



**CONSUMER
PROTECTION BC**



Inspection Guide

Debt repayment agents

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A special note related to the COVID-19 pandemic

Due to the pandemic, Consumer Protection BC stopped doing in-person inspections of our licensed businesses in March 2020.

Since then, we have learned more about the impact of COVID-19 in the marketplace and on you, as one of our licensed businesses. We have now resumed in-person inspections.

With a few exceptions, our standard inspections policies and rules apply as outlined in this inspection guide. This also means that unless there are mitigating circumstances specific to your business practices, no advance notice of inspection will be made.

We take safety seriously.

Your safety and the safety of our staff matter to us.

Here are some of the changes we've made:

- Inspectors will continue to wear N-95 masks for the foreseeable future.
- Inspectors will have their own supply of PPE and will sanitize their hands and other surfaces.
- Inspectors may ask for licensee-employees to wear masks when communicating with or in the same room as the Inspector. Failing this, the licensee/employees may be asked to remain 2 meters distant from the Inspector at all times.
- Inspectors will allow for their credentials to be examined (from a distance). Inspectors will provide business cards at the time of inspection.
- Where possible, inspectors may ask that they be allowed to isolate themselves in a private area of the business while they perform the administrative functions of the inspection.
- Inspectors will select items to be inspected. This amends the former practice of allowing the licensee's employees assist with that process.

Inspectors may ask you about the status of the location being inspected. These questions will include:

- Have any employees at the location been diagnosed with Covid-19 within the last 2 weeks?
- Is anyone at the licensed location suffering from illness or Covid-19 symptoms?

If you have questions about our protocols and processes, the best option is to speak to the Inspector that engages with you during an inspection.

Thank you,

The Consumer Protection BC Inspections & Case Management Team

Introduction

Consumer Protection BC is responsible for the administration and enforcement of the *Business Practices and Consumer Protection Act* (BPCPA), the *Ticket Sales Act* (TSA), the *Cremation Interment and Funeral Services Act* (CIFSA), and the Debt Collection and Repayment Regulation (DCRR). The BPCPA and DCRR govern the conduct of persons who engage in debt repayment, the business of debt repayment 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 operate your business in compliance with the laws and conditions on your license. 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 contained herein.

This guide serves as a reference, so you know what to expect and how to prepare for an inspection conducted by a Consumer Protection BC Inspector.

This is a general overview of the inspection process. This guide is not intended to provide legal advice and it is not an exhaustive review of the legislative provisions affecting you or the operation of your licensed business. We recommend that you get copies of the legislation and review it in detail. You can order from Crown Publications at www.crownpub.bc.ca.

For more general information, visit our corporate website at www.consumerprotectionbc.ca. To learn more about your licensing requirements and legal obligations, [visit the Get & Keep your Licence](#) section of our website. To find out how best to contact us, please [visit the Contact Us](#) page of our website.

Background: our responsibilities

The role of Consumer Protection BC

Consumer Protection BC licenses and inspects regulated businesses, responds to consumer inquiries, investigates alleged violations of consumer protection laws, classifies all general release and adult films, and provides information and referrals to consumers.

As part of our responsibility to ensure compliance with the law and conditions on a licence, we regularly perform risk-based 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 voluntary compliance with the law or some form of enforcement action being taken by the Director, the outcome is published to our website. We share this information to enable consumers to make informed decisions.

The role of the licensee

You are legally responsible for compliance with the laws and licensing conditions as it relates to the operation of your business. You are also responsible for ensuring your employees and agents are acting in compliance with the laws and licensing conditions applicable to your 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 of the laws we administer. A person who obstructs, hinders, or makes misleading statements to an inspector is subject to prosecution under *the Offence Act*.

Inspection process

Scheduling and notification

Inspectors attend businesses located throughout the Province, sometimes arriving unannounced. The BPCPA and DCRR allows for an inspector to enter a business at any reasonable time to determine compliance with the law, conditions on a licence, 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 BPCPA give 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 premises, 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. The inspector may discuss any non-compliance identified during the inspection at this time. A Certification of Inspection will be prepared by the inspector and a digital copy will be emailed to you at the email address identified in your My Account set up with Consumer Protection BC.

In order to receive the digital copy of the Certificate of Inspection, you must have your My Account set up. If your email is not entered into the My Account, you will not receive the Certificate of Inspection and other pertinent documents related to the inspection. To setup your My Account, please go to www.consumerprotectionbc.ca and select “MyAccount Login” or contact operations@consumerprotectionbc.ca for assistance.

