



**CONSUMER
PROTECTION BC**

Guide to Licensed Telemarketer Inspections

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Introduction

Consumer Protection BC and Licensed Telemarketers

Consumer Protection BC is responsible for the administration of the *Business Practices and Consumer Protection Act* (BPCP Act) and *Telemarketer Licensing Regulation* (TLR). Together this Act and Regulation govern suppliers who engage in the business or occupation of initiating contact with a consumer by telephone or facsimile for the purpose of conducting a consumer transaction.

The material in this guide provides a reference point for Licensed Telemarketers on what to expect and how to prepare for inspections performed by Consumer Protection BC.

This guide is not intended to provide legal advice and is by no means an exhaustive review of all the provisions affecting Licensed Home Inspectors in BC. We recommend that anyone regulated under the BPCPA and TLR obtain copies and review them in detail. You can find them online or printed versions may be ordered from:

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For more general information, please contact the new Consumer Protection BC in Victoria at:

Consumer Protection BC
307-3450 Uptown Boulevard
Victoria BC V8Z 0B9
Phone: 604 320-1664
Fax: 250 920-7181
Toll free: 1 888 564-9963
www.consumerprotectionbc.ca

Inspection Process

Scheduling and Preparation

1. Inspectors are responsible for routine and complaint based inspections;
2. Complaint based inspection may come from various sources including our licensing and inquiry office;
3. Inspections are a potential requirement;
4. Each Inspector will be responsible for inspections throughout the province;

Notification

1. Inspections will not require prior notification;
2. It is expected that a typical inspection will not take more than three to five hours. If it is anticipated that an inspection will take more than this, the Telemarketer may be notified of the inspection in advance;

Inspection of Premises and Business Administration

The inspection may review the following;

- a) licenses;
- b) location of business and the business premises;
- c) employees;
- d) contracts;
- e) records;
- f) regulated and prohibited acts or practices.

Review of Preliminary Findings

1. The inspector may review the preliminary inspection results with the licensee and discuss potential non-compliance issues.
2. An Inspection Acknowledgement Form will be presented for signature by the authorized personnel for the licensee. A copy of the form may be requested by the licensee;

Enforcement

If an Inspector detects violations that they believe should proceed to enforcement of an administrative penalty, they will notify the licensee of these alleged contraventions in a Post Inspection Report. The Inspector will also prepare for the Director of Enforcement a Notice of Enforcement Action Recommended Report (NEAR). A copy of the NEAR will be also be sent to the licensee. The NEAR report will identify the allegation(s) proceeding to enforcement and the Inspector's recommended penalty. The licensee will be given an opportunity to respond to the report. The Director of Enforcement will then decide whether the allegation took place, and the administrative penalty, if any, to be applied. Note: the decision to impose an administrative penalty is at the discretion of the Director of Enforcement or delegated decision maker; neither is bound to the recommended administrative penalty in the NEAR.

If you are dissatisfied with the decision, you may apply for a reconsideration of the decision.

Further information on the policies and procedures relating to the administrative penalty process can be found by visiting our website at www.consumerprotectionbc.ca

General Requirements

Display of Licenses

A telemarketer must display a copy of their license in a conspicuous location in the place of business. A telemarketer must have a license for each location from which the telemarketer conducts business in British Columbia. The address on the license must be the address of the telemarketer's place of business. The administration office may be used as a mailing address only.

Location of Business

A telemarketer who operates from a residence must have completed a statutory declaration related to the operation of the business at a residential address.

Employees

Licenses are required to pay Consumer Protection BC a fee for each full time employee or equivalent (FTE). The Inspector will observe the number of employees currently on staff during the inspection and compare to the FTE information provided by the licensee on the License Renewal application.

Licenses enter into contracts for telemarketing services on behalf of their clients. The Inspector may inquire with the licensee what types of contracts they have (i.e.: per call, per hour allotted, per sale/donation) and the overall serviced time and hours for a sample period of time.

Contracts

The inspection of the distance sales or other consumer contracts may consist of reviewing a random selection of the most recent contracts to ensure completeness and accuracy. The procedure below is a list of tests that may be completed by the Inspector during a routine inspection:

- The random sample will not include any maximum number of files. The Inspector may enlarge the sample size to satisfy his/her need;
- Reviewing the contracts/records for their compliance for required content;

(Example) - Ensuring that the contracts are signed by all parties involved and determine whether or not the purchaser has received a copy of the contract within 15 days after the contract was entered into.

Records

- A licensee must retain records in respect of a consumer transaction for 2 years from the date the contract was entered into or the commitment was made by the consumer. **S.7 (3) TLR**
- The Inspector will determine what types of solicitation (telephone, facsimile, electronic) are utilized by the licensee and review accordingly.
- A licensee must collect and maintain a record of the following information for each distance sales contract entered into by telephone or facsimile **S.7 (1) TLR:**
 - The consumer's name, address, telephone number and, if available, facsimile number;
 - The date on which the contract is entered into;
 - The information required to be disclosed under **Section 46 of the BPCP Act.**

- A licensee must collect and maintain a record of the following information for each consumer who agrees by telephone or facsimile to contribute money or other property as a result of the licensee soliciting the consumer **S. 7 (2) TLR**:
 - the name of the organization on whose behalf or for whose benefit the licensee initiated contact with the consumer, the organization's business address, telephone number and, if available, facsimile number and electronic mail address;
 - A detailed description of the purpose for which the contribution of money or other property was solicited;
 - The consumer's name, address, telephone number and, if available, facsimile number;
 - The date on which the consumer agreed to contribute money or other property;
 - The amount of money the consumer agreed to contribute or the value or a detailed description of the property the consumer committed to contribute.

