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This document is ***not*** the official version of the Act. The Act and the amendments as printed under the authority of the Queen's Printer for the province should be consulted to determine the authoritative statement of the law.

For more information concerning the history of this Act, please see the ***Table of Public Acts*.**

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CHAPTER C-19

CONSUMER PROTECTION ACT

1. In this Act — Definitions

(a) "borrower" means a person who received credit; — borrower

(b) "buyer" means a person who purchases goods or services on credit and includes his agent, but does not include a person of a class to whom this Act is declared by the regulations not to apply; — buyer

(c) "cash price" means the price inclusive of sales or other taxes applicable; — cash price

(d) "cost of borrowing" means — cost of borrowing

(i) when used in relation to variable credit, the charges that the borrower is required to pay monthly or periodically on the unpaid balance from time to time, and

(ii) when used in relation to a form of credit other than variable credit, the amount by which

(A) the total sum that the borrower is required to pay if the payments required are made as they become due

exceeds

(B) in the case of credit given by the advancement of money, the sum actually received in cash by the borrower and by any person on his behalf, including official fees and premiums for insurance paid or payable by the lender at the request of the borrower, or

(C) in the case of a sale of goods or services, the cash price of the goods or services, official fees and premiums for insurance paid or payable by the seller at the request of the buyer and the sum remaining unpaid under a previous extension of credit, where the buyer and seller agree that such amount is to be consolidated therewith less the sums, if any, credited as a down payment or in respect of a trade-in or in respect of any other matter;

(e) "credit" means credit for which a borrower is required to pay and that is — credit

(i) given under an agreement between a seller and a buyer to purchase goods or services by which all or part of the purchase price is payable after the agreement is entered into, or

(ii) given by the advancement of money,

(iii) given on the security of a mortgage of real property,

but does not include credit extended

(iv) in respect of the sale of goods intended for resale, or

(v) for industrial or business purposes of the borrower or buyer, except credit extended for principal use in fishing or farming operations;

credit card

(f) "credit card" means a card, document or similar instrument by which goods or services may be purchased on deferred payment, or by means of which cash may be received;

goods

(g) "goods" includes tokens, coupons or other documents or things issued or sold by a seller to a buyer that are exchangeable or redeemable for goods or services;

insurance

(h) "insurance" means insurance on the life or health of a borrower or buyer, or on property charged to secure payment of the indebtedness of a borrower or buyer to a lender or seller;

lender

(i) "lender" means a person who extends credit;

Minister

(j) "Minister" means the Minister of Justice and Public Safety and Attorney General;

official fees

(k) "official fees" means fees paid or payable to a public official in the province for the filing or registration of an instrument relating to a credit transaction;

person

(l) "person" means an individual, an association of individuals, a partnership or a corporation and includes an agent of any of them;

Registrar

(m) "Registrar" means the Registrar of Credit;

regulations

(n) "regulations" means regulations made under this Act;

seller

(o) "seller" means a person who is in the business of selling goods or services to buyers and includes his agent, but does not include a person or class of persons to whom this Act is by the regulations declared not to apply;

trade-in

(p) "trade-in" means consideration given by a buyer in a form other than money or an obligation to pay money;

unsolicited credit card

(q) "unsolicited credit card" means a credit card receipt of which has not been requested in writing by the person named therein;

unsolicited goods

(r) "unsolicited goods" means personal property, the receipt of which has not been requested by the recipient, but does not include personal property delivered to the recipient that the recipient knew or ought to have known was intended for delivery to another person;

variable credit

(s) "variable credit" means credit made available under an agreement whereby the lender agrees to make credit available to a

borrower to be used from time to time at the option of the borrower, and, without limiting the generality of the foregoing, includes credit arrangements, commonly known as revolving credit accounts, budget accounts, cyclical accounts and other arrangements of a similar nature. R.S.P.E.I. 1974, Cap. C-17, s.1; 1980, c.2, s.3; 1983, c.1, s.6; 1983, c.7, s.1; 1985, c.3, s.1; 1985, c.10, s.1; 1993, c.29, s.4; 1997,c.20,s.3; 2000,c.5,s.3; 2010,c.14,s.3; 2012,c.17,s.2; 2015,c.28,s.3.