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 update the Inspection Checklist¹ and email you a report with the results of the inspection to the email address you provided in My Account. The report will identify any alleged violations that you must correct and/or any alleged violations for which the inspector recommends that enforcement action be taken by the Director. Any further instruction(s) will be noted in the inspector’s notes in the report.

For more information on the enforcement process, please see the section below entitled “Enforcement.”

We may conduct a follow up inspection to ensure that non-compliance found at the previous inspection is corrected.

Enforcement

If an inspector detects violations that they believe should proceed to enforcement hearing, they will notify you of these alleged contraventions in the report issued after the inspection. The inspector will also prepare a Report to the Director (RD) document for the Director 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 hearing and the evidence the inspector is relying on to support the allegation(s). You

¹ See Appendix – Inspection Checklist

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 the delegated decision maker.

Before deciding to impose an Administrative Monetary Penalty (“AMP”) and calculating the amount of the AMP, the decision-maker will consider the factors set out in section 164(2) of the BPCPA. To calculate the amount of the AMP the decision-maker will normally apply the policy of Consumer Protection BC, “Calculating Administrative Monetary Penalties Policy and Procedures.”, including its AMP Penalty Matrix. This policy is available on the website of Consumer Protection BC at www.consumerprotectionbc.ca. You can access the policy electronically by clicking the following link: [Admin Penalty Policy and Procedure](#).

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 while inspectors attend businesses to test for compliance with the laws we administer and any conditions we have imposed on a licence, they are also there to educate and answer questions. Please feel free to approach them about any business issues or problems related to the laws we administer.

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 examine during the inspection, please read a sample inspection checklist (Appendix-Inspection Checklist). Note: the items on the checklist are not an exhaustive list of the items an inspector may examine.

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 in advance 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 of the law.

Appendix A - Inspection Checklist

The following are the types of 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.

 CONSUMER PROTECTION BC					Licence: _____	
					Date of Inspection: _____	
Question	DEBT REPAYMENT AGENT INSPECTION REPORT	Y	N	N/A		
BUSINESS MODEL						
1	Does the business accept debtor funds for dispersal to creditors?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
2	How does the licensee receive debtor funds? List all:					
3	Into what bank accounts does the licensee initially deposit all funds accepted from debtors?					
LICENCE APPLICATION and/or RENEWAL						
4	DCRR 5(1) Have all the forms the licensee uses to show they have an agreement to act for a creditor or owner of a debt been submitted to the Director?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
5	DCRR 5(2) / DCRR 11(4)(b) Have all the documents the licensee uses in collection, negotiation, arrangement or demanding payment of debts been submitted to the Director and approved before use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
LOCATION						
6	BPCPA 143 Are all employees of the business engaged in designated activity properly licensed?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
7	DCRR 8(1) Is there a licence for each location where the licensee conducts business?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
8	DCRR 8(2) Has the licensee notified the Director of any change of address of business?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
TRUST ACCOUNT and OTHER ADMINISTRATION						
9	DCRR 9(1)(a) Is the licensee's trust account maintained at a savings institution in BC or as otherwise permitted by the Director?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
10	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"/>		