Regulated and prohibited acts or practices

The Inspector will review the business hours and days of operation to ensure that the licensee does not communicate or attempt to communicate with a consumer on a statutory holiday. A consumer may be contacted between the hours of 9:00 AM and 9:30 PM local time and on Saturday and Sunday between the hours of 10:00 AM and 6:00 PM local time. **S.8 (2) TLR**

Except on the request of the consumer contacted, a licensee must not communicate with a consumer more than once in a 30 day period in respect of the same proposed consumer transaction. The Inspector should review any customer log books or outgoing call logs. **S.8 (3) TLR**

The Inspector may wish to observe a telemarketer's telephone calls to ensure compliance under the acts and regulations. A telemarketer must disclose in a clear and comprehensible manner the name of the supplier on whose behalf or for whose benefit the licensee initiated contact with the consumer and the supplier's business address and telephone number. **S.8 (5) TLR**

As a minimum, telemarketers must maintain "Do not call/fax lists" (DNCL) and provide customers with a fax or telephone number where a responsible person can be reached. The DNCL list must be maintained for a period of three years. The inspector may ask to review the licensee's DNCL to determine how it is maintained and updated.

Most telemarketing companies will have a recorded announcement stating that a call may be recorded for quality and training purposes. If the licensee records calls, the inspector may make note in the inspection report and ask to listen to a random selection of telephone calls.

Most telemarketing companies will maintain a record of notes, either computer or paper based, for each call a telemarketer makes. The inspector should ask to review a random selection of a telemarketer notes.

Review of Records, Documents and Forms


Document review

During a routine inspection, an Inspector may request and make copies of any of the following:

- A copy of all the forms used by the licensee –
- Reports and any other form created by the licensee that is used at the business;
- Any marketing materials such as brochures, pamphlets or advertisements;

The above noted list is not exhaustive and an Inspector may request any documents, statements or reports that are deemed relevant to an inspection.

Appendix

 CONSUMER PROTECTION BC 200 – 4946 Canada Way, Burnaby BC V5G 4H7 P 604.320.1667 F 604.320.1663 TF 1.888.564.9963 E info@consumerprotectionbc.ca W www.consumerprotectionbc.ca					License #: _____	
					Date of inspection: _____	
Question	TELEMARKETING LICENSING REGULATION INSPECTION REPORT			Y	N	N/A
GENERAL LOCATION AND LICENCE						
1	TLR 4(1) Operating from Licensed Address?			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2	TLR 4(2) Change to Licensed Address Reported?			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3	TLR 6(2)(a)(b)(c)(d) Reported Changes to Employees or Employee Information			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4	TLR 8(2)(a)(b)(c) Days and Times of Communication Permissible?			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5	TLR 8(3) No Unrequested Multiple Solicitations Within 30 Days?			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
CONTRACTS – DISTANCE SALES						
6	BPCP Act 19(a) Suppliers Name?			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7	BPCP Act 19(b) Suppliers Address?			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8	BPCP Act 19(c) Suppliers Phone and Fax number?			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9	BPCP Act 19(f) Itemized Purchase Price for Goods/Services?			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10	BPCP 19(g) Other costs payable Including Taxes and Shipping?			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
11	BPCP Act 19(h) Description of Charges that Cannot be Reasonably Determined by the Supplier?			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
12	BPCP Act 19(i) Detailed Statement of the Terms of Payment?			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
13	BPCP Act 19(j) Total Price Including Cost of Credit?			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
14	BPCP Act 19(n) Other Restrictions			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

15	BPCP Act 46(1)(b) Disclosures re: E-mail Address?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Questions	CONTRACTS – DISTANCE SALES	Y	N	N/A
16	BPCP Act 46(1)(c) Disclosures re: Goods or Services/Technical Specifications	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
17	BPCP Act 46(1)(d) Disclosures re: Currency Payable Noted?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
19	BPCP Act 46(1)(e) Disclosures re: Delivery Information?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
20	BPCP Act 46(1)(f) 46(1)(e) Disclosures re: Suppliers Cancellation, Return or Exchange Policy?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
21	BPCP Act 23(2)(a) Supply Date(s) Listed?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
22	BPCP Act 23(2)(b) Date on which the Supply of Goods Complete?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
23	BPCP Act 23(2)(c) Amounts of Periodic Payments?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
RECORDS RELATED TO DISTANCE SALES CONTRACTS				
24	TLR 7(1)(a) Addresses, Phones, Fax Numbers of Consumers?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
25	TLR 7(1)(b) Date Contracts Entered into?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
26	TLP 7(1)(c) Disclosures re: Section 46 Information?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
RECORDS RE: SOLICITATION OF MONEY/PROPERTY				
27	TLR 7(2)(a) Beneficiary Name, Address, Phone and Fax	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
28	TLR 7(2)(b) Purpose the Money or Property Solicited?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
29	TLR 7(2)(c) Consumers Name, Address, Telephone Fax?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
30	TLR 7(2)(d) Date on which Consumer Agreed to Contribute?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

31	TLR 7(2)(e) Amount of Money, Value/Description of the Property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
32	TLR 7(3) Re: Records Retained 2 Years?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Questions	REGULATED ACTS AND/OR PRACTICES	Y	N	N/A
33	TLR 8(3) Re: If yes, is consumer contacted more than once in a 30 day period for the same thing?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
34	TLR 8(4) Re: Outgoing Telephone Fax Number Unblocked?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
35	TLR 8(5)(a) Caller Discloses Correct Information?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
36	TLR 8(5)(b) Re: Callers Provide Detailed Description of Purpose for Solicitation?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
37	Did licensee have active "my Account" and did inspector review/update active status at the time of inspection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

NOTES:
