

Prohibited Collection Practices

Each province and territory in Canada licenses and regulates the conduct of collection agencies. The relevant law governing the conduct of a collection agency and its employees is the provincial licensing statute in the province in which you live, regardless of where the collection agency contacting you is physically located. The following chart contains a list of all the provincial and territorial licensing statutes in Canada.

Collection Agency Licensing Statutes in Canada

Province or Territory	Name of Licensing Statute
Alberta	<i>Alberta Fair Trading Act</i>
British Columbia	<i>BC Business Practices and Consumer Protection Act</i>
Manitoba	<i>Manitoba Consumer Protection Act</i>
New Brunswick	<i>New Brunswick Collection Agencies Act</i>
Newfoundland	<i>Newfoundland Collections Act</i>
Northwest Territories	<i>Northwest Territories Consumer Protection Act</i>
Nova Scotia	<i>Nova Scotia Collection Agencies Act</i>
Nunavut	<i>Nunavut Consumer Protection Act</i>
Ontario	<i>Ontario Collection Agencies Act</i>
Prince Edward Island	<i>Prince Edward Island Collection Agencies Act</i>
Quebec	<i>An Act respecting the Collection of Certain Debts</i>
Saskatchewan	<i>Saskatchewan Collection Agents Act</i>
Yukon	<i>Yukon Consumers Protection Act</i>

The province-by-province summary of prohibited collection practices listed below contains footnotes identifying the relevant section in a specific statute or a regulation. You might find it helpful to be able to refer to a specific section in a provincial licensing statute or regulation. You should be able to read any of the statutes or regulations referred to in the next few pages over the internet at http://rc.lsuc.on.ca/library/research_law_ca_legis.htm

This material should help you identify conduct by a collection agency or one of its employees that is illegal under the provincial licensing statute in the province where you live. The provisions in these laws fall into one of two categories, prohibited collection practices or legal duties. *Prohibited collection practices* is that conduct a collection agency or a collector are prohibited from doing by law under a provincial licensing statute. *Legal duties* are those acts that a collection agency or a collector have a legal obligation to perform under a provincial licensing statute.

It is possible that a collection agency or a collector might engage in conduct that is illegal under some law *other than a provincial licensing statute*--human rights legislation, federal or provincial privacy laws, or the *Criminal Code*.

There are two different types of laws that are relevant in the context of provincial licensing laws. There is the actual provincial licensing *statute* enacted by a provincial or territorial legislature. There are also *regulations* enacted by a provincial or territorial government, by order-in-counsel by the cabinet, enacted under the authority of a provincial licensing statute.

In the following pages you can read a summary of conduct which is illegal under each provincial and territorial licensing statute in Canada. For ease of reference, you will find a separate section for each province and territory . The one you will want to read is the section for the province or territory in which you live.

For a summary of prohibited collection practices that apply to you, read the section for the province or territory in which you live:

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Alberta

The following restrictions and prohibitions apply to any collection agency and its employees communicating with Alberta residents.

Licensing requirements

A collection agency attempting to collect a debt from an Alberta resident must hold a valid collection agency license issued under the *Alberta Fair Trading Act*.¹

An individual employed by a collection agency attempting to collect a debt from an Alberta resident must hold a valid collector's license issued under the *Alberta Fair Trading Act*.²

Prohibition against carrying on business using any name other than the name a collection agency is licensed under

It is illegal for a collection agency to carry on business using any name other than the name under which it holds a collection agency license.³ A collector employed by a collection agency who claims to be calling from somewhere other than a collection agency is breaking the law. Collectors will sometimes advise a debtor or a member of the public that they are calling from a law firm, a creditor, or some government agency.

Prohibition against collecting debts more than six years old

Neither a collection agency nor a collector can attempt to collect a debt where the debtor's last payment or written acknowledgement of the debt is more than six years old, except where the creditor also has a judgment against the debtor.⁴

Prohibition against communications with debtor after a debtor has exercised a statutory right to stop communications from a particular collection agency

Neither a collection agency nor a collector is permitted to contact a debtor in any one of the following circumstances where a debtor has exercised a statutory right to stop communications from a particular collection agency:

1. A collector cannot communicate with a debtor at the debtor's place of employment if the debtor requests he not be contacted at work, the debtor makes reasonable alternative arrangements to discuss the debt with a collector and acts in accordance with these arrangements.⁵
2. A collector cannot communicate with a debtor if the debtor advises the collection agency in writing to communicate only with the debtor's

¹ R.S.A. 2000, c. F-2, ss. 11(1).

² R.S.A. 2000, c. F-2, ss. 11(2).

³ *Collection and Debt Repayment Regulation*, Alta. Reg. 194/99, ss. 12(1)(i).

⁴ *Collection and Debt Repayment Regulation*, Alta. Reg. 194/99, ss. 12(1)(x).

⁵ *Collection and Debt Repayment Regulation*, Alta. Reg. 194/99, ss. 12(1)(o).

representative and has provided a current address and telephone number for the representative and the representative makes reasonable arrangements to discuss the debt with the collector and acts in accordance with these arrangements.⁶

3. Neither a collection agency nor a collector can communicate with a debtor after the debtor notifies the collection agency in writing is in dispute and that the debtor wishes the creditor to take the matter to court. This written notification must be made by some method permitting you to confirm that it was actually received by a collection agency; including registered mail, courier, X-Press Post by Canada Post, fax, or e-mail.⁷

Restriction on contacting an individual who claims he is not the debtor

Neither a collection agency nor a collector can communicate with a person after being advised by the person that he is not the debtor unless first taking all reasonable precautions to ensure that the person is, in fact, the debtor.⁸

Telephone calls prohibited during certain times

A collection agency is not permitted to make telephone calls between 10:00 p.m. and 7:00 a.m., local time. In addition, a collection agency is not permitted to make telephone calls on statutory holidays.⁹

Restrictions on the frequency of telephone calls

Neither a collection agency nor a collector can make more than three unsolicited telephone contacts with a debtor on behalf of the same creditor in a seven-day period.¹⁰

A “telephone contact” would include any of the following contacts initiated by the collection agency, a telephone call from a collector, an automated telephone call, or a voice mail message.

Restrictions on automated telephone systems

It is illegal for a collection agency using an automated call system to

1. fail to identify the debtor by name when the call is answered by another person, or
2. fail to provide a contact number for the debtor to call.¹¹

⁶ *Collection and Debt Repayment Regulation*, Alta. Reg. 194/99, ss. 12(1)(n).

⁷ *Collection and Debt Repayment Regulation*, Alta. Reg. 194/99, ss. 12(1)(k)(ii).

⁸ *Collection and Debt Repayment Regulation*, Alta. Reg. 194/99, ss. 12(1)(k)(i).

⁹ *Collection and Debt Repayment Regulation*, Alta. Reg. 194/99, ss. 12(1)(g).

¹⁰ *Collection and Debt Repayment Regulation*, Alta. Reg. 194/99, ss. 12(1)(v).

Agency's duty to disclose certain information to debtor

A collector must identify himself and the name of his employer in any telephone contact with a debtor after he has confirmed that he is speaking with the debtor.¹²

Obligation to provide certain information to debtor upon request

Where requested to do so by the debtor, a collection agency and a collector have an obligation to provide the debtor with sufficient information to identify the name of the original creditor and current creditor and details of the debt.¹³

Prohibition against disclosing the existence of a debt to third parties

Neither a collection agency nor a collector shall disclose the existence of a debt, nor any details concerning a debt, to anyone other than the debtor, except where the debtor consents to such disclosure.¹⁴

A collection agency is permitted to disclose the existence of debt or discuss the details regarding a debt with the debtor's agent or with anyone else who is also legally responsible to pay a debt such as a guarantor.

Restrictions on calls to debtor's spouse, members of debtor's family or household, or a relative, neighbour, friend or acquaintance of the debtor

A collector is only permitted to contact a debtor's spouse, partner, relative, friend, acquaintance, or neighbour for the limited purpose of obtaining the debtor's contact information, their home address, and telephone numbers at home and at their workplace.¹⁵

Restrictions on contact with the debtor's employer

A collector is only permitted to contact a debtor's employer for the limited purpose of confirming the debtor's employment status, title and business address as part of the preparations for legal proceedings.¹⁶

¹¹ *Collection and Debt Repayment Regulation*, Alta. Reg. 194/99, ss. 12(1)(c)(ii).

¹² *Collection and Debt Repayment Regulation*, Alta. Reg. 194/99, ss. 12(1)(d).

¹³ *Collection and Debt Repayment Regulation*, Alta. Reg. 194/99, ss. 12(1)(t).

¹⁴ *Collection and Debt Repayment Regulation*, Alta. Reg. 194/99, ss. 12(1)(p).

¹⁵ *Collection and Debt Repayment Regulation*, Atla. Reg. 194/99, ss. 12(1)(l).

¹⁶ *Collection and Debt Repayment Regulation*, Alta. Reg. 194/99, ss. 12(1)(m).

Prohibition against providing false or misleading information

Neither a collection agency nor a collector may give any person any false information, including but not limited to, reference to the police, a law firm, prison, credit history, court proceedings or a lien or garnishment.¹⁷

If a creditor does not already have a judgment against a debtor it would be illegal for a collector to suggest that the debtor's wages would be garnisheed or a lien would be placed on the debtor's home without indicating that the creditor must first obtain a judgment against the debtor.

Prohibition against collecting any amount from a debtor in addition to the amount owing by the debtor

Neither a collection agency nor a collector can attempt to collect an amount from the debtor which is greater than the amount the debtor owes to the creditor.¹⁸ Therefore, a collection agency is not legally entitled to recover from a debtor any costs it incurs collecting a debt. This would include the collection agency's courier expense to send a courier to the debtor's residence to pick up a payment from the debtor.

Prohibition against harassment

Neither a collection agency nor a collector shall contact a debtor, a member of debtor's household, a debtor's friend, acquaintance, relative, neighbour or employer by any means in such a way as to constitute harassment.

Harassment include

1. language that is threatening, profane or intimidating;
2. excessive pressure; or
3. an excessive number of telephone calls or e-mail messages.¹⁹

Prohibition against action by collection agency where it lacks creditor's consent or lacks lawful authority

Neither a collection agency nor a collector is permitted to state an intention to take any action for which it does not have the prior express approval of the creditor or for which it lacks lawful authority.²⁰

¹⁷ *Collection and Debt Repayment Regulation*, Alta. Reg. 194/99, ss. 12(1)(j).

¹⁸ *Collection and Debt Repayment Regulation*, Alta. Reg. 194/99, ss. 12(1)(s).

¹⁹ *Collection and Debt Repayment Regulation*, Alta. Reg. 194/99, ss. 12(1)(i).

²⁰ *Collection and Debt Repayment Regulation*, Alta. Reg. 194/99, ss. 12(1)(h).

A collection agency cannot threaten a debtor with a lawsuit unless it has first received permission from the creditor to sue the debtor. The fact that a creditor has provided a collection agency with permission to sue a particular account does not mean that a collection agency will actually commence a lawsuit.

Neither a collection agency nor a collector can threaten to employ enforcement remedies, wage garnishments, seizure of personal property including bank accounts, placing a lien on the debtor's home, in circumstances where the creditor does not have a judgment against the debtor.