Registrar

2. The Lieutenant Governor in Council may appoint a person to be Registrar. R.S.P.E.I. 1974, Cap. C-17, s.2.

Powers and functions of Registrar

3. It is the function of the Registrar and he has power to

(a) investigate complaints regarding credit granting and persons engaged in business as lenders;

(b) conduct studies, inquiries and surveys for the purpose of obtaining information as to who are lenders in the province, concerning their methods and practices of carrying on business, and to keep himself informed of developments or changes in the business of credit granting;

(c) consult with and cooperate with lenders and other interested persons and organizations to assist in the attainment of the purposes of this Act;

(d) disseminate information respecting methods of obtaining or granting credit, the practices of lenders, the costs of borrowing, the facilities available for obtaining loans or credit, and such other information as he considers desirable for the purpose of creating an informed public;

(e) perform the duties and exercise the powers imposed or conferred upon him by this Act or the regulations;

(f) perform such other functions as are prescribed by the regulations by the Lieutenant Governor in Council. R.S.P.E.I. 1974, Cap. C-17, s.4.

Power of a commissioner

4. For the purpose of exercising his functions under this Act the Registrar has all the powers, privileges and immunities of a commissioner appointed under the *Public Inquiries Act* R.S.P.E.I. 1988, Cap. P-31. R.S.P.E.I. 1974, Cap. C-17, s.4.

Inspection of records and files

5. The Registrar or a person authorized by him for the purpose may enter the premises of a lender or any person who he has reasonable grounds to believe is carrying on the business of a lender and inspect the records and files of the lender or person and make copies of or take extracts from any books, records or documents on those files. R.S.P.E.I. 1974, Cap. C-17, s.6.

Appointment of assistants

6. To assist the Registrar in performing his functions there shall be appointed in accordance with the *Civil Service Act* R.S.P.E.I. 1988, Cap. C-8 such auditors, accountants, inspectors, clerks and other persons as are necessary. R.S.P.E.I. 1974, Cap. C-17, s.7.

Technical persons, employment of

7. With the approval of the Lieutenant Governor in Council the Registrar may engage solicitors, accountants, actuaries, and other professionally or technically qualified persons. R.S.P.E.I. 1974, Cap. C-17, s.8.

Advisory councils

8. (1) The Lieutenant Governor in Council may appoint advisory councils to assist and advise the Registrar in the performance of his functions.

Types of advisory councils

(2) Separate advisory councils may be appointed to assist and advise respecting transactions relating to different types of money lending and credit granting.

Provincial advisory council

(3) A provincial advisory council may be appointed from among the members of separate advisory councils to assist in coordinating the recommendations of separate councils.

Composition

(4) Each advisory council shall consist of such number of persons as the Lieutenant Governor in Council determines. R.S.P.E.I. 1974, Cap. C-17, s.9.

Sections 9 to 13 are repealed by 1994, c.48, s.7.

Effect of using false statements, etc.

14. Where any person is making false, misleading or deceptive statements relating to the extension of credit in any advertisement, circular, pamphlet or similar material, the Registrar may order the immediate cessation of the use of such material. R.S.P.E.I. 1974, Cap. C-17, s.15; 1994, c.48, s.7.

Disclosures in contract for sale of goods on credit

15. (1) Every contract for the sale of goods on credit in which the purchase price, excluding the cost of borrowing, exceeds $50 that is made elsewhere than on the premises of the seller shall be in writing and shall contain

(a) the name and address of the seller and the buyer;

(b) a description of the goods sufficient to identify the goods with certainty;

(c) the price of the goods and a statement of the terms of payment;

(d) a statement of any security for payment under the contract, including the particulars of any negotiable instrument, conditional sale agreement, chattel mortgage or any other security;

(e) any warranty or guarantee given by the vendor applying to the goods, which warranty or guarantee may be contained in or attached to, or form part of the contract; and

(f) any other matter required by the regulations.

Delivery of true copy

(2) Immediately after the execution of a contract under subsection (1) the seller shall deliver a true copy of the contract to the buyer. R.S.P.E.I. 1974, Cap. C-17, s.16.

Disclosure of cost of borrowing

16. (1) Where a lender makes to a borrower a loan, the cost of borrowing in relation to the loan, expressed as an annual percentage rate, shall be disclosed by the lender to the borrower in a separate statement in the form prescribed in the regulations.

