



**CONSUMER
PROTECTION BC**



Inspection Guide

Debt collection agents and bailiffs

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Introduction

Consumer Protection BC is responsible for the administration of the *Business Practices and Consumer Protection Act* (Act) and the Debt Collection and Repayment Regulation (Regulation). Together this Act and Regulation govern the conduct of persons who engage in debt collection, the business of debt collection, the business and occupation of bailiffs, and the licensing requirements related to each in British Columbia.

This guide has been prepared to better inform and educate you on the compliance inspection process. As one of our licensed businesses it is your responsibility to conduct yourself and to operate your business to comply with the laws and conditions on the licences. We recommend you take the time needed to read this guide fully and to make sure that your managers and staff are familiar with the information.

This guide provides a reference point, so you know what to expect and how to prepare for our compliance inspections.

This is a general overview of the compliance inspections process. This guide is not intended to provide legal advice and it is not an exhaustive review of the legislative provisions affecting you or your sector in BC. We recommend that you get copies of the legislation and regulation and review them in detail. You can find them [online](#) or printed versions may be ordered from:

Crown Publications Inc.
563 Superior Street
Victoria, BC, V8V 1T7
TF: 1.800 663.6105 Fax: 250.387.1120

For more general information, we can be reached at:

Consumer Protection BC
#321-3600 Uptown Blvd.
Victoria, BC V8Z 0B9
TF: 1.888.564.9963 Fax: 250. 920-7181
E: operations@consumerprotectionbc.ca
W: www.consumerprotectionbc.ca

Background: our responsibilities

The role of Consumer Protection BC

Our purpose is to license and inspect regulated businesses, respond to consumer inquiries, investigate alleged violations of consumer protection laws, classify all general release and adult films, and provide information and referrals to consumers.

As part of our responsibility to ensure compliance with the law and conditions on a licence, we regularly perform compliance inspections as well as inspections in response to consumer complaints. When an inspector identifies issues of non-compliance, the inspector may open a complaint file. When the eventual outcome of a complaint file results in compliance by the business, or some form of enforcement action being taken against the business, the outcome is published to our website. We share this information to enable consumers to make informed decisions.

The role of the licensee

As a licensee (someone who holds a licence), you must let us know about any changes you make to the business such as the location of business and licensed employees you engage.

You are legally responsible for understanding the Act, Regulation, conditions on your licence and be in compliance with them all.

You are also responsible for making sure your employees follow the Act, Regulation, and conditions on the licence, even when you are not present at the business.

You must fully cooperate with an inspector. Providing false or misleading information to an inspector or obstructing or hindering an inspection are serious contraventions. A person that carries out such behaviours or activities is also subject to prosecution under *the Offence Act*.

Inspection process

Scheduling and notification

Inspectors attend businesses located throughout the Province – sometimes arriving unannounced. The Act allows for an inspector to enter a business at any reasonable time to determine compliance with the Act, Regulation, conditions on a licence, or the suitability of a licensee or an applicant for a licence.

Authority to inspect

It is your responsibility to cooperate fully during an inspection. In most instances, an inspector will provide their official identification on arrival, or a request can be made for them to produce it. You must not do anything to obstruct, hinder, or interfere with an inspector's entry and inspection of a business.

The Act gives the inspector the authority to:

- Inquire into any business, affairs or conduct of a person
- Inspect, audit or examine any record, goods or other things or the provision of services in the premises
- Inspect a vehicle or vessel that is being used for business purposes

- Require a person who has possession or control of any records, goods, or other things in the premises, vehicle or vessel to produce the records, goods or things
- Make a record, including a record on film, audio tape, video tape or otherwise, of the premises, vehicle or vessel or any other things in the premises, vehicle or vessel
- Remove any record from the premise, vehicle or vessel for purpose of making copies
- Remove and retain any record, good or other thing that may be required as evidence from the premises, vehicle or vessel.