Prohibition against a collector pretending to be calling from a law firm or a legal department

A collector is not permitted to advise a debtor or any other person that he is part of a law firm or a legal department of the collection agency or the creditor.²¹

Prohibition against a collector describing himself out as a legal collector or litigation specialist

A collector is not permitted to refer to himself as a "legal collector" or a "litigation specialist".²²

Prohibition against settlement arrangements without the prior consent of the creditor

Neither a collection agency nor a collector can enter into an arrangement with a debtor where the debtor pays an amount less than the full amount owing as settlement in full of a debt without the prior express approval of the creditor.²³

This requirement is satisfied in those cases where a collection agency settles an account for an amount less than payment in full where the settlement is in accordance with a creditor's pre-approved settlement instructions.

Prohibition against wage assignments

Neither a collection agency nor a collector is permitted to enter into wage assignments with a debtor or the debtor's employer.²⁴ Under a wage assignment, an employee signs a document authorizing his employer to pay a portion of his wages directly to a creditor.

²¹ *Collection and Debt Repayment Regulation*, Alta. Reg. 194/99, ss. 12(1)(q).

²² *Collection and Debt Repayment Regulation*, Alta. Reg. 194/99, ss. 12(1)(r).

²³ *Collection and Debt Repayment Regulation*, Alta. Reg. 194/99, ss. 12(1)(e).

²⁴ *Collection and Debt Repayment Regulations*, Alta. Reg. 194/99, ss. 12(1)(u).

British Columbia

Under the British Columbia *Business Practices and Consumer Protection Act (BPCPA)* companies that meet the definition of a collection agency must (1) hold a valid collection agency license and (2) comply with the provisions under the Act regulating the conduct of persons attempting to collect a debt from a resident of British Columbia. While a creditor or a lawyer engaged in the collection of debts from British Columbia residents do not need to hold a valid collection agency license issued under the British Columbia *BPCPA* they are required to comply with the Act's provisions regulating the conduct of persons attempting to collect a debt.

Licensing requirements

A company, falling within the definition of a “collection agency” under the British Columbia *Business Practices and Consumer Protection Act*, attempting to collect a debt from a resident of British Columbia must hold a valid collection agent license issued under the Act.²⁵

When you are reading the section for British Columbia, the word “collector” should be given a broad interpretation *to include a person employed by a creditor, a debt buyer, a collection agency or a lawyer engaged in the collection of a debt.*

An individual employed by a collection agency attempting to collect a debt from a resident of British Columbia must hold a valid collector's license issued under the British Columbia *Business Practices and Consumer Protection Act*.

If you are receiving collection calls from a person employed by a law firm, they may be required to hold a collector's license, and therefore, you may want to contact the British Columbia Business Practices and Consumer Protection Authority to confirm whether or not the collector is licensed under the Act.

Requirement that written notice must precede collection calls

A collector must not telephone a debtor until five days after the collection agency has sent a written notice to the debtor informing him that the agency is representing a creditor and attempting to collect a specific debt, and the amount of the debt.²⁶

²⁵ British Columbia *Business Practices and Consumer Protection Act*, S.B.C. 2004, c. 2, s. 142.

²⁶ British Columbia *Business Practices and Consumer Protection Act*, S.B.C. 2004 c. 2, s. 115.

Prohibition against collecting a debt from a person who is not legally responsible for a debt

Neither a bill collector nor a collector can attempt to collect a debt from someone who is not legally responsible for the debt.²⁷

A collection agency cannot request that a family member pay a debtor's debt unless the family member is also legally responsible for the debt. This situation may arise where a spouse or parent acts as a guarantor or supplementary cardholder on a credit card.

Once a collection agency learns that it is attempting to collect a debt from a person who is not the debtor it is under a legal duty to cease communicating with that person for the purpose of attempting to collect the debt.

Prohibition against communications with a debtor after a debtor has exercised a statutory right to stop communications from a particular collection agency

Neither a collection agency nor a collector is permitted to contact a debtor in either of the following circumstances:

1. Where a debtor has notified a collector and the creditor that the debt is in dispute and the debtor wants the creditor to proceed with legal action.²⁸
2. The debtor has asked the collection agency to communicate with his lawyer and has provided an address for his lawyer.²⁹

Prohibition against telephone calls after debtor requests all further communications be in writing

Where a debtor has notified a collector to communicate with him in writing and has provided the collector with his current mailing address the collector is only permitted to contact the debtor in writing.³⁰

Restriction on communicating with a debtor after debtor advises a collection agency the agency has the wrong person

A collection agency is not permitted to continue to communicate with a person who advises it that he is not the debtor until the collection agency first makes all reasonable efforts to confirm that he is, in fact, the debtor.³¹

²⁷ British Columbia *Business Practices and Consumer Protection Act*, S.B.C. 2004, c. 2, ss. 120(b).

²⁸ British Columbia *Business Practices and Consumer Protection Act*, S.B.C. 2004, c. 2, ss. 116(4)(c).

²⁹ British Columbia *Business Practices and Consumer Protection Act*, S.B.C. 2004, c. 2, ss. 116(4)(b).

³⁰ British Columbia *Business Practices and Consumer Protection Act*, S.B.C. 2004, c. 2, ss. 116(4)(a).

Telephone calls prohibited at certain times

A collection agency is not permitted to make collection calls during the following times:

1. On a statutory holiday
2. On a Sunday except between the hours of 1:00 p.m. and 5:00 p.m., local time
3. Between 9:00 p.m. and 7:00 a.m., local time, Monday through Saturday.³²

Restrictions on telephone calls to a debtor's workplace

A collection agency is only permitted to contact a B.C. resident at his workplace:

1. for the sole purpose of requesting the debtor's home address or home telephone number or both, if the collector does not already have this information;
2. on one occasion if the collector has been unsuccessful contacting the debtor at his residence; or
3. the debtor has consented to the collector communicating with him at his workplace.³³

Agency's duty to disclose certain information to debtor

Once a collector confirms that he is speaking with a debtor the collector is required to disclose the following information to the debtor:

1. the name of the creditor;
2. the amount owing on the debt; and
3. the name of the collector.³⁴

British Columbia permits collectors to use desk names or aliases, provided the name being used by the collector is registered with the provincial licensing administrator.

Prohibition against communicating with a person using a method resulting in charges being borne by that person

Neither a collection agency nor a collector shall communicate with a person for the purpose of collecting a debt using a telegram or telephone call where the charges are being borne by the recipient.³⁵ It is illegal for a collection agency employee to make collect telephone calls. It is also illegal for a collection agency to call a debtor's cell phone if the debtor incurs a charge.

³¹ British Columbia *Business Practices and Consumer Protection Act*, S.B.C. 2004, c. 2, ss. 120(c).

³² British Columbia *Business Practices and Consumer Protection Act*, S.B.C. 2004, c. 2, s. 118.

³³ British Columbia *Business Practices and Consumer Protection Act*, S.B.C. 2004, c. 2, s. 116.

³⁴ British Columbia *Business Practices and Consumer Protection Act*, S.B.C. 2004, c. 2, ss. 116(3).

³⁵ British Columbia *Business Practices and Consumer Protection Act*, S.B.C. 2004, c. 2, s. 119.

Restrictions on communications with persons other than the debtor

A collector may communicate with a member of the debtor's household, family, relative, neighbour, or acquaintance solely for the purpose of obtaining the debtor's home address and telephone number except where

1. the person is also legally responsible for the debt, or
2. the debtor has authorized the person to discuss the debt with the collector.³⁶

Restrictions on communications with a debtor's employer

A collector shall not communicate with a debtor's employer unless

1. to confirm the debtor's employment, business title and the address for the debtor's workplace; or
2. for other purposes authorized by the debtor in writing.³⁷

Prohibition against providing false or misleading information

A collector is not permitted to provide false or misleading information, misrepresent the reason for communication or misrepresent the collector's identity.³⁸

Prohibition against using a document that appears to have a connection with any court

A collection agency is not permitted to use any document that appears to have any connection with any court.³⁹

Prohibition against collecting any amount from a debtor in addition to the amount owing by the debtor

Neither a collection agency nor a collector can attempt to collect an amount from the debtor which is greater than the amount the debtor owes to the creditor.⁴⁰ Therefore, a collection agency is not legally entitled to recover from a debtor any costs it incurs collecting a debt. This would include the collection agency's courier expense to send a courier to the debtor's residence to pick up a payment from the debtor.

³⁶ British Columbia *Business Practices and Consumer Protection Act*, S.B.C. 2004, c. 2, ss. 117(2)

³⁷ British Columbia *Business Practices and Consumer Protection Act*, S.B.C. 2004, c. 2, ss. 117(2).

³⁸ British Columbia *Business Practices and Consumer Protection Act*, S.B.C. 2004, c. 2, s. 123.

³⁹ British Columbia *Business Practices and Consumer Protection Act*, S.B.C. 2004, c. 2, ss. 123(d).

⁴⁰ British Columbia *Business Practices and Consumer Protection Act*, S.B.C. 2004, c. 2, ss. 120(a).

Prohibition against harassment

A collector must not communicate or attempt to communicate with a debtor or any other person in a manner or with a frequency as to constitute harassment.⁴¹

Restrictions on bringing legal proceedings against a debtor

A collection agency must first notify a debtor that a debt has been assigned to a collection agency before a collection agency can sue a debtor.⁴²

Restrictions on threatening legal proceedings against a debtor

A collection agency cannot state an intention to commence a legal proceeding against a debtor for the recovery of a debt if

1. the collection agency does not have the creditor's written authority to do so from the creditor; or
2. there is no legal authority to bring such a legal proceeding.⁴³

Prohibition against seizure of debtor's personal property

A collection agency is not permitted to arrange to have a debtor's personal property seized, unless there is a court order permitting such seizure, in the absence of the debtor, the debtor's spouse, the debtor's agent or an adult resident in the debtor's residence.⁴⁴

Manitoba

The following restrictions and prohibitions apply to a collection agency and its employees communicating with Manitoba residents.

Licensing requirements

A company attempting to collect a debt from a Manitoba resident must hold a valid collection agency license issued under the Manitoba *Consumer Protection Act*.⁴⁵ An individual employed by a collection agency attempting to collect a debt from a Manitoba

⁴¹ British Columbia *Business Practices and Consumer Protection Act*, S.B.C. 2004, c. 2, s. 114.

⁴² British Columbia *Business Practices and Consumer Protection Act*, S.B.C. 2004, c. 2, ss. 121(1).

⁴³ British Columbia *Business Practices and Consumer Protection Act*, S.B.C. 2004, c. 2, ss. 121(4).

⁴⁴ British Columbia *Business Practices and Consumer Protection Act*, S.B.C. 2004, c. 2, ss. 121(a).

⁴⁵ C.C.S.M. c. C200, ss. 76(1).

resident must hold a valid collector's license issued under the *Manitoba Consumer Protection Act*.⁴⁶

Prohibition against conducting business using any name other than the name a collection agency is licensed under

It is illegal for a collection agency to conduct business using any name other than the name under which it holds a collection agency license.⁴⁷

A collector employed by a collection agency claiming to be calling from somewhere else, such as the creditor, a law firm, or a government agency is breaking the law.