Question	DEBT REPAYMENT AGENT INSPECTION REPORT	Y	N	N/A
11	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"/>
12	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"/>
13	BPCPA 146(c) [Licensing conditions] If any, is the licensee complying with any licensing conditions in place that are specific to the operation of the trust bank account?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
14	DCRR 9(1)(d) Are the records and trust account in the places specified on the application? If not, has the Director approved of the change?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
15	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"/>
16	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 within the required timeframes?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
OTHER REQUIREMENTS				
17	DCRR 10(1) Has the licensee submitted financial statements to the Director as required?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
18	DCRR 11(2)(a) Has the licensee reported any change of address for its individually licensed employees?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
19	DCRR 11(2)(b) Has the licensee reported name and current address of every individually licensed employee ?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
20	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"/>
21	DCRR 11(3) Has the licensee sent the Director notification about the "return" of licenses for any licensed employee who ceased to be employed?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
22	DCRR 11(2)(d)(i) If the licensee is a corporation, has any change in senior officers been reported to the Director?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
23	DCRR 11(2)(d)(ii) If the licensee is a corporation, has any material change in the beneficial ownership of shares been reported to the Director?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
24	DCRR 4(a) Is the Consumer Protection BC license displayed in a conspicuous place at the business?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
SECURITY				
25	DCRR 12(1) Is the amount of security held by Director correct and current?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Question	DEBT REPAYMENT AGENT INSPECTION REPORT	Y	N	N/A
DEBT REPAYMENT CONTRACT (REQUIRED CONTENTS)				
26	BPCPA 127(1)(a) Did the licensee have a written contract between all clients for whom they act as repayment agent and that complies with BPCPA 127(2)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
27	BPCPA 127(1)(b) Is there no evidence that the licensee acts for or represents any of the creditors where the creditors are creditors of their debt repayment clients?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
28	BPCPA 19(a) Does licensee use a DBA and if so, is it disclosed in the debt repayment contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
29	BPCPA 19(b) If the licensee's mailing address is different than the otherwise licensed location, is it disclosed in debt repayment contracts executed with debtors?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
30	BPCPA 19(c) Did the debt repayment contracts list the telephone and facsimile numbers?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
31	BPCPA 19(d) Were all the debt repayment contracts examined dated?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
32	BPCPA 19(i) Were the terms of payment detailed in the debt repayment contracts?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
33	BPCPA 19(n) Were all details of any restrictions, limitations or, other terms and conditions that apply to the services of the licensee listed in the debt repayment contracts?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
34	DCRR 14(a) Did the debt repayment contracts include the name, address and telephone number of the debtor?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
35	DCRR 14(b) Did the debt repayment contracts include the email address, if any, of the debt repayment agent?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
36	DCRR 14(c) Did the debt repayment contracts include an itemized statement of the fees that are to be paid by the debtor and the dates on which each fee must be paid?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
37	DCRR 14(d) Did the debt repayment contracts include the names of the debtor's creditors to whom payments will be made under the contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
38	DCRR 14(e) Did the debt repayment contracts include the total amount owed to each of the debtor's creditors referred to in DCRR 14(d)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
39	DCRR 14(f) Did the debt repayment contracts detail the method that the debt repayment agent proposes to use in arranging and negotiating settlement of the debtor's debt?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
40	DCRR 14(g) Did the debt repayment contracts include the dates by which the debt repayment agent will forward the proposal to each of the debtor's creditors?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
41	DCRR 14(h) Did the debt repayment contracts state when payments to each of the debtor's creditors are to be made, the amount of each payment and the total number of payments?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Question	DEBT REPAYMENT AGENT INSPECTION REPORT	Y	N	N/A
42	DCRR 14(i) Did the debt repayment contracts include the details for disclosure of (i) the amount paid; (ii) the name of the creditor to whom the amount was paid?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
43	DCRR 14(j) Did the debt repayment contracts include the Consumer Protection BC statement detailed in DCRR 14(j)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
44	BPCPA 127(2)(c) Do the debt repayment contracts examined contain the information and disclosure statements listed in HILR 14?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
45	BPCPA 23(3) Is the debt repayment agent aware that they need to give a copy of all contracts to debtors within 15 days of contract signing?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
MAXIMUM FEES AND DISBURSEMENTS				
46	DCRR 15(a) – Has the licensee charged fees of no more than 10% of the gross amount to be paid to creditors when the licensee holds no debtor funds for distribution to creditors?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
47	DCRR 15(b) – Has the licensee charged fees of no more than 10% when they have held debtor funds when the total repayment period was less than 90 days?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
48	DCRR 15(c) – Has the licensee charged one fee of 15% or less based on the average monthly distribution to creditors when they held debtor funds and the schedule of payments exceeded 90 days?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
49	BPCPA 127(4) – Has the licensee not charged, required or accepted any amount from debtors until repayment proposals are accepted in writing by both creditors and debtors?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
50	BPCPA 127(5) – Has the licensee complied with the requirement to not offer bonuses, commissions or other compensation to persons for inducing debtors to enter into debt repayment agreements?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
51	BPCPA 127(6) – Has the licensee complied with the requirement to not lend money, provide credit or, offer to assist debtors to obtain loans or other credit?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
52	BPCPA 127(7) – When licensee is informed by creditors that they have accepted, refused or ceased to accept or negotiate a repayment program, are debtors informed of this by the licensee with 30 days?	<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.