Conclusion of inspection

Once the inspection is complete, the inspector will review the results with you, or the manager on duty at the time of the inspection and discuss any non-compliance identified during the inspection. A Certification of Inspection will be prepared by the inspector and a digital copy will be emailed to you as indicated on your licensing file.

Post Inspection Report and follow up

After returning to the office, the inspector will document the inspection, update your file and, if required, inform other departments within Consumer Protection BC of the inspection results.

The inspector will give you a Post Inspection Report. The report will identify the alleged violations that you must correct and/or the alleged violations that will be recommended for enforcement to the Director. For more information on the enforcement process, please see the section below.

We may conduct a follow up inspection to ensure that deficiencies noted have been corrected.

Enforcement

If an inspector detects violations that they believe should proceed to enforcement or a monetary administrative penalty, they will notify you of these alleged contraventions in a Post Inspection Report. The inspector will also prepare a Report to the Director (RD) document for the Manager of Inspections & Case Management. A copy of the RD will also be sent to you. The RD will identify the allegation(s) proceeding to enforcement and the evidence the inspector is relying on to support the allegation(s). You will be given an opportunity to respond to the allegations made in the RD. A decision maker will then decide whether the allegation took place, and whether statutory action such as an administrative penalty, licensing action or other remedial order is appropriate. Note: the decision to impose an administrative penalty is at the discretion of the Director or delegated decision maker.

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 calculation of administrative monetary penalties and the reconsideration process can be found by visiting the About us (Our policies) section of our website at www.consumerprotectionbc.ca.

What will be inspected

Remember that inspectors attend businesses to confirm compliance with the Act, Regulation, and conditions on a licence, however inspectors are also there to educate and answer questions. Please feel free to approach them about any business issues or problems related to the Act or Regulation.

Typically, you can expect that an inspector will do some of the following:

- Review the legislation and the conditions on a licence for any issues that are identified
- Inspect the physical layout of the business
- Inspect legal, financial and other business records
- Observe and record your business practices, identify deficiencies or problem areas that may lead to non-compliance
- Identify any contraventions
- Answer your questions and help you understand your obligations

To find out what an inspector will be reviewing, please read a sample inspection checklist (Appendix). Note: the items on the checklist are not an exhaustive list of the items an inspector may review at inspection.


Documents and records

You must produce all business records and documents requested by the inspector. Since business records are not always kept on the premises, an inspector may schedule an inspection so you can make sure the records are at the business for the inspection. Sometimes, the inspector may require that you provide additional records at a later date. Refusing to provide records or providing false or misleading information is a serious contravention. Items routinely requested for debt collection agent and bailiff inspections include:

1. All trust bank account statements for the past 3 months, together with all items returned by the bank with the statements
2. Bank account reconciliations for the trust bank accounts for the past 3 months
3. All of the other company bank account statements for the past 3 months, together with all items returned by the bank with the statements
4. A financial statement or a detailed general ledger trial balance that is current to within 60 days of the date of the inspection
5. A detailed listing showing all clients for whom you are holding trust funds, as of the date of the trial balance, which includes the clients' names and the amount held for each client
6. A detailed list of all clients for whom the company is acting at the time of the inspection.

Appendix – Inspection Checklist

The following are the types of things that the inspector is checking during an inspection of your business. This is not a comprehensive list and not all items on this list are inspected during each inspection.