Telephone calls prohibited at certain times

Neither a collection agency nor a collector are permitted to make collection calls

1. On statutory holidays
2. On Sundays
3. Between 9:00 p.m. and 7:00 a.m., local time, Monday through Saturday.⁴⁸

Prohibition against communicating with a person using a method resulting in charges being borne by that person

Neither a collection agency nor a collector shall communicate with a person for the purpose of collecting a debt using a telegram or telephone call if the charges are being borne by the recipient.⁴⁹ It is illegal for a collection agency employee to make collect telephone calls. It is also illegal for a collection agency to call a debtor's cell phone if the debtor incurs a charge.

Prohibition against placing an account with more than one collection agency at the same time

It is illegal for a creditor to place an account with more than one collection agency at the same time.⁵⁰

⁴⁶ C.C.S.M. c. C200, ss. 102(2).

⁴⁷ *Manitoba Consumer Protection Act*, C.C.S.M. c. C200, ss. 102(1).

⁴⁸ *Manitoba Consumer Protection Act*, C.C.S.M. c. C200, ss. 98(j).

⁴⁹ *Manitoba Consumer Protection Act*, C.C.S.M. c. C200, ss. 98(c).

⁵⁰ *Manitoba Consumer Protection Act*, C.C.S.M. c. C200, ss. 98(g).

Agency's duty to disclose certain information to debtor

In making a demand for payment, whether by telephone or in writing, a collection agency or a collector must disclose the following information;

1. the name of the collector and his employer;
2. the name of the creditor;
3. the amount owing on the debt.⁵¹

Prohibition against stating an intention to take any action for which it lacks lawful authority

Neither a collection agency nor a collector is permitted to state an intention to take any action for which it lacks lawful authority.⁵²

It is quite common for a collector to state that if a debt is not paid by a specific date, that the collection agency will arrange to have a sheriff or bailiff seize the debtor's personal property, seize monies from his bank account, garnishee his wages or place a lien on any of the debtor's house in circumstances where the creditor has not successfully sued the debtor.

Prohibition against providing false information

A collector may not provide any person with false information that may be detrimental to a debtor, his spouse or common law partner.⁵³

Prohibition against collecting any amount from a debtor in addition to the amount owing by the debtor

Neither a collection agency nor a collector can attempt to collect any amount from the debtor which is greater than the amount the debtor owes to the creditor.⁵⁴ Therefore, a collection agency is not legally entitled to recover from a debtor any costs it incurs collecting a debt, including the cost of sending a courier to the debtor's residence to pick up a payment.

⁵¹ Manitoba *Consumer Protection Act*, C.C.S.M. c. C200, ss. 98(m).

⁵² Manitoba *Consumer Protection Act*, C.C.S.M. c. C200, ss. 98(d).

⁵³ Manitoba *Consumer Protection Act*, C.C.S.M. c. C200, ss. 98(l).

⁵⁴ Manitoba *Consumer Protection Act*, C.C.S.M. c. C200, ss. 98(a).

Prohibition against recovery of collection expenses despite contractual agreement

Despite any agreement between a creditor and a debtor, the debtor is not responsible for any expenses incurred by the collection agency or the creditor employing a collection agency.⁵⁵

Prohibition against harassing telephone calls

Neither a collection agency nor a collector may make telephone calls of such a nature or frequency that constitute harassment of the debtor, the debtor's spouse, common-law partner or his family.⁵⁶

Neither a collection agency nor a collector may make telephone calls of such a nature or frequency as to constitute harassment of any person in an attempt to obtain current contact information for the debtor or his immediate family.⁵⁷

Prohibition against using forms that are unacceptable to government regulator

A collection agency is not permitted to use any form, including any generic collection letter, that the Manitoba licensing administrator deems unacceptable.⁵⁸ If you have any concerns about the content of a collection letter you receive from a collection agency, you may want to make a complaint to the Manitoba licensing administrator.

Prohibition against using a document that appears to have a connection with any court

A collection agency is not permitted to use any document that appears to have any connection with any court.⁵⁹

Prohibition against seizure of the debtor's personal property

A collection agency may not seize any personal property belonging to a debtor unless

1. it has the consent of the court; and
2. the debtor, his spouse or common-law partner or an adult having possession of the goods with the consent of the debtor, *is present at the time and is aware of the removal of the property.*⁶⁰

⁵⁵ Manitoba *Consumer Protection Act*, C.C.S.M. c. C200, ss. 98(b).

⁵⁶ Manitoba *Consumer Protection Act*, C.C.S.M. c. C200, ss. 98(f).

⁵⁷ Manitoba *Consumer Protection Act*, C.C.S.M. c. C200, ss. 98(n).

⁵⁸ Manitoba *Consumer Protection Act*, C.C.S.M. c. C200, s. 104.

⁵⁹ Manitoba *Consumer Protection Act*, C.C.S.M. c. C200, ss. 98(e).

⁶⁰ Manitoba *Consumer Protection Act*, C.C.S.M. c. C200, ss. 98(h).

New Brunswick

The following restrictions and prohibitions apply to a collection agency and its employees communicating with New Brunswick residents.

Licensing requirements

A collection agency attempting to collect a debt from a New Brunswick resident must hold a valid collection agency license issued under the New Brunswick *Collection Agencies Act*.⁶¹

An individual employed by a collection agency attempting to collect a debt from a New Brunswick resident must hold a valid collector's license issued under the New Brunswick *Collection Agencies Act*.⁶² The New Brunswick regulator will not grant a collector license to an individual unless they are a Canadian resident working on the premises of a licensed branch office situated in Canada.

Telephone calls prohibited at certain times

Neither a collection agency nor a collector are permitted to contact a debtor at their residence between 9:00 p.m. and 9:00 a.m., local time.⁶³

There is nothing in the New Brunswick *Collection Agencies Act* nor its Regulations prohibiting collection calls on a statutory holiday or on a Sunday except that no calls may be made between 9:00 p.m. and 9:00 a.m., local time.

Prohibition against telephone calls to a debtor's workplace for any purpose without the debtor's consent

It is illegal for a collection agency or a collector to make telephone calls to a debtor's workplace for any purpose, except with the debtor's consent.⁶⁴

Prohibition against communicating with a person using a method resulting in charges being borne by that person

Neither a collection agency nor a collector shall communicate with a person for the purpose of collecting a debt using a telegram or telephone call if the charges are borne by the recipient.⁶⁵ It is illegal for a collection agency employee to make collect telephone

⁶¹ S.N.B. c. C-8, ss. 2(1).

⁶² Ibid.

⁶³ *General Regulation – Collection Agencies Act*, N.B. Reg. 84-256, ss. 14(g).

⁶⁴ *General Regulation – Collection Agencies Act*, N.B. Reg. 84-256, ss. 14(f)(i)-(ii).

⁶⁵ *General Regulation – Collection Agencies Act*, N.B. Reg. 84-256, ss. 14(c).

calls. It is also illegal for a collection agency to call a debtor's cell phone if the debtor incurs a charge.

Prohibition against harassment

A collector may not use threatening, intimidating or coercive language or suggest to a debtor that non-payment of a debt will result in loss of reputation, loss of employment or embarrassment.⁶⁶

Prohibition against collecting any amount from a debtor in addition to the amount owing by the debtor

Neither a collection agency nor a collector can attempt to collect any amount from the debtor which is greater than the amount the debtor owes to the creditor.⁶⁷ Therefore, a collection agency is not legally entitled to recover from a debtor any costs it incurs collecting a debt, including the cost of sending a courier to the debtor's residence to pick up a payment.

Prohibition against using collection notices that are unacceptable to New Brunswick licensing administrator

A collection agency must provide a copy of all its proposed collection notices to the New Brunswick licensing administrator, and an agency may not use any collection notices that are objectionable to the licensing administrator.⁶⁸

It is illegal for a collection agency to use a collection notice without first providing a copy to the New Brunswick licensing administrator. It is quite common for collection agencies to create and use new collection notices and neglect to file a copy with those provincial licensing administrators that require filing of these collection notices.

If you have concerns about the content of a collection notice you receive, you may want to file a complaint with the New Brunswick licensing administrator. It is possible that the collection agency has failed to provide the New Brunswick licensing administrator with a copy of this collection notice. It is also possible that the New Brunswick provincial licensing administrator will determine that the collection agency cannot use this collection notice because it is objectionable.

⁶⁶ *General Regulation – Collection Agencies Act*, N.B. Reg. 84-256, ss. 14(g).

⁶⁷ *General Regulation – Collection Agencies Act*, N.B. Reg. 84-256, ss. 14(a).

⁶⁸ *General Regulation – Collection Agencies Act*, N.B. Reg. 84-256, ss. 3(1)-(2).

Prohibition against use of aliases

When speaking with a debtor a collection agency owner, partner, or employee must use their legal name.⁶⁹

Prohibition against use of signatures on documents where signator is not a collection agency employee

A collection agency may not use a signature on any collection notice or document where the person whose signature is used is not an employee of the collection agency.⁷⁰

Prohibition against attempting to collect monies from a debtor's spouse

It is illegal for a collection agency to attempt to collect monies from a debtor's spouse when a debtor's spouse is not legally responsible for a debt.⁷¹

Newfoundland

The following restrictions and prohibitions apply to a collection agency and its employees communicating with Newfoundland residents.

Licensing requirements

A collection agency attempting to collect a debt must hold a valid collection agency license under the Newfoundland *Collections Act*.⁷²

Newfoundland, Québec, and Prince Edward Island, are the only Canadian provinces that do not require collectors employed by a collection agency to be licensed.

Prohibition against dealing with a debtor in a name other than the name authorized in the agency's collection agency license

A collection agency obtains a collection agency license in Newfoundland under a specific name. It is illegal for a collection agency or a collector to communicate with a debtor in Newfoundland using any other name.⁷³ For example, it would be illegal for a collector to inform a debtor or anyone else that he is calling from a law firm, the creditor, or some government agency.

⁶⁹ *General Regulation – Collection Agencies Act*, N.B. Reg. 84-256, ss. 14(e).

⁷⁰ *Ibid.*

⁷¹ *General Regulation – Collection Agencies Act*, N.B. Reg. 84-256, ss. 14(d).

⁷² R.S.N.L. 1990 c. C-22, ss. 12(1).

⁷³ *Collections Act*, R.S.N.L. 1990 c. C-22, ss. 11(1)(e).

Prohibition against contacting the debtor at the debtor's workplace

It is illegal for a collection agency or a collector to contact with a debtor at his workplace.⁷⁴

Requirement that written notice must precede collection calls

A collector must not telephone a debtor unless the collection agency has first sent the debtor a written notice informing him that the agency is representing a creditor and attempting to collect a specific debt, and the amount of the debt.⁷⁵ Once a collection agency learns that a person is not legally responsible to pay a debt it has a legal obligation to cease all attempts to collect monies from that person.