Variable rate loans

(2) Where a loan referred to in subsection (1) is subject to variations in the annual percentage rate, the lender shall

(a) at the time of the loan, disclose

(i) the cost of borrowing, expressed as an annual percentage rate or the manner of determining the annual percentage rate,

(ii) that the rate is liable to change and the basis on which the change will occur,

(iii) the manner of calculating the cost of borrowing;

(b) upon a change in the rate, within five weeks of the change, notify the borrower in writing of

(i) the revised rate,

(ii) the effective date of the change,

(iii) any other modifications to the loan consequent on the change in rate;

(c) annually issue to the borrower a written statement showing

(i) the number and total amount of payments made during the year,

(ii) the amount applied to the cost of borrowing,

(iii) the amount of principal repaid,

(iv) the amount of principal outstanding.

Fixed rate loans

(3) Where a loan referred to in subsection (1) is not subject to variations in the annual percentage rate, the lender shall

(a) at the time of the loan, disclose to the borrower

(i) the cost of borrowing, expressed as an annual percentage rate or the manner of determining the annual percentage rate, and

(ii) the manner of calculating the cost of borrowing; and

(b) annually issue to the borrower a written statement containing the information set out in subclauses (2)(c)(i) to (iv).

Variable credit, charge cards

(4) Where a lender extends variable credit by use of a payment, credit or charge card, the lender shall disclose to the borrower

(a) the maximum aggregate amount of credit available through use of the card;

(b) the term of each period for which a statement of account is furnished;

(c) the amount in dollars and cents of any service, transaction or activity charge and the manner in which it is calculated;

(d) the manner, if any, in which the borrower may discharge his obligations without incurring any cost of borrowing;

(e) the cost of borrowing expressed as an annual percentage rate;

(f) the maximum liability of the borrower in the event the card is lost or stolen;

(g) the manner in which the cost of borrowing is calculated,

and shall

(h) not less frequently than every five weeks, furnish the borrower with a clear statement in writing showing, in respect of the period covered by the statement, the opening and closing balances, the amount of each extension of credit, sums credited to the account and the cost of borrowing expressed in dollars and cents;

(i) give advance notice to the borrower of any variation in the terms referred in clauses (b) to (g) at least thirty days before the variation becomes effective. R.S.P.E.I. 1974, Cap. C-17, s.17; 1985, c.10, s.2.

Unsolicited credit cards

17. (1) No person shall issue or deliver unsolicited credit cards or deliver unsolicited goods to a person who has not requested such credit card or goods.

Renewals not included in ss(1)

(2) A credit card that renews or replaces another credit card previously used or requested by the person receiving the same shall not be considered to be an unsolicited credit card within the meaning of this section. R.S.P.E.I. 1974, Cap. C-17, s.19.

Prepayment without penalty

18. (1) Where a loan is prepaid before its due date, the lender shall not impose any charge or penalty in relation to the prepayment.

Mortgages

(2) Subsection (1) does not apply to a loan secured by a mortgage of real property. R.S.P.E.I. 1974, Cap. C-17, s.20; 1985, c.10, s.4.

Assignment, obligation of mortgagee

19. (1) Notwithstanding subsection 18(2) or any stipulation to the contrary, where a mortgagor is entitled to redeem a mortgage or where the mortgagee demands payment of a mortgage by the mortgagor, the mortgagor, upon payment of any balance outstanding in respect of the mortgage, may require the mortgagee, instead of giving a release of the mortgage, to assign the mortgage to such third person as he directs, and the mortgagee is bound to assign accordingly.

Fee

(2) The fee imposed by a mortgagee for the assignment of a mortgage pursuant to subsection (1) shall not exceed $25 or such greater sum as the Minister may specify by notice published in the Gazette.

(3) This section does not apply if the mortgagee is or has been in possession. 1987, c.12, s.1. Application

20. (1) No lender shall publish or cause to be published, whether in print or by radio or television broadcast or otherwise, any representation of a charge for credit that does not disclose the full cost of borrowing, stated as an annual percentage rate expressed in the manner required by section 16. Advertising charge for credit

(2) Unless permitted by the regulations where a lender represents or causes to be represented in a printing, broadcast or other publication, any terms of a credit transaction other than a charge for credit, the lender shall also include or cause to be included all other relevant terms of the credit transaction including Disclosure of terms in advertising

(a) the sum to be actually received in cash by the borrower or the actual cash price of the goods;
(b) the amount of the down payment, if any;
(c) the amount of each instalment; and
(d) the number of instalments required to repay the total indebtedness including the cost of borrowing.

(3) No lender shall represent his charge for credit or cause such charge to be represented unless the representation includes the full cost of borrowing and is expressed in the manner required by section 16. R.S.P.E.I. 1974, Cap. C-17, s.21. Disclosure of full costs of borrowing

21. This Act applies notwithstanding any agreement or waiver to the contrary. R.S.P.E.I. 1974, Cap. C-17, s.22. Application of Act

22. Except as otherwise provided in this Act, the assignee of any rights of a credit grantor in any transaction to which this Act applies has no greater rights than, and is subject to the same obligations, liabilities and duties as, the assignor, and this Act applies equally to such an assignee, but the liability of the assignee is limited to the total amount owing under the agreement at the date of assignment. R.S.P.E.I. 1974, Cap. C-17, s.23. Assignee, rights

23. The rights of a buyer or borrower under this Act are in addition to any rights of the buyer or borrower under any other Act or by the operation of law and nothing in the Act shall be construed to derogate from such rights. R.S.P.E.I. 1974, Cap. C-17, s.24. Rights under this Act are additional

24. (1) Every person who violates or fails to comply with any provision of this Act or the regulations or an order or direction given under this Act or the regulations and every director of a corporation who knowingly concurs in a violation or failure to comply with any provision of this Act or the regulations or an order or direction given under this Act or the Penalties

regulations is guilty of an offence and liable on summary conviction to a penalty of not more than $2,000 or to imprisonment for a term of not more than one year, or both.

Corporation convicted

(2) Where a corporation is convicted of an offence under subsection (1) it is liable to a penalty of not more than $25,000. R.S.P.E.I. 1974, Cap. C-17, s.25.

Information may be laid, when

25. Notwithstanding any other Act, any information for an offence under this Act may be laid at any time within three years from the time when the offence or act was committed. R.S.P.E.I. 1974, Cap. C-17, s.26.

Prima facie evidence

26. Repealed by 1994, c.48, s.7.

Appeals from decision of Registrar

27. Any person aggrieved by a decision, order or direction of the Registrar may within thirty days after receiving notice of the decision, order or direction, appeal therefrom to a judge of the Supreme Court and the judge on the hearing of the appeal may confirm, vary or set aside the decision, order or direction. R.S.P.E.I. 1974, Cap. C-17, s.28; 1981, c.36, s.4.

Regulations

28. The Lieutenant Governor in Council may make regulations

(a) - (e) repealed by 1994, c.48, s.7;

(f) declaring that this Act does not apply to a buyer or seller or class of buyers or sellers, or to a borrower or lender or a class of borrowers or lenders;

(g) providing for approval of forms of agreement, assignments and other instruments and documents to be used by lenders;

(h) requiring any class of lenders to submit forms of credit agreements, instruments and other documents used by him or them to the Registrar for approval;

(i) requiring the use by lenders of credit agreements, instruments and other documents that are in a form approved by the Registrar and prohibiting the use by any class of lenders of such agreements, instruments or documents that are not in a form approved by the Registrar;

(j) prescribing the manner in which the cost of borrowing stated as a percentage shall be calculated and expressed by any class of lenders which may be different for different classes of lenders or for different types of businesses carried on by lenders;

(k) regulating forms of advertising by lenders relating to the extension of credit;

(l) prescribing the form and content of records relating to lending to be kept by lenders, and the length of time for which they must be kept;

(m) - (n) repealed by 1994, c.48, s.7;

(o) prescribing fees for searches, certificates and other matters or services rendered or supplied by the Registrar;

(p) prescribing rules of conduct governing the collection of debts by persons who extend credit, their agents or employees, including the regulation or prohibition of the use of certain methods of collection. R.S.P.E.I. 1974, Cap. C-17, s.29; 1983, c.7, s.3; 1985, c.10, s.5; 1994, c.48, s.7.