CONSUMER PROTECTION BC

Inspection Guide

Debt repayment agents

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Introduction

Consumer Protection BC is responsible for the administration and enforcement of the *Business Practices and Consumer Protection Act* (BPCPA), the *Cremation Interment and Funeral Services Act* (CIFSA), the *Motion Picture Act* (MPA), the *Ticket Sales Act* (TSA), 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, CIFSA, MPA and TSA 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 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 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 & Post Inspection Letter

Once the inspection is complete, the inspector may discuss any non-compliance identified during the inspection at this time. 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 Checklist[1] and a Post Inspection Letter (PIL) detailing the results of the inspection will be uploaded to your My Account set up with Consumer Protection BC.

In order to receive the PIL, you must have your My Account set up. If your email is not entered into the My Account, you will not receive the PIL 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.

The PIL 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 PIL.

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 an enforcement hearing, they will notify you of these alleged contraventions in the PIL issued after the inspection. The inspector will also prepare a Report to the Director (RD) document for the Director. A copy of the RD will also be sent to you. The RD will identify the allegation(s) proceeding to an enforcement hearing and the evidence the inspector is relying on to support the allegation(s). You will be given an opportunity to respond to the allegation(s) made in the RD. A decision-maker will then decide whether the allegation(s) 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.

[1] See Appendix – Inspection Checklist

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 - 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.

CONSUMER PROTECTION BC

Licence:_______________

Date of Inspection: _______________

Question	DEBT REPAYMENT AGENT INSPECTION REPORT	Y	N	N/A
	GENERAL INFORMATION			
1	What is the number of employees engaged in the designated activity of debt repayment agent?			
2	BPCPA s. 143(1)(a) - Are all employees of the business engaged in the designated activity properly licensed?	☐	☐	☐
	LICENSED LOCATION			
3	DCRR s. 8(1) - Are all locations where the licensee conducts business licensed?	☐	☐	☐
	REPORTING CHANGES			
4	DCRR s. 8(2) - Did the licensee immediately notify the Director of any change of address for the location from which the licensee conducts business in British Columbia?	☐	☐	☐
5	DCRR s. 11(2)(a) - Has the licensee reported any change of address for any employee (who is licensed)?	☐	☐	☐
6	DCRR s. 11(2)(b) - Has the licensee reported the name and address of every individually licensed employee?	☐	☐	☐
7	DCRR s. 11(2)(c) - Has the licensee reported the name of every employee who ceased to be employed by the licensee and the reason their employment ceased?	☐	☐	☐
8	DCRR s. 11(2)(d)(i) - If the licensee is a corporation, has the licensee reported any change in the senior officers of the licensee?	☐	☐	☐
9	DCRR s. 11(2)(d)(ii) - If the licensee is a corporation, has the licensee reported any material change in the beneficial ownership of the shares of the licensee?	☐	☐	☐
	LICENCE			
10	DCRR s. 11(4)(a) - Was the licensee's licence displayed in a conspicuous location in the place of business?	☐	☐	☐

DISCLOSURE REQUIREMENTS				
11	BPCPA s. 18.3(1) - Is the supplier disclosing to the consumer the required information prior to a contract being entered into?	☐	☐	☐
12	BPCPA s. 18.3(2) - Is the disclosure of information being provided without charge to the consumer and without conditions?	☐	☐	☐
13	BPCPA s. 18.3(3) - At the time of disclosing the required information, has the supplier (a) provided the consumer with an express opportunity to view the entire contract, and (b) if requested by the consumer, promptly provide a copy of the contract to the consumer?	☐	☐	☐
DEBT REPAYMENT CONTRACT (BPCPA s.48 requirements only apply if a Distance Sales Contract has been executed)				
14	BPCPA s. 18.2(a) or BPCPA s. 48(2)(a) as applicable - Does each debt repayment contract include the supplier's name and registered DBA?	☐	☐	☐
15	BPCPA s. 18.2(c) or BPCPA s. 48(2)(c) as applicable - Does each debt repayment contract include the date the contract was entered into?	☐	☐	☐
16	BPCPA s. 18.2(d) or BPCPA s. 48(2)(a) as applicable - Does each debt repayment contract include a detailed description of the goods or services to be supplied under the contract?	☐	☐	☐
17	BPCPA s. 18.2(e) or BPCPA s. 48(2)(a) as applicable - Does each debt repayment contract include the supplier's delivery arrangements, if applicable, including the mode of transportation and the place of delivery to the consumer?	☐	☐	☐
18	BPCPA s. 18.2(f) or BPCPA s. 48(2)(a) as applicable - Does each debt repayment contract include, if the goods or services are not supplied on the date the contract is entered into, (i) the supply date, and (ii) if applicable, the date on which the supply of the goods or services will be complete?	☐	☐	☐
19	BPCPA s. 18.2(g) or BPCPA s. 48(2)(a) as applicable - Does each debt repayment contract include an itemized purchase price for the goods or services to be supplied?	☐	☐	☐
20	BPCPA s. 18.2(h) or BPCPA s. 48(2)(a) as applicable - Does each debt repayment contract include the nature and amount of other costs payable by the consumer that can reasonably be determined by the supplier, such as taxes?	☐	☐	☐
21	BPCPA s. 18.2(i) or BPCPA s. 48(2)(a) as applicable - Does each debt repayment contract include the nature of other costs payable by the consumer that cannot reasonably be determined by the supplier, such as custom duties?	☐	☐	☐
22	BPCPA s. 18.2(j) or BPCPA s. 48(2)(a) as applicable - Does each debt repayment contract include the currency in which the amounts are payable, if amounts owing under the contract are payable in a currency other than Canadian currency?	☐	☐	☐
23	BPCPA s. 18.2(k) or BPCPA s. 48(2)(a) as applicable - Does each debt repayment contract include a detailed statement of the terms of payment under the contract and, if the contract provides for periodic payments, the amount of each of the periodic payments?	☐	☐	☐

24	BPCPA s. 18.2(l) or BPCPA s. 48(2)(a) as applicable - Does each debt repayment contract include the total price under the contract?	☐	☐	☐
25	BPCPA s. 18.2(o) or BPCPA s. 48(2)(a) as applicable - Does each debt repayment contract include any promotional offers that apply to the contract, including (i) the conditions required to qualify for the offer, (ii) the terms and duration of the offer, and (iii) the contract terms that apply when the offer expires?	☐	☐	☐
26	BPCPA s. 18.2(p) or BPCPA s. 48(2)(a) as applicable - Does each debt repayment contract include information about any other restrictions, limitations, terms or conditions that apply or may apply to the supply of the goods or services?	☐	☐	☐
27	BPCPA s. 18.2(q) & BPCPA s. 48(2)(a) as applicable - Does each debt repayment contract include information about the supplier's return, exchange, cancellation and refund policies?	☐	☐	☐
28	BPCPA s. 127(2)(c), DCRR s. 14(a) & BPCPA s. 48(2)(b) as applicable - Does each debt repayment contract include the name, address and telephone number of the debtor?	☐	☐	☐
29	BPCPA s. 127(2)(c) & DCRR s. 14(b) - Does each debt repayment contract include the email address, if any, of the debt repayment agent?	☐	☐	☐
30	BPCPA s. 127(2)(c) & DCRR s. 14(c) - Does each debt repayment contract 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?	☐	☐	☐
31	BPCPA s. 127(2)(c) & DCRR s. 14(d) - Does each debt repayment contract include the names of the debtor’s creditors to whom payments will be made under the contract?	☐	☐	☐
32	BPCPA s. 127(2)(c) & DCRR s. 14(e) - Does each debt repayment contract include the total amount owed to each of the debtor's creditors referred to in DCRR s. 14(d)?	☐	☐	☐
33	BPCPA s. 127(2)(c) & DCRR s. 14(f) - Does each debt repayment contract include the method that the debt repayment agent proposes to use in arranging or negotiating settlement of the debtor's debt, whether by a proposed schedule of payments or a proposed one-time payment?	☐	☐	☐
34	BPCPA s. 127(2)(c) & DCRR s. 14(g) - Does each debt repayment contract include the dates by which the debt repayment agent will forward the proposal to each of the debtor's creditors?	☐	☐	☐
35	BPCPA s. 127(2)(c) & DCRR s. 14(h) - Does each debt repayment contract include when payments to each of the debtor's creditors are to be made, the amount of each payment and the total number of payments?	☐	☐	☐
36	BPCPA s. 127(2)(c) & DCRR s. 14(i) - Does each debt repayment contract include the requirement that when the debt repayment agent makes a payment to the debtor's creditor, or the debtor's debt has been fully paid or settled, the debt repayment agent must account in writing to the debtor (i) the amount paid and (ii) the name of the creditor to whom the amount was paid?	☐	☐	☐
37	BPCPA s. 127(2)(c) & DCRR s. 14(j) - Does each debt repayment contract include the statement about debt repayment agents and the Business Practices and Consumer Protection Authority?	☐	☐	☐

38	BPCPA s. 127(2)(a) - Was each written contract between the debt repayment agent and the debtor for whom they act or represent signed by both the debt repayment agent and the debtor?	☐	☐	☐
39	BPCPA s. 127(2)(b) - Is each debt repayment contract free of a term or condition that prohibits the debtor from communicating with the debtor's creditors?	☐	☐	☐
40	BPCPA s. 14.2(1) - Has the supplier ensured they do not include in a consumer contract a term or acknowledgment that prohibits or has the effect of prohibiting a consumer from posting on the internet, or otherwise communicating, a review by the consumer of (a) the goods or services that are the subject of the contract, or (b) the consumer transaction?	☐	☐	☐
41	BPCPA s. 14.3(1) - Has the supplier ensured they do not include in a consumer contract a dispute resolution term or acknowledgment or a class proceeding term or acknowledgment?	☐	☐	☐
42	BPCPA s. 23(3) or BPCPA s. 48(1) as applicable - Did the supplier give the consumer a copy of the contract within 15 days after the contract was entered into?	☐	☐	☐
RECORDS				
43	DCRR s. 5(a) - Has the licensee submitted to the Director a copy of each form the licensee uses to evidence any agreement or arrangement between the licensee and a person for whom the licensee acts?	☐	☐	☐
44	DCRR s. 5(b) - Has the licensee submitted to the Director a copy of every document or other form of written communication that the applicant uses in collecting, negotiating, demanding or arranging payment of a debt?	☐	☐	☐
PROHIBITED PRACTICES & CHARGES				
45	DCRR s. 11(4)(b) - Has the licensee ensured they do not use any agreement, document or communication used in the collection, negotiation, demanding or arranging payment of a debt unless it has first been approved by the Director?	☐	☐	☐
46	BPCPA s. 127(1)(a) - Has the licensee ensured they are not acting for or representing a debtor, unless there is a written contract between the debt repayment agent and the debtor that meets the requirements under BPCPA s. 127(2)?	☐	☐	☐
47	BPCPA s. 127(1)(b) - Has the licensee ensured they are not acting for or representing any of the debtor's creditors?	☐	☐	☐
48	BPCPA s. 127(3) & DCRR s. 15(a) – Has the licensee ensured they do not charge fees of no more than 10% of the gross amount to be paid by a debtor to a creditor?	☐	☐	☐
49	BPCPA s. 127(3) & DCRR s. 15(b) – Has the licensee ensured they do not charge fees of no more than 10% of the gross amount received from a debtor for distribution to a creditor over a term of less than 90 days?	☐	☐	☐
50	BPCPA s. 127(3) & DCRR s. 15(c) – Has the licensee ensured they do not charge fees of (i) no more than 15% of the gross amount received from a debtor for distribution to a creditor over a term of lasting 90 days or more, and (ii) a one-	☐	☐	☐

	time charge of no more than the average monthly distribution to be made to the creditor?			
51	BPCPA s. 127(4) – Has the licensee ensured they do not charge, require or accept any amount from the debtor before a debt repayment proposal is accepted, in writing, by the debtor and one or more of the debtor's creditors?	☐	☐	☐
52	BPCPA s. 127(5) – Has the licensee ensured they do not offer, pay or provide any bonus, compensation, in cash or in kind, or benefit to a person in order to induce a debtor to enter into a debt repayment contract?	☐	☐	☐
53	BPCPA s. 127(6) – Has the licensee ensured they do not (i) lend money, (ii) provide credit, (iii) assist, offer to assist or attempt to assist the debtor to obtain a loan or credit from a lender, or (iv) require, request or accept any amount for agreeing to assist or agreeing to attempt to assist the debtor to obtain a loan or credit from a lender?	☐	☐	☐
PAYMENT & OPERATING ACCOUNT INFORMATION				
54	Does the business accept debtor funds for dispersal to creditors?			
55	If applicable, list all forms of payment that the licensee accepts from debtors.			
56	Does the licensee have a merchant account that allows debtor funds to be deposited by debit / credit card? If yes, list the bank account where these funds are received.			
57	Does the licensee accept debtor funds via email money transfer (Interac e-transfer) or other EFT processes? If yes, list the bank account where these funds are received.			
58	List the (i) name, (ii) address of the financial institution and (iii) account number for each of the licensee's general operating bank accounts.			
TRUST ACCOUNT INFORMATION & ADMINISTRATION				
59	DCRR s. 9(1)(a) - Is the licensee maintaining a trust account with a savings institution in British Columbia?	☐	☐	☐
60	List the (i) name, (ii) address of the financial institution and (iii) account number for each of the licensee's trust bank accounts.	☐	☐	☐
61	DCRR s. 11(2)(a) - Has the licensee reported any change of address for the licensee's trust account?	☐	☐	☐
62	DCRR s. 9(1)(d) - Is the licensee maintaining the licensee's records and trust account at the place specified in the licence application? If not, has the Director approved of the change?	☐	☐	☐
63	BPCPA s. 146(2)(c) - If applicable, is the licensee complying with any licensing conditions in place that are specific to the operation of the trust account?	☐	☐	☐
64	DCRR s. 9(1)(b) - Is all money received for distribution to a debtor's creditors deposited into the licensee's trust account within 5 days of receipt?	☐	☐	☐

65	DCRR s. 9(1.1) - Is the licensee ensuring that the only funds deposited into the trust account are funds intended for distribution to creditors?	☐	☐	☐
66	DCRR s. 9(2) - Is the licensee only disbursing money from the trust account to satisfy contractual obligations, to correct an error, or to make a payment as described in in BPCPA s. 126(2) or s. 126(3)?	☐	☐	☐
67	BPCPA s. 126(2)(a)(i), BPCPA s. 126(2)(a)(ii) and BPCPA s. 126(3) - Has the licensee accounted for all funds received from debtors and remitted those funds within the required timeframes?	☐	☐	☐
68	BPCPA s. 126(2(b)(c)(d) - Has the licensee paid money, within the required timeframes, to the debtor in the circumstances outlined under BPCPA s. 126(2)(b) and (c), or to the administrator in the event the debtor cannot be located?	☐	☐	☐
69	DCRR s. 9(1)(c) - Is the licensee maintaining proper records of the trust account, in a form and manner satisfactory to the Director?	☐	☐	☐
ANNUAL FINANCIAL STATEMENT				
70	DCRR s. 10(1)(2) - Has the licensee submitted financial statements to the Director as required?	☐	☐	☐
71	Does the current activity of the licensee indicate the financial statements last filed with the Director are accurate?	☐	☐	☐
SECURITY				
72	DCRR s. 12(1) - Has the licensee provide security to the Director that is of the type and in the acceptable form within the required time frame?	☐	☐	☐
73	DCRR s. 12(2) & DCRR s. 12(2.1) as applicable - Is the amount of security provided by the licensee to the Director correct?	☐	☐	☐
GENERAL REQUIREMENTS				
74	BPCPA s. 127(7) – Has the licensee informed the debtor within 30 days, after a creditor of the debtor informs the debt repayment agent that the creditor refuses, or has ceased, to accept or negotiate a settlement of the debtor's debts?	☐	☐	☐
75	DCRR s. 11(3) - Has the licensee given the Director the licence for those employees whose employment has ceased?	☐	☐	☐

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