Telephone calls prohibited at certain times

It is illegal for a collection agency or a collector to make telephone calls to a collector between 10:00 p.m. and 8:00 a.m., local time.⁷⁶

There is nothing in the Newfoundland *Collections Act* nor the regulations prohibiting telephone calls on a statutory holiday or a Sunday except that calls are prohibited between 10:00 p.m. and 8:00 a.m., local time.

Prohibition against communicating with a person using a method resulting in charges being borne by that person

Neither a collection agency nor a collector shall communicate with a person for the purpose of collecting a debt using a telegram or telephone calls where the charges are borne by the recipient.⁷⁷ It is illegal for a collection agency employee to make collect telephone calls. It is also illegal for a collection agency to call a debtor's cell phone if the debtor incurs a charge.

Agency's duty to disclose certain information to a debtor

Once a collector confirms that he is speaking with a debtor the collector is required to identify himself as an employee from a collection agency.⁷⁸

⁷⁴ *Collections Regulations*, Nfld. Reg. 90/85, ss. 12(1)(a).

⁷⁵ *Collections Regulations*, Nfld. Reg. 90/85, ss. 12(1)(f).

⁷⁶ *Collections Regulations*, Nfld. Reg. 90/85, ss. 12(1)(c).

⁷⁷ *Collections Act*, R.S.N.L. 1990 c. C-22, ss. 11(1)(c).

⁷⁸ *Collections Regulations*, Nfld. Reg. 90/85, ss. 12(2).

Restriction on contacting the debtor's employer

Neither a collection agency nor a collector may contact the debtor's employer without the debtor's consent.⁷⁹

Restriction on communicating with debtor's friends, acquaintances, relatives or neighbours

Neither a collection agency nor a collector shall communicate with a debtor's friends, acquaintances, relatives or neighbours, except to obtain the debtor's address.⁸⁰

Prohibition against using a collection letter unless a copy has been filed with the Newfoundland licensing administrator

A collection agency may not use a collection letter unless it has first been filed with the Newfoundland Registrar of Collection Agencies and Collectors.⁸¹

It is quite common for a collection agency to create and use a new collection letter without filing it with those provincial licensing administrators that have a filing requirement. If you have concerns about the content of a collection letter you receive you may want to file a complaint with the Newfoundland licensing administrator.

Prohibition against using a document that appears to have a connection with any court

A collection agency is not permitted to use any document that appears to have a connection with any court.⁸²

Prohibition against collecting any amount from a debtor in addition to the amount owing

Neither a collection agency nor a collector can attempt to collect any amount from the debtor which is greater than the amount the debtor owes to the creditor.⁸³ Therefore, a collection agency is not legally entitled to recover from a debtor any costs it incurs collecting a debt, including the cost of sending a courier to the debtor's residence to pick up a payment.

⁷⁹ *Collections Regulations*, Nfld. Reg. 90/85, ss. 12(b).

⁸⁰ *Collections Regulations*, Nfld. Reg. 90/85, ss. 12(h).

⁸¹ *Collections Act*, R.S.N.L. 1990 c. C-22, ss. 11(1)(f).

⁸² *Collections Act*, R.S.N.L. 1990 c. C-22, ss. 11(1)(g).

⁸³ *Collections Act*, R.S.N.L. 1990 c. C-22, ss. 11(1)(a).

Prohibition against recovery of collection expenses despite agreement

Despite any agreement between a creditor and a debtor, the debtor is not responsible for any expenses incurred by the collection agency or the creditor employing a collection agency.⁸⁴

Prohibition against coercive language

Neither a collection agency nor a collector shall threaten a debtor with loss of employment, loss or community standing or use coercive language.⁸⁵

Prohibition against harassment

Neither a collection agency nor a collector shall make telephone calls to a debtor, the debtor's spouse or family member, of such a nature or frequency as to constitute harassment.⁸⁶

Prohibition against threatening to proceed with an action for which collection agency has no legal authority

It is illegal for a collection agency to threaten to take action for which it has no authority.⁸⁷ It is illegal for a collection agency to threaten to sue a debtor in circumstances where a creditor has not given a collection agency permission to do so.

If a creditor has not obtained a judgment against a debtor it is illegal for a collection agency or a collector to threaten to employ certain enforcement remedies to collect an overdue account: garnishment of a debtor's wages, seizure of personal property, seizure of personal property, seizure of monies in a debtor's bank account or a lien being placed on debtor's residence or real estate.

It is illegal for a collection agency to attempt to collect a consumer debt from a Newfoundland resident where the debt is more than six years old, the debtor has not made any partial payments during this period, nor made a written acknowledgement of the debt. Under the Newfoundland *Limitations Act* a consumer debt is extinguished once the six-year limitation period on simple contract debts has expired.⁸⁸

⁸⁴ *Collections Act*, R.S.N.L. 1990 c. C-22, ss. 11(2).

⁸⁵ *Collections Regulations*, Nfld. Reg. 90/85, ss. 12(1)(e).

⁸⁶ *Collections Regulations*, Nfld. Reg. 90/85, ss. 12(1)(g).

⁸⁷ *Collections Regulations*, Nfld. Reg. 90/85, ss. 12(1)(d).

⁸⁸ Newfoundland *Limitations Act*, ss. 17(1).

Prohibition against suing a debtor in its own name

A collection agency shall not sue a debtor in its own name on behalf of a creditor.⁸⁹

Northwest Territories

The following restrictions and prohibitions apply to a collection agency and its employees communicating with N.W.T. residents.

Licensing requirements

A collection agency attempting to collect a debt from resident of the Northwest Territories must hold a valid collection agency license issued under the Northwest Territories *Consumer Protection Act*.⁹⁰

Requirement that written notice must precede collection calls

Neither a collection agency nor a collector shall communicate verbally with a debtor unless ten days have elapsed from the date a collection agency has mailed a written notice to the debtor containing the following information:

1. Name of the creditor
2. Balance owing
3. The licensed name of the collection agency
4. The collection agency's authority to act on behalf of the creditor.⁹¹

Prohibition against communications with debtor after debtor has exercised a statutory right to stop communications from a particular collection agency

A collection agency must cease communications with a debtor:

1. After the debtor has advised the collection agency in writing to communicate only with the debtor's lawyer and the debtor has provided the agency with the lawyer's address;⁹²
2. After the debtor has advised the collection agency in writing that the debtor disputes the debt and the debtor would like the creditor to take the matter to court.⁹³

⁸⁹ *Collections Regulations*, Nfld. Reg. 90/85, s. 13.

⁹⁰ *Consumer Protection Regulations*, R.R.N.W.T. 1990 c. C-16, s. 9.

⁹¹ Debt Collection Practice Regulations, s. 1.

⁹² Debt Collection Practice Regulations, ss. 12(2).

⁹³ Debt Collection Practice Regulations, s. 13.

Prohibition against communicating with a person using a method resulting in charges being borne by that person

Neither a collection agency nor a collector shall communicate with a person for the purpose of collecting a debt using a means of communication where the costs are borne by that person.⁹⁴ It is illegal for a collection agency employee to make collect telephone calls. It is also illegal for a collection agency to call a debtor's cell phone if the debtor incurs a charge.

Duty to cease communicating with person where agency advised it has the wrong person

Once a collection agency is advised by an individual that the person is not the debtor, the collection agency is under a legal obligation to cease communications with that individual, unless after reasonable inquiries there are reasonable grounds to believe that the individual is, in fact, the debtor.⁹⁵

Duty not to attempt to collect a debt from a person not liable for a debt

A collection agency has a duty not to attempt to collect a debt from a person who is not liable for the debt.⁹⁶ Once a collection agency learns that a person is not legally responsible to pay for a debt it has a legal obligation to cease all efforts to attempt to collect any monies from that individual.

Prohibition against communications other than written communications after debtor has advised collection agency it only wants to be contacted in writing

Neither a collection agency nor a collector shall communicate with a debtor after the debtor has advised the collection agency in writing to communicate only with the debtor in writing and the debtor has provided the agency with an address where the debtor may be contacted.⁹⁷

Telephone calls prohibited at certain times

Except at the request of the person being contacted, neither a collection agency nor a collector may make telephone calls during the following times

1. on a holiday
2. on a Sunday, except between the hours of 1:00 p.m. and 5:00 pm.

⁹⁴ Debt Collection Practice Regulations, s. 9.

⁹⁵ Debt Collection Practice Regulations, s. 11.

⁹⁶ Debt Collection Practice Regulations, s. 6.

⁹⁷ Debt Collection Practice Regulations, ss. 12(1).

3. on any other day between the hours of 9:00 p.m. and 7:00 a.m.⁹⁸

Agency's obligation to disclose information

Each time a collection agency or a collector communicates with a debtor they must disclose the following information:

1. the creditor's name
2. the balance owing
3. their authority to collect the debt on behalf of a creditor.⁹⁹

Restrictions on telephone calls to a debtor at the debtor's workplace

Neither a collection agency nor a creditor shall contact a debtor at his workplace, except

1. on one occasion, if the collection agency does not have the debtor's with an address or phone number where the debtor may be contacted;
2. on one occasion, if the collection agency or a collector has made a number of unsuccessful attempts to contact the debtor at a telephone number provided by the debtor; or
3. where the debtor requests to be contacted at his workplace.¹⁰⁰

Restrictions on contacts with a debtor's employer

Neither a collection agency nor a collector shall contact the debtor's employer unless

1. The employer has guaranteed to pay the debt and is being contacted in connection with this guarantee;
2. The communication is made concerning
 - a. payments from the employer in connection with a wage assignment;
 - b. payments to be made by the employer in favour of the creditor in connection with a judgment or an order of the court;
3. the debtor, in writing, has authorized the communication with his employer.¹⁰¹

A collection agency is permitted to contact a debtor's employer once a year to confirm the debtor's employment, title, and business address.¹⁰²

⁹⁸ Debt Collection Practice Regulations, s. 8.

⁹⁹ Debt Collection Practice Regulations, s. 2.

¹⁰⁰ Debt Collection Practice Regulations, ss. 3(2).

¹⁰¹ Debt Collection Practice Regulations, ss. 4(1).

¹⁰² Debt Collection Practice Regulations, ss. 4(2).

Restrictions on contacts with a debtor's spouse, members of a debtor's family or household, or relative, neighbour, friend or acquaintance

Neither a collection agency nor a collector is permitted to contact any members of the debtor's family or household, or relative, neighbour, friend or acquaintance with respect to the collection of a debt, unless

1. the collection agency does not have the debtor's address or telephone number and the contact is for the purpose of obtaining contact information;
2. the person being contacted has guaranteed to pay the debt and the contact is being made in connection with the guarantee
3. the debtor has requested, in writing, the collection agency contact the individual and the person contacted does not object to the contact.¹⁰³

Prohibition against harassment

Neither a collection agency nor a collector shall communicate with a debtor or the members of a debtor's family or household, any relative, neighbour, friend or acquaintance of the debtor, or the debtor's employer

1. in such a manner,
2. with such frequency,
3. using such means, or
4. using content of such a nature,

as to constitute harassment of the debtor or the person contacted.¹⁰⁴

Prohibition against providing false or misleading information

Neither a collection agency or a collector shall provide any person with any false or misleading information

1. misleading the purpose of the communication or the identify of the collection agency or the collector,
2. use any document that suggests a connection with any court within or outside of Canada.¹⁰⁵

Prohibition against taking action or threatening action for which it has no lawful authority

Neither a collection agency nor a collector shall take any action or state an intention to take any action for which they do not have any lawful authority.

¹⁰³ Debt Collection Practice Regulation, s. 5.

¹⁰⁴ Debt Collection Practice Regulation, s. 7.

¹⁰⁵ Debt Collection Practice Regulation, s. 10.

1. A collection agency cannot state an intention to sue a debtor unless it has express written authority to sue the debtor, and
2. A collection agency cannot recommend to a creditor that a lawsuit be commenced for the purpose of collecting a debt unless the collection agency first notifies the debtor of the collection agency's decision to make this recommendation.

Prohibition against commencing a lawsuit without written notice

A collection agency shall not commence a lawsuit against a debtor without first providing written notice of its intention to do so.¹⁰⁶

Prohibition against collecting any amount from a debtor in addition to the amount owing by the debtor

Neither a collection agency nor a collector can attempt to collect any amount from the debtor which is greater than the amount the debtor owes to the creditor.¹⁰⁷ Therefore, a collection agency is not entitled to recover from a debtor any costs it incurs collecting a debt, including the cost of sending a courier to the debtor's residence to pick up a payment.

Prohibition against recovery of collection expenses despite agreement

Despite any agreement between a creditor and a debtor, the debtor is not responsible for any expenses incurred by the collection agency or the creditor employing a collection agency.¹⁰⁸

Prohibition against providing false or misleading information

Neither a collection agency nor a collector shall provide any person with false or misleading information in connection with the collection of a debt.¹⁰⁹

Restrictions on lawsuits

A collection agency shall not commence or continue any court proceeding for the collection of a debt in its own name unless:

- the collection agency has purchased the debt for valuable consideration, and

¹⁰⁶ Debt Collection Practice Regulations, ss. 15(3)

¹⁰⁷ *Northwest Territories Consumer Protection Act*, R.S.N.W.T. 1988, c. C-17, ss. 104.2(2).

¹⁰⁸ *Northwest Territories Consumer Protection Act*, R.S.N.W.T. 1988, c. C-17, ss. 104.2(1).

¹⁰⁹ Debt Collection Practice Regulations, ss. 10(1).

- written notice of the sale of the debtor's account has been provided to the debtor.¹¹⁰

Nova Scotia

The following restrictions and prohibitions apply to a collection agency and its employees communicating with Nova Scotia residents.

Licensing requirements

A collection agency attempting to collect a debt from a Nova Scotia resident must hold a valid collection agency license issued under the Nova Scotia *Collection Agencies Act*.¹¹¹

A collector employed by a collection agency attempting to collect a debt from a Nova Scotia resident must hold a valid collector's license issued under the Nova Scotia *Collection Agencies Act*.¹¹² The Nova Scotia licensing administrator will not grant a collector license to an individual unless they are a Canadian resident working on the premises of a licensed branch office situated in Canada.

Agency's duty to first satisfy itself a particular debt is owed before attempting to collect the debt

A collection agency attempting to collect monies from a Nova Scotia resident has a duty to satisfy itself that a debtor owes monies to a creditor before it attempts to collect monies from a Nova Scotia resident.¹¹³ A collection agency is violating the Nova Scotia *Collection Agencies Act* if it attempts to collect a debt from:

1. The wrong individual, or
2. an individual who does not owe the money in connection with a particular debt.

Nova Scotia is the only province that imposes a duty on a collection agency to ensure that a debt is, in fact, owing *before* it attempts to collect the debt. In most other provinces a collection agency does not violate a provincial licensing statute if it ceases all communications with an individual after it has been advised that it is attempting to collect a debt from the wrong individual or from someone who has a good defence.

¹¹⁰ *Northwest Territories Consumer Protection Act*, R.S.N.W.T. 1988, c. C-17, ss. 104.3.

¹¹¹ R.S., c. 77, ss. 5(1)(a).

¹¹² R.S., c. 77, ss. 5(1)(b).

¹¹³ *Nova Scotia Collection Agencies Act*, R.S. c. 77, ss. 20(1)(b).

Requirement that written notice must precede collection calls

It is illegal for a collector to phone a debtor until seven days after the collection agency has sent its first written communication to him.¹¹⁴

Prohibition against communicating with a debtor after he notifies the agency in writing to communicate with his legal adviser

Both a collection agency and a collector are prohibited from communicating directly with a debtor after he advises them in writing to communicate with his legal adviser.¹¹⁵

Telephone calls prohibited at certain times

Neither a collection agency nor a collector are permitted to make collection calls between 9:00 p.m. and 8:00 a.m., local time, Monday through Saturday.¹¹⁶

There is nothing in the Nova Scotia *Collection Agencies Act* or its regulations prohibiting collection calls on statutory holidays except that no telephone calls are permitted between 9:00 p.m. and 8:00 a.m., local time.

Agency's duty to disclose certain information to debtor

Whenever a collector speaks to a debtor on the telephone the collector shall:

1. identify himself using the name on his collector's license;
2. identify himself as a licensed collector;
3. state the name of his employer.¹¹⁷

Whenever a collector sends a personal letter to a debtor demanding payment of a debt, the letter shall include the following:

1. the name of the collector;
2. the signature of the collector;
3. the name of the licensed collection agency.¹¹⁸

¹¹⁴ *Collection Agencies Regulations*, N.S. Reg. 104/75, s. 31.

¹¹⁵ *Nova Scotia Collection Agencies Act*, R.S. c. 77, ss. 20(1)(e).

¹¹⁶ *Nova Scotia Collection Agencies Act*, R.S. c. 77, ss. 20(1)(i).

¹¹⁷ *Collection Agencies Regulations*, N.S. Reg. 104/75, ss. 26(2)(b).

¹¹⁸ *Collection Agencies Regulations*, N.S. Reg. 104/75, ss. 26(2)(a).

Prohibition against communicating with a person using a method resulting in charges being borne by that person

Neither a collection agency nor a collector shall communicate with a person for the purpose of collecting a debt using a telegram or telephone call where the charges are borne by the recipient.¹¹⁹ It is illegal for a collection agency employee to make collect telephone calls. It is also illegal for a collection agency to call a debtor's cell phone if the debtor incurs a charge.

Prohibition against using documents that resemble a court document

No collection agency shall use a document in the general style or appearance of a court document.¹²⁰

Prohibition against using collection letters that have not been filed with Nova Scotia Registrar

A collection agency is not permitted to use a collection letter unless it has first been filed with the Registrar appointed under the Nova Scotia *Collection Agencies Act*.¹²¹

It is quite common for a collection agency to create and use a new collection letter without filing it with those provincial licensing administrators that have such a requirement. If you have concerns about the content of a collection letter you receive, you may want to file a complaint with the Nova Scotia licensing administrator.

Prohibition against providing false or misleading information

Neither a collection agency nor a collector shall provide any false or misleading information to any person that may be detrimental to the debtor, his spouse or a member of his family.¹²²

Prohibition against harassment, threats, intimidation and harmful statements

Neither a collection agency nor a collector shall engage in communications of such a nature or frequency as to constitute harassment of the debtor, his spouse or any member of his family.¹²³

¹¹⁹ Nova Scotia *Collection Agencies Act*, R.S., c. 77, ss. 20(1)(d).

¹²⁰ Nova Scotia *Collection Agencies Act*, R.S. c. 77, ss. 20(1)(h).

¹²¹ Nova Scotia *Collection Agencies Act*, R.S. c. 77, ss. 20(1)(g).

¹²² Nova Scotia *Collection Agencies Act*, R.S. c. 77, ss. 20(1)(l).

¹²³ Nova Scotia *Collection Agencies Act*, R.S. c. 77, ss. 20(1)(j).

Neither a collection agency nor a collector shall, verbally or in writing, threaten, abuse or intimidate a debtor to induce a person to pay a debt.¹²⁴

Neither a collection agency nor a collector shall make statements to a person who employs a debtor, his spouse or any member of his family information that may affect the employment or employment opportunities of the debtor, his spouse or any member of his family.¹²⁵

Restriction on contacts with the debtor's employer, acquaintances, friends, relatives or neighbours

Neither a collection agency nor a collector may communicate with the debtor's employer, acquaintances, friends, relatives or neighbours of the debtor except for the limited purpose of obtaining the debtor's address.¹²⁶

Prohibition against collecting any amount from a debtor in addition to the amount owing by the debtor

Neither a collection agency nor a collector can attempt to collect any amount from a debtor which is greater than the amount the debtor owes to the creditor.¹²⁷ Therefore, a collection agency is not legally entitled to recover from a debtor any costs it incurs collecting a debt, including the cost of sending a courier to the debtor's residence to pick up a payment.

Prohibition against recovery of collection expenses despite contractual provision permitting such

Despite any agreement between a creditor and a debtor, the debtor is not responsible for any expenses incurred by the collection agency or the creditor employing the collection agency.¹²⁸

Restrictions on lawsuits

A collection agency shall not sue a debtor, in the collection agency's own name unless

1. The collection has purchased the debt for valuable consideration in accordance with a written contract; and
2. The debtor receives notice of the sale of the debt to the collection agency.¹²⁹

¹²⁴ Nova Scotia *Collection Agencies Act*, R.S. c. 77, ss. 20(1)(i).

¹²⁵ Nova Scotia *Collection Agencies Act*, R.S. c. 77, ss. 20(1)(m).

¹²⁶ Nova Scotia *Collection Agencies Act*, c. 77, ss. 20(1)(o).

¹²⁷ Nova Scotia *Collection Agencies Act*, c. 77, ss. 20(1)(a).

¹²⁸ Nova Scotia *Collection Agencies Act*, R.S., c. 77, ss. 20(2).

Nunavut

Licensing requirements

A collection agency attempting to collect a debt must hold a collection agency license under the Nunavut *Consumer Protection Act*.¹³⁰

I anticipate that at some future date Nunavut will enact legislation regulating the conduct of collection agencies attempting to collect monies from the residents of Nunavut.

Ontario

The following restrictions and prohibitions apply to a collection agency and its employees communicating with Ontario residents.

Licensing and registration requirements

A collection agency attempting to collect a debt from an Ontario resident must hold a valid collection agency license issued under the Ontario *Collection Agencies Act*.¹³¹

An individual employed by a collection agency as a collector attempting to collect a debt from an Ontario resident must hold a valid collector's license issued under the Ontario *Collection Agencies Act*.¹³²

Under the Ontario *Collection Agencies Act* only Canadian residents may be licensed as a collector.¹³³ Therefore, most collection agencies collecting monies from Ontario residents do so from a location in Canada or within a short distance of the Canadian border. If you are receiving collection calls from a location outside Canada you may want to visit www.consumerbeware.mgs.gov.on.ca/eseach/start.do or call 1 (800) 889-9768 to confirm whether or not an individual is licensed as a collector under the Ontario *Collection Agencies Act*.

¹²⁹ Nova Scotia *Collection Agencies Act*, R.S., c. 77, ss. 20(1)(p).

¹³⁰ R.S.N.W.T. 1988, c. C-17, ss. 85(1).

¹³¹ Nova Scotia *Collection Agencies Act*, R.S., c. 77, ss. 4(1).

¹³² R.S.O., 1990 c. C.14, ss. 24(2).

¹³³ *General Regulation*, R.R.O. 1990, Reg. 74, ss. 12(2)(a).

Requirement that written notice must precede collection calls

A collection agency is not permitted to start phoning a debtor until six days after mailing the debtor a letter, by regular mail, containing the name of the creditor, the balance owing, the identity and authority of the collection agency or collector demanding payment of the debt.¹³⁴

Prohibition against using a name other than the name a collection agency is registered under

It is illegal for a collection agency to communicate with a debtor using any name other than the name under which the collection agency is registered.¹³⁵ Therefore, it is illegal for a collection agency employee to hold himself out as calling from the creditor, a law firm, or some government agency.

Prohibition against communications with a debtor after debtor has exercised a statutory right to stop communications from a particular collection agency

Neither a collection agency nor a collector is permitted to contact a debtor in either of the following circumstances:

1. After a debtor sends a collector or collection agency a letter, *by registered mail*, stating that he disputes the debt and suggests the matter be taken to court-unless the debtor consents to or requests the contact.¹³⁶
2. After a debtor or the debtor's lawyer sends a collector or collection agency a letter, *by registered mail*, requesting they only communicate with the debtor's lawyer and provides the lawyer's address and telephone number-unless the debtor consents to or requests the contact.¹³⁷

Prohibition against communications with a debtor once a collection agency knows or ought reasonably to know that a person is not liable for a debt

Once a collection agency knows or ought reasonably to know that a person is not legally responsible for a debt it shall not attempt to collect a debt from that person.¹³⁸ Therefore, it is illegal for a collection agency to attempt to collect a debt from an individual once it learns it has the wrong person or the individual is not legally responsible for the debt.

¹³⁴ *General Regulation*, R.R.O. 1990, Reg. 74, s. 21.

¹³⁵ *Ontario Collection Agencies Act*, R.S.O. 1990, c. C.14, ss. 22(d).

¹³⁶ *General Regulation*, R.R.O. 1990, Reg. 74, ss. 22(1).

¹³⁷ *General Regulation*, R.R.O. 1990, Reg. 74, ss. 22(2).

¹³⁸ *General Regulation*, R.R.O. 1990, Reg. 74, ss. 22(5)(a).

Restrictions on communicating with a person after the collection agency is advised the individual is not the debtor

A collection agency is not permitted to continue to communicate with a person who advises the collection agency that he is not the debtor the collection agency first makes all reasonable efforts to confirm that he is, in fact, the debtor.¹³⁹

Telephone calls prohibited at certain times

Neither a collection agency nor a collector are permitted to make telephone calls

1. on a statutory holiday,
2. on a Sunday, except between the hours of 1:00 p.m. and 5:00 p.m., local time,
3. between 9:00 p.m. and 7:00 a.m., local time, Monday through Saturday.¹⁴⁰

Prohibition against more than three telephone contacts with a person in a seven-day period on behalf of the same creditor

Once a collection agency speaks to a person a collection agency may not “contact” that person more than three times in a seven-day period on behalf of the same creditor.

The following do not count as a “contact” under this prohibition:

1. communication by ordinary mail;
2. communication where the person contacted consents to such contact;
3. communication with a person other than the debtor where the purpose of the communication is to locate the debtor.

This prohibition does not arise until a particular individual actually speaks to the collection agency.¹⁴¹ Therefore, in Ontario a collection agency might be able to lawfully make frequent phone calls to a person in circumstances if she never speaks to a collection agency employee.

Prohibition against communicating with a person using a method resulting in charges being borne by that person

Neither a collector nor a collection agency shall communicate with a person for the purpose of collecting a debt using a means of communication where the costs are borne by that person.¹⁴² It is illegal for a collection agency employee to make collect telephone calls. It is also illegal for a collection agency to call on a debtor’s cell phone if the debtor incurs a charge.

¹³⁹ *General Regulation*, R.R.O. 1990, Reg. 74, ss. 22(5)(b).

¹⁴⁰ *General Regulation*, R.R.O. 1990, Reg. 74, ss. 22(6).

¹⁴¹ *General Regulation*, R.R.O. 1990, Reg. 74, ss. 2, 8, and 9.

¹⁴² *Ontario Collection Agencies Act*, R.S.O. 1990 c. C.14, ss. 22(b).

Restrictions on calls to a debtor's spouse, member of debtor's family or household, or a relative, neighbour, friend or acquaintance of the debtor

A collector shall not contact the debtor's spouse, member of the debtor's family or household, or a relative, neighbour, friend or acquaintance unless

1. the person contacted has guaranteed to pay the debt and the contact is made concerning that guarantee;
2. the debtor has requested that the collector or collection agency discuss the debt with the person being contacted; or
3. the collection agency does not have the debtor's home address or home telephone number and the contact is solely for obtaining that information.¹⁴³

Restrictions on contacts with the debtor's employer

A collector or collection agency shall not contact a debtor's employer unless

- the employer has guaranteed the debt and the contact is with respect to the guarantee;
- the debtor has given the collector or collection agency written authorization to contact his employer;
- the contact only occurs once and is for the sole purpose of confirming the debtor's employment, business title, or business address;
- the contact is made regarding payments on
 - a wage assignment given to a credit union within the meaning of the *Credit Unions and Caisses Populaires Act, 1994*, or to a caisse populaire within the meaning of the Act, or
 - an order or judgment of a court in favour of a collection agency or a creditor who is a client of the collection agency.¹⁴⁴

Under a wage assignment, an employee signs a document authorizing his employer to pay a portion of his wages directly to a creditor. Wage assignments are illegal in Ontario unless the creditor who is the recipient of monies under a wage assignment is a credit union and the amount of money paid to the credit union does not exceed amounts permitted under the Ontario *Wages Act* for garnishments.¹⁴⁵

Prohibition against threatening to publish a debtor's failure to pay

Neither a collection agency nor a collector shall threaten to inform anyone who is not legally responsible for a particular debt about the existence of the debt or any details concerning the debt.¹⁴⁶ It is illegal for a collector to threaten to inform the debtor's employer, co-workers or bank manager, or any other person not legally responsible for

¹⁴³ *General Regulation*, R.R.O., 1990 Reg. 74, ss. 22(3).

¹⁴⁴ *General Regulation*, R.R.O., Reg. 74, ss. 22(4).

¹⁴⁵ R.S.O. 1990, Ch. 2.1, ss. 6(7) and (8). See note 56.

¹⁴⁶ *General Regulation*, R.R.O., Reg. 74, ss. 22(6)(3).

the debt, about the existence of a debt if a debt is not paid. As you may recall, under PIPEDA it is illegal for a collection agency, at any time, to disclose the existence of a debt to anyone other than the debtor or another person legally responsible to pay the same debt.

Prohibition against use of threats, profanity, intimidating or coercive language

Neither a collection agency nor a collector shall use threats, profanity, or intimidating or coercive language in an attempt to collect a debt.¹⁴⁷

Prohibition against harassment

Neither a collection agency nor a collector shall communicate with a person in such a manner or with such frequency as to constitute harassment.¹⁴⁸

Prohibition against providing false or misleading information

A collector or collection agency shall not

- give any person, directly or indirectly, any false or misleading information, or
- misrepresent to any person contacted the purpose of the contact or the identity of the collector, the collection agency or the creditor.¹⁴⁹

Prohibition against using document that would appear to have come from any court in Canada

A collection agency is not permitted to use, without lawful authority, any document that states, suggests or implies it is authorized or approved by a court in Canada.¹⁵⁰

Prohibition against collecting any amount from a debtor in addition to the amount owing by the debtor

Neither a collection agency nor a collector can attempt to collect any amount from the debtor which is greater than the amount the debtor owes to the creditor.¹⁵¹ Therefore, a collection agency is not legally entitled to recover from a debtor any costs it incurs collecting a debt, including the cost of sending a courier to the debtor's residence to pick up a payment.

¹⁴⁷ *General Regulation*, R.R.O., Reg. 74, ss. 22(6)(4).

¹⁴⁸ *General Regulation*, R.R.O., Reg. 74, ss. 22(6)(6).

¹⁴⁹ *General Regulation*, R.R.O., Reg. 74, ss. 24(a) and (b).

¹⁵⁰ *General Regulation*, R.R.O., Reg. 74, ss. 24(c).

¹⁵¹ *Ontario Collection Agencies Act*, R.S.O. 1990, c. C.14, ss. 22(a).

A collection agency may collect a reasonable fee for a debtor's dishonoured cheque provided:

1. an agreement between the creditor and the debtor states that the debtor is liable for such charges and sets out the amount of the charge;
2. the creditor has advised the debtor that he is liable for dishonoured cheque charges; or
3. the collection of such charges is expressly permitted by law.¹⁵²

Prohibition against recovery of collection expenses despite agreement

Despite any agreement between a creditor and a debtor, the debtor is not responsible for any expenses incurred by the collection agency or the creditor employing a collection agency.¹⁵³

Restrictions on legal proceedings against a debtor

Neither a collector nor a collection agency shall directly or indirectly threaten to commence a legal proceeding against a debtor in an attempt to collect a debt unless the collection agency has the written authority of the creditor to commence the proceeding and the proceeding is not otherwise prohibited by law.¹⁵⁴

Neither a collector nor a collection agency shall recommend to a creditor that a legal proceeding be commenced for collection of a debt, unless the collector or collection agency first gives notice of its intention to make the recommendation.¹⁵⁵

A collection agency shall not commence a legal proceeding for the collection of a debt

1. in the name of the creditor unless the collection agency has the written authority of the creditor to do so; or
2. as a plaintiff, unless the following conditions are satisfied:
 - the collection agency has purchased the debt under the terms of a written contract;
 - if a legal proceeding was commenced by the creditor prior to the collection agency purchasing the debt, the collection agency has given written notice to the debtor of the sale and, either separately or together with the written notice, has given notice to the debtor of the intention to commence a legal proceeding.¹⁵⁶

¹⁵² *General Regulation*, R.R.O., Reg. 74, ss. 25(2).

¹⁵³ *General Regulation*, R.R.O., Reg. 74, ss. 25(1).

¹⁵⁴ *General Regulation*, R.R.O., Reg. 74, ss. 23(1).

¹⁵⁵ *General Regulation*, R.R.O., Reg. 74, ss. 23(2).

¹⁵⁶ *General Regulation*, R.R.O. 1990, Reg. 74, ss. 23(3).

Prince Edward Island

The following restrictions and prohibitions apply to a collection agency and its employees communicating with residents of Prince Edward Island.

Licensing requirements

A collection agency attempting to collect a debt from a resident of Prince Edward Island must hold a valid collection agency license issued under the Prince Edward Island *Collection Agencies Act*.¹⁵⁷

Prince Edward Island, Québec, and Newfoundland do not license collectors employed by collection agencies.

Prohibition against calls to the debtor's workplace

Neither a collection agency nor a collector may make telephone calls to the debtor's workplace for any purpose without the debtor's consent.¹⁵⁸

Telephone calls prohibited during certain times

Neither a collection agency nor a collector is permitted to make telephone calls on statutory holidays or between 9:00 p.m. and 8:00 a.m., local time.¹⁵⁹

Prohibition against communicating with a person using a method resulting in charges being borne by that person

Neither a collector nor a collection agency shall communicate with a person for the purpose of collecting a debt using a means of communication where the costs are borne by that person.¹⁶⁰ It is illegal for a collection agency employee to make collect telephone calls. It is also illegal for a collection agency to call a debtor's cell phone if the debtor incurs a charge.

Prohibition against collecting any amount from a debtor in addition to the amount owing

Neither a collection agency nor a collector can attempt to collect any amount from the debtor which is greater than the amount the debtor owes to the creditor. Therefore, a

¹⁵⁷ c. C-11, ss. 3(1).

¹⁵⁸ *Collection Agencies Act Regulations*, R.R.P.E.I. EC450/95, ss. (5)(e).

¹⁵⁹ *Collection Agencies Act Regulations*, R.R.P.E.I. EC450/95, ss. 5(f).

¹⁶⁰ *Collection Agencies Act Regulations*, R.R.P.E.I. EC450/95, ss. 5(b).

collection agency is not legally entitled to recover from a debtor any costs it incurs collecting a debt, including the cost of sending a courier to the debtor's residence to pick up a payment.

Prohibition against disclosing the existence of a debt to persons other than the debtor

Neither a collection agency nor a collector shall communicate with persons other than the debtor to demand payment of a debt.¹⁶¹

Prohibition against communicating with persons other than the debtor except for the purpose of obtaining the debtor's address

Neither a collection agency nor a collector shall communicate with the debtor's relatives, family members, or friends, except for the purpose of obtaining the debtor's address.¹⁶²

Prohibition against harassment

Neither a collection agency nor a collector shall communicate with any person with such frequency as to constitute harassment.¹⁶³

Prohibition against coercive language or threaten loss of employment or loss of community standing

Neither a collection agency nor a collector shall use coercive language or threaten a debtor with loss of employment or loss of community standing.¹⁶⁴

Prohibition against providing debtor with any false or misleading information

Neither a collection agency nor a collector shall give a debtor any false or misleading information that is detrimental to a debtor or may have a negative impact on the debtor's employment or that of any family member.¹⁶⁵

¹⁶¹ *Collection Agencies Act Regulations*, R.R.P.E.I. EC450/95, ss. 5(e)(i).

¹⁶² *Collection Agencies Act Regulations*, R.R.P.E.I. EC450/95, ss. 5(l).

¹⁶³ *Collection Agencies Act Regulations*, R.R.P.E.I. EC450/95, ss. 5(j).

¹⁶⁴ *Collection Agencies Act Regulations*, R.R.P.E.I. EC450/95, ss. 5(f).

¹⁶⁵ *Collection Agencies Act Regulations*, R.R.P.E.I. EC450/95, ss. 5(k).

Prohibition against threatening to proceed with an action for which there is no lawful authority

Collection agencies and collectors should not state an intention to take an action in circumstances where there is no lawful authority to take such action.¹⁶⁶

Prohibition against any collection letter that has not been filed with the Registrar

Neither a collection agency nor a collector shall send a collection letter to a debtor unless a copy of the collection letter has been filed with the PEI Registrar of Collection Agencies.¹⁶⁷

It is quite common for a collection agency to create and use a new collection letter without filing it with those provincial licensing administrators that have such a requirement. If you have concerns about the content of a collection letter you receive, you may want to file a complaint with the Prince Edward Island licensing administrator.

Prohibition against using any document that appears to look like a court document

Neither a collection agency nor a collector shall use any document that has the appearance of a document used in any court in Prince Edward Island.¹⁶⁸

Prohibition against use of any unauthorized name or signature

Neither a collection agency nor a collector shall use any unauthorized name or signature.¹⁶⁹ Accordingly, the only authorized names that can be used on a written notice from a collection agency would be the name of an actual employee and not a fictitious name.

Prohibition against including debtor's spouses in any court action when only one party is legally responsible for a debt

A collection agency shall not attempt to collect a debt from a debtor's spouse when the debtor's spouse is not legally responsible for the debt.¹⁷⁰

¹⁶⁶ *Collection Agencies Act Regulations*, R.R.P.E.I. EC450/95, ss. 5(h).

¹⁶⁷ *Collection Agencies Act Regulations*, R.R.P.E.I. EC450/95, ss. 5(i).

¹⁶⁸ *Collection Agencies Act Regulations*, R.R.P.E.I. EC450/95, ss. 5(g).

¹⁶⁹ *Collection Agencies Act Regulations*, R.R.P.E.I. EC450/95, ss. 5(d).

¹⁷⁰ *Collection Agencies Act Regulations*, R.R.P.E.I. EC450/95, ss. 5(c).

Québec

The following restrictions and prohibitions apply to a collection agency and its employees communicating with Québec residents.

Licensing requirements

A collection agency attempting to collect a debt from a Québec resident must hold a valid collection agency permit issued under *An Act respecting the Collection of certain debts*.¹⁷¹

Québec, Newfoundland and Prince Edward Island do not license collectors employed by collection agencies.

Requirement that written notice precede collection calls

Neither a collection agency nor a collector shall telephone a debtor until five days after the collection agency mailed the debtor a written notice advising him that it is attempting to collect a debt on behalf of a creditor.¹⁷²

Requirement that collection calls originate from a location within Québec

The provincial licensing administrator responsible for regulating collection agencies collecting monies from Québec residents takes the position that it is illegal for a collection agency to make collection calls from a location situated outside Québec.

Prohibition against communications with debtor after debtor has exercised statutory right to stop communications from a particular collection agency

Neither a collection agency nor a collector is permitted to contact a debtor in any of the following circumstances:

1. After the debtor informs the collection agency in writing to communicate with his legal adviser;¹⁷³
2. Where a debtor informs the collection agency in writing that the debt is disputed and the creditor may proceed with court action. However, where monies are owing to the government, the agency is allowed to continue

¹⁷¹ R.S.Q., c. R-2.2., s. 7.

¹⁷² *An Act respecting the Collection of certain debts*, R.S.Q., c. R-2.2, ss. 34(1).

¹⁷³ *An Act respecting the Collection of certain debts*, R.S.Q., c. R-2.2, ss. 3(2).

communicating with the debtor for 120 days following a written demand for payment of the debt.¹⁷⁴

3. After the individual has informed the collection agency, in a prior communication, that he is not the debtor.¹⁷⁵

Prohibition against telephone calls to debtor after debtor sends collection agency a written notice requesting all further communications be in writing

Neither a collection agency nor a collector may make telephone calls to a debtor after he has sent a written notice informing the agency that all future communications to him should be in writing.¹⁷⁶

Restriction on telephone calls to the debtor's workplace

A collector may not telephone a debtor at his workplace except once in the following circumstances:

1. The collector does not know the debtor's home address or home phone number;
or
2. The collector has been unsuccessful at reaching the debtor at his home telephone number.¹⁷⁷

Telephone calls prohibited during certain times

Neither a collection agency nor a collector is permitted to make telephone calls on a statutory holiday or between 8:00 p.m. and 8:00 a.m., local time, Monday through Saturday.¹⁷⁸

Restrictions on telephone calls to persons other than the debtor

A collection agency is not permitted to contact a person other than the debtor except for the purpose of obtaining the debtor's address or telephone number.¹⁷⁹

¹⁷⁴ *An Act respecting the Collection of certain debts*, R.S.Q., c. R-2.2, ss. 3(2.1).

¹⁷⁵ *An Act respecting the Collection of certain debts*, R.S.Q., c. R-2.2, ss. 34(2.2).

¹⁷⁶ *An Act respecting the Collection of certain debts*, R.S.Q., c. R-2.2, ss. 34(2).

¹⁷⁷ *An Act respecting the Collection of certain debts*, R.S.Q., c. R-2.2, s. 4.

¹⁷⁸ *An Act respecting the Collection of certain debts*, R.S.Q., c. R-2.2, ss. 34(4).

¹⁷⁹ *An Act respecting the Collection of certain debts*, R.S.Q., c. R-2.2, s. 4.

Agency's duty to disclose certain information to a debtor

Prior to making a demand for payment from a debtor a collector must identify himself.¹⁸⁰

Prohibition against attempting to collect monies from persons who are not legally responsible to pay a debt

Neither a collection agency nor a collector can attempt to collect a debt from someone who is not legally responsible for the debt.¹⁸¹

A collection agency cannot attempt to have a family member pay a debtor's debt unless the family member is also legally responsible for the debt. This situation may arise where a spouse or parent acts as a guarantor on a loan or supplementary cardholder on a credit card.

Prohibition against making false or misleading statements

It is illegal for a collection agency or its employees to make false or misleading statements.¹⁸²

Prohibition against disclosing information about a debt to anyone other than someone legally responsible for paying the debt

No person may, for the purpose of collecting a debt, disclose information about a debt that would cause undue harm to a debtor, the debtor's spouse or a member of the spouse's family.¹⁸³

Prohibition against threatening to disclose the existence of a debt to any person who is not legally responsible to pay a debt

No person may, for the purpose of collecting a debt, threaten to reveal the debtor's failure to pay a debt to anyone other than those persons legally responsible to pay the debt.¹⁸⁴

¹⁸⁰ *An Act respecting the Collection of certain debts*, R.S.Q., c. R-2.2, s. 4.

¹⁸¹ *An Act respecting the Collection of certain debts*, R.S.Q., c. R-2.2, ss. 3(7).

¹⁸² *An Act respecting the Collection of certain debts*, R.S.Q., c. R-2.2, s. 2.

¹⁸³ *An Act respecting the Collection of certain debts*, R.S.Q., c. R-2.2, ss. 3(4).

¹⁸⁴ *An Act respecting the Collection of certain debts*, R.S.Q., c. R-2.2, ss. 34(5).

Prohibition against threatening to sue a debtor for failure to pay a debt

No person may, for the purpose of collecting a debt, threaten to sue a debtor for non-payment of a debt.¹⁸⁵

Prohibition against threatening a debtor with arrest or imprisonment in the event of non-payment of a debt

No person may, for the purpose of collecting a debt, threaten a debtor with arrest or imprisonment for failure to pay a debt.¹⁸⁶

Prohibition against harassment

No person may, for the purpose of collecting a debt, utilize harassment, threats or intimidation.¹⁸⁷ However, it is not illegal for a collection agency to threaten to take some action which is permitted by law. For example, if a debtor's account were three months in arrears, a collection agency could threaten to list the debtor's account as an R9 if the account is not paid within the next 90 days.

Prohibition against collecting any amount from a debtor in addition to the amount owing by the debtor

Neither a collection agency nor a collector can attempt to collect any amount from a debtor that is greater than the amount the debtor owes to the creditor.¹⁸⁸ Therefore, a collection agency is not legally entitled to recover from a debtor any costs it incurs collecting a debt, including the cost of sending a courier to the debtor's residence to pick up a payment.