		Licence #: _____ Date of inspection: _____		
Question	DEBT COLLECTION/ BAILIFF INSPECTION REPORT	Y	N	N/A
BUSINES MODEL				
1	Is the primary business activity a bailiff?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2	Is the primary business activity debt collection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3	What form of payments does the licensee accept? CASH: <input type="checkbox"/> CHEQUE: <input type="checkbox"/> CREDIT CARD: <input type="checkbox"/> INTERAC/DIRECT DEPOSIT <input type="checkbox"/> EMAIL MONEY: <input type="checkbox"/>			
LICENCE SPECIFIC				
4	BPCPA 143 Are all employees of the business engaged in designated activity properly licenced?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5	DCRR 8(1) Is there a licence for each location where the licensee operates?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6	DCRR 8(2) Has the licensee notified the Director of a change of address of business location?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
TRUST ACCOUNT AND OTHER ADMINISTRATION				
7	DCRR 9(1)(a) Is the licensee's trust account maintained at savings institution in BC?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8	DCRR 9(1)(b) Is all money collected from debtors or other sources for distribution to creditors on behalf deposited in trust account within 5 days?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9	DCRR 9(1.1) Does the licensee limit deposits to the trust to only funds intended for distribution to creditors?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10	DCRR 9(1)(c) Does the licensee maintain proper records of the trust account satisfactory to Director?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
11	BPCPA 146(c) [Licensing conditions] Are there any special conditions placed on the operation of the trust?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

12	DCRR 9(1)(d) Are the records and trust account in the places specified on application? If not, has the Director approved of the change?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
13	DCRR 9(2) Are the disbursements from the trust account only made to satisfy contractual obligations, errors or payments as described in BPCPA 126(2) and (3)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
14	BPCPA 126(2)(i)(ii) and BPCPA 126(3) Has the repayment agent accounted for all the funds accepted from debtors in the last 180 days and, remitted them to the proper person or agency within the required timeframes?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
OTHER CONDITIONS ON LICENCE				
15	DCRR 10(1) Has the licensee submitted financial statements to the Director within 90 days of their fiscal year end?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
16	DCRR 11(2)(a) Has the licensee reported any change of address for licensed employees or trust accounts?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
17	DCRR 11(2)(b) Has the licensee reported the name and current address of every licenced employee?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
18	DCRR 11(2)(c) Has the licensee reported the name of every employee that ceased to be employed and the reason for the cessation of employment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
19	DCRR 11(3) Has the licensee sent the Director the licences for any licenced employee who ceased to be employed?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
20	DCRR 11(2)(d)(i) If the licensee a corporation, has any change in senior officers been reported to the Director?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
21	DCRR 11(2)(d)(ii) If the licensee is a corporation, has a material change in the beneficial ownership of shares been reported to the Director?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
22	DCRR 11(4)(a) Is the Consumer Protection BC licence displayed in a conspicuous place at the business?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
23	DCRR 11(4)(c) Does the licensee maintain proper records of the property they have repossessed, seized or distrained, or disposed of?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
24	DCRR 11(5) Does the licensee have written consent from debtors for seized property moved more than 100 km?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
SECURITY				
24	DCRR 12(1) Is the amount of security held by Director correct and current?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
BPCP ACT PART 7 – DEBT COLLECTION PRACTICES				
25	BPCPA 114(1) No use of threatening, profane intimidating or coercive language?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
25	BPCPA 115(1)(a) No attempted collecting of debts until written notification about name of original creditor and if currently different, to whom debt is currently owed?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
26	BPCPA 115(1)(b) Does the initial letter of notification include the amount of the debt when first due and payable and if now different, the breakdown of amounts included in the total?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

27	BPCPA 115(1)(c) Does the written notification include the identity and authority of collector to collect debt?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
28	BPCPA 115(2) Has the collector made no attempt to initiate verbal communication until 5 days after written notice sent, unless there is reason to believe the address of debtor is not correct?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
29	BPCPA 115(3) Is there evidence that the collector has sent written notices if debtors advise notification from BPCPA 115(1) was not received?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
COMMUNICATION WITH DEBTORS				
30	BPCPA 116(1) Is there evidence that the collector has not attempted to communicate with debtors at places of employment unless permitted?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
31	BPCPA 116(2) Does the collector make no more than one attempt to communicate with debtors at employment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
32	DCRR 11(4)(b) & (5)(a)&(b) Is the licensee only using written forms and contracts that have been approved by the Director?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
33	Is the licensee registered on "MyAccount" and did the Inspector review/update the active status at the time of inspection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

For more information about your obligations as a licensed business, our processes and our organization, please visit www.consumerprotectionbc.ca.