in part or increases the cost of the benefit to the consumer, the advice required under this section shall be given by the user both to the consumer and to that other person.

1975-54-3.

Disclosure to consumer

14. (1) Subject to subsection (8), a reporting agency shall,

(a) at the written request of a consumer and during normal business hours, clearly and accurately disclose to the consumer, without charge, unless a fee is prescribed by regulation,

(i) the nature and substance of all information in the file respecting that consumer at the date of the request;

(ii) the sources of its information, unless the consumer is able to readily ascertain those sources; and

(iii) the names of the recipients of any report respecting that consumer that it has furnished within the preceding 12 months;

(b) where requested by the consumer, provide copies of any written reports furnished within the preceding 12 months respecting that consumer or, where the report was oral, particulars of the content of the oral report;

(c) inform the consumer of his right to explain or protest any information contained in the file under section 15 or 16 and the manner in which an explanation or protest must be made.

(2) The disclosures required under this section shall be made to a consumer

(a) in person, if he appears in person and furnishes proper identification;

(b) by telephone, if he has made written request, with sufficient identification, for telephone disclosure and the toll charge, if any, for the telephone call is prepaid by or charged directly to the consumer; or

(c) by mail, if he has made a signed, written request and his signature has been witnessed by, and identity established to the satisfaction of, a commissioner for taking affidavits or notary public, and has enclosed a self addressed envelope with sufficient postage attached, together with any fees payable for copies requested.

(3) Every reporting agency shall provide properly trained staff to explain to the consumer any information furnished to him under this section.

(4) The consumer shall be permitted to be accompanied by one other person of his choosing to whom the reporting agency may be required by the consumer to disclose his file.

(5) The reporting agency shall permit the consumer to whom information is disclosed under this section to make an abstract of it.

(6) A reporting agency shall require reasonable identification of the consumer and, if he is accompanied, the person accompanying him, before making disclosures under this section.

(7) No reporting agency shall require a consumer to give any undertaking, or waive, or release any right or chose in action as a condition to his obtaining access to his file and the disclosure of information under this section.

(8) A reporting agency may withhold from the disclosure required by this section any medical information obtained with the written consent of the consumer and which the consumer's own physician has requested the reporting agency in writing to withhold from the consumer in his own best interest.

1973-139-14; 1975-54-4.

Explanation by consumer

15. A person may deliver to a reporting agency, in writing of not more than 100 words, an explanation, or additional information, about the circumstances surrounding any item of information referring to him in his file, and the reporting agency shall maintain the explanation or additional information in the file accompanying the item and include it in any report given containing the item.

1973-139-15.

Correction of errors

16. (1) Where the consumer disputes the accuracy and completeness of any information referring to him in his file in a reporting agency, he may file a statement of protest, in writing of not more than 100 words, with the reporting agency.

(2) Where a statement of protest is filed, the reporting agency shall use its best endeavours to confirm or complete the information and shall correct, supplement or delete the information in accordance with good practice.

(3) Where a reporting agency corrects, supplements or deletes information under subsection (2), the reporting agency shall, unless otherwise requested by the consumer, furnish notification of the correction, supplement or deletion to every person to whom a report based on the unamended file was given within one year before the correction, supplement or deletion is made.

1973-139-16.

Order of registrar

17. (1) The registrar may order a reporting agency to amend or delete any information, or may, by order, restrict or prohibit the use of any information that, in his opinion, is inaccurate or incomplete or does not comply with this Act or the regulations.

(2) The registrar may order a reporting agency to furnish notification to any person who has received a consumer report of any amendments, deletions, restrictions or prohibitions imposed by him.

1973-139-17.

Investigation of complaints

18. (1) Where the registrar receives a complaint about a reporting agency and makes a request in writing to the reporting agency about it, the reporting agency shall furnish to the registrar all the information requested on the matter complained of.

(2) The registrar's request shall indicate the nature of the inquiry.

(3) For the purpose of subsection (1), the registrar may, after notice in writing, at any reasonable time enter the business premises of the reporting agency to inspect the file involved in a complaint.

1973-139-18.

Investigation on order of minister

19. The minister may, by order, appoint a person to make an investigation into any matter to which this Act applies as may be specified in the order, and the person appointed shall report the result of his investigation to the minister. For the investigation, the person has all the powers, privileges, and immunities of a commissioner appointed under sections 12, 15 and 16 of the *Inquiry Act*.

1973-139-19.

Investigation by registrar

20. (1) Where, on a statement made under oath, the registrar believes on reasonable and probable grounds that a person has contravened this Act or the regulations, or has committed an offence under the *Criminal Code* (Canada) or under any other law that is relevant to his fitness for registration under this Act, the registrar may, by order, appoint one or more persons to make an investigation to ascertain whether a contravention of this Act, or regulation, or the commission of an offence has occurred. The person appointed shall report the result of his investigation to the registrar and is referred to in this section as the investigator.

(2) For the purpose of this section, and notwithstanding section 10, the investigator may inquire into and examine the affairs of the person about whom the investigation is made, has the powers, privileges and immunities of a commissioner appointed under sections 12, 15 and 16 of the *Inquiry Act*, and may,

(a) on production of his appointment, enter at any reasonable time the business premises of the person being investigated and examine records relevant to the investigation; and

(b) inquire into negotiations, transactions, loans, borrowings made by, on behalf of or in relation to the person being investigated, and into property owned, acquired or alienated in whole or in part by him or by any person acting on his behalf, that are relevant to the investigation.

(3) A person shall not obstruct an investigator under this section or withhold from him, conceal or destroy any records relevant to the investigation.

(4) Where the County Court is satisfied, on an application alone by the investigator, that the investigation has been ordered, that he has been appointed to make it and that there is reasonable ground for believing there are, in any place, things relating to the person being investigated and to the investigation, the court may, whether or not an inspection has been made or attempted under subsection (2) (a), issue an order authorizing the investigator, together with police officers as he may require to assist him, to enter, if necessary by force, and search the place for and examine the things. An entry and search shall be made between sunrise and sunset unless the court authorizes the search at night.

(5) Where an order has been obtained under subsection (4), an investigator may, on giving a receipt, remove things examined under subsection (2) (a) or subsection (4) relating to the person being investigated and to the investigation to make copies of them. The copies shall be made with reasonable dispatch and the things returned to the person whose affairs are being investigated.

(6) A copy made as provided in subsection (5) and certified to be a true copy by the investigator is admissible in evidence in any proceeding or prosecution to prove the original and its contents.

(7) The minister or registrar may appoint an expert for the purpose of examining things referred to in subsection (2) (a) or under subsection (4).

1973-139-20; 1975-54-5.

Secrecy preserved

21. Every person employed in the administration of this Act, including any person making an inquiry, inspection, or an investigation under section 18, 19 or 20, shall preserve secrecy in all matters that come to his knowledge in the course of his duties, employment, inquiry, inspection or investigation and shall not communicate any matter to any other person except

- (a) as required in the administration of this Act and the regulations, or any proceedings under them;
- (b) to his counsel; or
- (c) with the consent of the person to whom the information relates.

1973-139-21.

Service

22. (1) Any notice or order to be given, delivered or served under this Act or the regulations is sufficient if delivered personally or by mail addressed to the person at his last known address.

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

1973-139-22; 1975-54-6.

Restraining order

23. (1) Where it appears to the registrar that a person does not comply with this Act, the regulations or an order made under this Act, notwithstanding the imposition of a penalty for noncompliance, and in addition to any other rights he may have, the registrar may apply to the Supreme Court for an order directing that person to comply with the provision and, on the application, the court may make an order it thinks fit.

(2) An appeal lies to the Court of Appeal from an order made under subsection (1) in the same manner as an appeal from any other order of the Supreme Court.

1973-139-23.

False information

24. A person shall not knowingly give false or misleading information to another person making a report.

1973-139-24.

Offences

25. (1) Every person who

- (a) knowingly furnishes false information in an application under this Act, or in any statement or return required to be furnished under this Act or the regulations;
- (b) fails to comply with any order, direction or other requirement made under this Act; or
- (c) contravenes this Act or the regulations;

and every director or officer of a corporation who knowingly authorizes, permits or acquiesces in any act or omission under paragraph (a), (b) or (c) commits an offence and on conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both a fine and imprisonment.

(2) Where a corporation is convicted of an offence under subsection (1), the corporation is liable to a fine of not more than \$5,000.

(3) No proceeding under subsection (1) (a) shall be commenced after one year after the facts on which the proceeding is based first came to the knowledge of the registrar.

(4) No proceeding under subsection (1) (b) or (c) shall be commenced after 2 years after the date the subject matter of the proceeding arose.

1973-139-25.

Civil remedy

26. (1) Where a consumer has suffered loss, damage or inconvenience as a result of a contravention of this Act or the regulations, he has a cause of action against the person who contravened this Act or the regulations and is entitled, if the court finds that he has suffered loss, damage or inconvenience, to a judgment for the damages suffered or \$100, whichever is greater.

(2) In this section “court” includes the Provincial Court, notwithstanding that a contravention may also constitute a libel or slander.

1975-54-7.

Certificate of registrar

27. (1) A statement about

- (a) the registration or nonregistration of any person;
- (b) the filing or nonfiling of a record required or permitted to be filed with the registrar;
- (c) the date when facts first came to the knowledge of the registrar; or
- (d) any other matter of registration, nonregistration, filing or nonfiling, under this Act or the regulations, purporting to be certified by the registrar, is, without proof of the office or signature of the registrar, receivable in evidence to prove the facts stated for all purposes in any proceeding or prosecution.

(2) A document under this Act purporting to be signed by the minister, or a certified copy, is receivable in evidence in any prosecution or other proceeding to prove that the document is signed by the minister without proof of the office or signature of the minister.

1973-139-26.

Regulations

28. The Lieutenant Governor in Council may make regulations and orders including regulations

- (a) exempting any class of persons from this Act or the regulations;
- (b) prescribing conditions of registration or renewal;
- (c) for the payment of fees on application for registration, or renewal of registration;
- (d) requiring registered reporting agencies to be bonded in a form and on terms and with collateral security as may be prescribed, and providing for the forfeiture of bonds and the disposition of the proceeds;

- (e) prescribing the records to be kept by reporting agencies;
- (f) prescribing information that may not be reported by a reporting agency or contained in its files;
- (g) requiring reporting agencies to make returns and furnish information to the registrar; and
- (h) defining, for the purpose of this Act or the regulations, any word or expression not defined in this Act.

1973-139-27

Appropriation

29. The Minister of Finance shall pay out of the consolidated revenue fund, on requisition of the minister, sums to carry out the purposes of this Act, as may be authorized by an Act of the Legislature for those purposes.

1973-139-28