Prohibition against using a document that may be mistaken for a government document

A collection agency may not use a document that may be mistaken for a document used, authorized, issued or approved by a tribunal, government, or agency.¹⁸⁹

¹⁸⁵ *An Act respecting the Collection of certain debts*, R.S.Q., c. R-2.2, ss. 34(1).

¹⁸⁶ *An Act respecting the Collection of certain debts*, R.S.Q., c. R-2.2, ss. 3(1).

¹⁸⁷ *An Act respecting the Collection of certain debts*, R.S.Q., c. R-2.2, ss. 3(3).

¹⁸⁸ *An Act respecting the Collection of certain debts*, R.S.Q., c. R-2.2, ss. 3(5).

¹⁸⁹ *An Act respecting the Collection of certain debts*, R.S.Q., c. R-2.2, ss. 3(6).

Saskatchewan

The following restrictions and prohibitions apply to a collection agency and its employees communicating with Saskatchewan residents.

Licensing requirements

A collection agency attempting to collect a debt from a Saskatchewan resident must hold a valid collection agent license issued under Saskatchewan's *The Collection Agents Act*.¹⁹⁰ An individual employed by a collection agency attempting to collect a debt from a Saskatchewan resident must hold a valid collector's license issued under Saskatchewan's *The Collection Agents Act*.¹⁹¹

Telephone calls prohibited at certain times

Neither a collection agency nor a collector is permitted to make telephone calls on a statutory holiday or between 9:00 p.m. and 8:00 a.m., local time, Monday through Saturday.¹⁹²

Prohibition against communicating with a person using a method resulting in charges being borne by that person

Neither a collection agency nor a collector shall communicate with a person for the purpose of collecting a debt using a means of communication where the costs are borne by that person.¹⁹³

It is illegal for a collection agency employee to make collect telephone calls. It is also illegal for a collection agency to call a debtor's cell phone if the debtor incurs a charge.

Agency's duty to disclose certain information to a debtor

Once a collector confirms that he is speaking with a debtor the collector is required to disclose the following information:

1. the identity of the collector;
2. the name of the collector's employer;
3. the name of the creditor;
 - the amount owing.¹⁹⁴

¹⁹⁰ R.S.S. 1978, c. C-15, ss. 4(a).

¹⁹¹ R.S.S. 1978, c. C-15, ss. 4(b).

¹⁹² Saskatchewan's *The Collection Agents Act*, R.S.S. 1978, c. C-15, ss. 29(1)(h).

¹⁹³ Saskatchewan's *The Collection Agents Act*, R.S.S. 1978, c. C-15, ss. 29(1)(k).

¹⁹⁴ Saskatchewan's *The Collection Agents Act*, R.S.S. 1978, c. C-15, ss. 29(1)(k).

Prohibition against collecting more than the amount owing by the debtor to the creditor

It is illegal for a collection agency to attempt to collect more money from a debtor than the amount owing to the creditor.¹⁹⁵

Prohibition against harassment

Neither a collection agency nor a collector are permitted to make telephone calls of such a nature or frequency as to constitute harassment

- of the debtor, his spouse, or his family;¹⁹⁶ or
- of any person in attempt to determine the present whereabouts of the debtor, his spouse, or his family.¹⁹⁷

Prohibition against making defamatory statements about a debtor or his family

No collection agency or collector shall make any false statements to anyone that are detrimental to a debtor, his spouse, or a member of his family.¹⁹⁸

A collector shall not make any statements that might adversely affect the employment of the debtor, his spouse or a family member.¹⁹⁹

Prohibition against collecting any amount from a debtor in addition to the amount owing

It is illegal for a collection agency or a collector to attempt to collect any amount from the debtor that is greater than the amount the debtor owes to the creditor.²⁰⁰ Therefore, a collection agency is not legally entitled to recover from a debtor any costs it incurs collecting a debt, including the cost of sending a courier to the debtor's residence to pick up a payment.

Prohibition against recovery of collection expenses despite agreement

Despite any agreement between a creditor and a debtor, the debtor is not responsible for any expenses incurred by the collection agency or the creditor employing a collection agency.²⁰¹

¹⁹⁵ Saskatchewan's *The Collection Agents Act*, R.S.S. 1978, c. C-15, ss. 29(1)(a).

¹⁹⁶ Saskatchewan's *The Collection Agents Act*, R.S.S. 1978, c. C-15, ss. 29(1)(g).

¹⁹⁷ Saskatchewan's *The Collection Agents Act*, R.S.S. 1978, c. C-15, ss. 29(1)(l).

¹⁹⁸ Saskatchewan's *The Collection Agents Act*, R.S.S. 1978, c. C-15, ss. 29(1)(i).

¹⁹⁹ Saskatchewan's *The Collection Agents Act*, R.S.S. 1978, c. C-15, ss. 249(1)(j).

²⁰⁰ Saskatchewan's *The Collection Agents Act*, R.S.S. 1978, c. C-15, ss. 29(1)(a).

²⁰¹ Saskatchewan's *The Collection Agents Act*, R.S.S. 1978, c. C-15, ss. 29(2).

Prohibition against using collection letters unless they have been approved by the Saskatchewan Registrar

It is illegal for a collection agency to use a collection letter unless the collection letter has been filed with the Saskatchewan Registrar and approved by the Registrar.²⁰²

It is quite common for collection agencies to create and use new collection letters and neglect to file a copy with those provincial licensing administrators that require filing of these collection letters. If you have concerns about the content of a collection letter you receive, you may want to file a complaint with the Saskatchewan licensing administrator. It is possible that the collection agency has failed to provide the Saskatchewan licensing administrator with a copy of this collection letter. It is also possible that the licensing administrator will refuse to approve the collection letter.

Prohibition against using a document that appears to have a connection with any court

A collection agency shall not, without lawful authority, use any document that appears to be in the form of a court document used in the province.²⁰³

Restriction on lawsuits against a debtor

A collection agency shall not commence or continue a lawsuit for the recovery of a debt in the name of a collection agent as plaintiff unless the collection agency has purchased the debt for valuable consideration and the debtor has received notice of the sale of his account.²⁰⁴

Yukon

The following restrictions and prohibitions apply to a collection agency and its employees communicating with Yukon residents.

Licensing requirements

A collection agency attempting to collect a debt from a Yukon resident must hold a valid collection agency license issued under the Yukon *Consumers Protection Act*.²⁰⁵

²⁰² Saskatchewan's *The Collection Agents Act*, R.S.S. 1978, c. C-15, ss. 24.

²⁰³ Saskatchewan's *The Collection Agents Act*, R.S.S. 1978, c. C-15, ss. 29(1)(f).

²⁰⁴ Saskatchewan's *The Collection Agents Act*, R.S.S. 1978, c. C-15, ss. 29(2).

²⁰⁵ Yukon *Consumers Protection Act*, R.S.Y. 2002, c. 40, s. 78.

An individual employed by a collection agency attempting to collect a debt from a Yukon resident must hold a valid collector's license issued under the Yukon *Consumers Protection Act*.²⁰⁶

Prohibition against conducting business using any name other than the name a collection agency is licensed under

A collection agency obtains a collection agency license in the Yukon under a specific name. It is illegal for a collection agency or a collector to communicate with a debtor in the Yukon using another name.²⁰⁷ For example, it would be illegal for a collector to inform a debtor or anyone else that he is calling from a law firm, the creditor, or some government agency.

Telephone calls prohibited at certain times

Neither a collection agency nor a collector is permitted to make telephone calls at the following times:

1. On a statutory holiday
2. On a Sunday
3. Between 9:00 p.m. and 7:00 a.m., local time, Monday through Saturday.²⁰⁸

Prohibition against communicating with a person using a method resulting in charges being borne by that person

Neither a collector nor a collection agency shall communicate with a person for the purpose of collecting a debt using a means of communication where the costs are borne by the recipient.²⁰⁹

It is illegal for a collection agency employee to make collect telephone calls. It is also illegal for a collection agency to call a debtor's cell phone if the debtor incurs a charge.

Agency's duty to disclose certain information to a debtor

Once a collector confirms that he is speaking with a debtor the collector is required to disclose the following information to the debtor:

1. the name of the collector;
2. the name of the collector's employer;
3. the name of the creditor; and

²⁰⁶ Ibid.

²⁰⁷ Yukon *Consumers Protection Act*, R.S.Y. 2002, c. 40, s. 75.

²⁰⁸ Yukon *Consumers Protection Act*, R.S.Y. 2002, c. 40, ss. 72(j).

²⁰⁹ Yukon *Consumers Protection Act*, R.S.Y. 2002, c. 40, ss. 72(c).

4. the amount owing.²¹⁰

Prohibition against stating an intention to take any action for which it lacks lawful authority

Neither a collection agency nor a collector is permitted to state an intention to take any action for which it lacks lawful authority.²¹¹

It is quite common for a collector to state that if a debt is not paid by a specific date that the collection agency will arrange to have the Sheriff or bailiff seize the debtor's personal property, seize monies from the debtor's bank account, garnishee the debtor's wages, or place a lien on any of the debtor's real property-unless the creditor has sued the debtor and obtained a judgment.

Prohibition against defamatory statements

No collector shall make any false statements to anyone that is detrimental to a debtor or a debtor's spouse.²¹²

Prohibition against harassment

No collector shall make telephone calls of such a nature or frequency as to constitute harassment of the debtor, the debtor's spouse, or the debtor's family.²¹³

Prohibition against collecting any amount from a debtor in addition to the amount owing

It is illegal for a collection agency or a collector to attempt to collect any amount from the debtor that is greater than the amount the debtor owes to the creditor.²¹⁴ Therefore, a collection agency is not entitled to recover from a debtor any costs it incurs collecting a debt, including the cost of sending a courier to the debtor's residence to pick up a payment.

²¹⁰ Yukon *Consumers Protection Act*, R.S.Y. 2002, c. 40, ss. 72(m).

²¹¹ Yukon *Consumers Protection Act*, R.S.Y. 2002, c. 40, ss. 72(d).

²¹² Yukon *Consumers Protection Act*, R.S.Y. 2002, c. 40, ss. 72(l).

²¹³ Yukon *Consumers Protection Act*, R.S.Y. 2002, c. 40, ss. 72(f).

²¹⁴ Yukon *Consumers Protection Act*, R.S.Y. 2002, c. 40, ss. 72(a).

Prohibition against recovery of collection expenses despite agreement

Despite any agreement between a creditor and a debtor, the debtor is not responsible for any expenses incurred by the collection agency or the creditor employing the collection agency.²¹⁵

Prohibition against using a document that appears to have a connection with any court

A collection agency is not permitted to use, without lawful authority, any document that has the appearance of any document used in any court in the Yukon.²¹⁶

Prohibition against seizing personal property without leave of the court

Only with the leave of the court is a collection agency permitted to remove any goods claimed under seizure or distress in the absence of the debtor, the debtor's spouse or agent, or an adult resident in the debtor's home.²¹⁷

²¹⁵ Yukon *Consumers Protection Act*, R.S.Y. 2002, c. 40, ss. 72(b).

²¹⁶ Yukon *Consumers Protection Act*, R.S.Y. 2002, c. 40, ss. 72(e).

²¹⁷ Yukon *Consumers Protection Act*, R.S.Y. 2002, c. 40, ss. 72(h).