

## **Nova Scotia Law Amendments Committee**

Presentation by Vincent Calderhead, Nova Scotia Legal Aid

### **Alberta: Fair Trading Act: "Collection and Debt Repayment Practices Regulation"**

#### **12(1) No collection agency or collector may**

(c) if a collection agency,

(ii) when using an automated call system, **fail to provide a contact number for the debtor to call** when leaving a message;

(g) make any personal call or telephone call for the purpose of collecting or attempting to collect a debt on any day except between 7 a.m. and 10 p.m. **in Alberta**; [Note: NS does not specify the time zone]

(j) **give any person, directly or indirectly, by implication or otherwise, any false or misleading information, including, but not limited to, references to the police, a law firm, jail, credit history, court proceedings or a lien or garnishment;**

(p) **communicate information about the debt or the existence of the debt with any person except the debtor, a guarantor of the debt, the debtor's representative or the creditor of the debt unless the debtor has expressly consented to the communication;**

(q) **indicate to the debtor or any other person contacted for the purpose of collecting the debtor's debt that the collection agency or the collector is part of a law firm or the legal department of a business, including a legal department of the collection agency itself or of the creditor of the debt;**

(r) **if a collector, indicate to a debtor that the collector is a legal collector, litigation specialist or the like;**

(x) **pursue a non-judgment debt where the last payment or written acknowledgement by the debtor is more than 6 years previous;**

### **British Columbia: Business Practices and Consumer Protection Act**

**114 (1)** A collector must not communicate or attempt to communicate with a debtor, a member of the debtor's family or household, a relative, neighbour, friend or acquaintance of the debtor, or the debtor's employer in a manner or with a frequency as to constitute harassment.

(2) Without limiting subsection (1), one or more of the following constitutes harassment:

- (a) using threatening, profane, intimidating or coercive language;
- (b) exerting undue, excessive or unreasonable pressure;

**116** (1) A collector must not communicate or attempt to communicate with a debtor at the debtor's place of employment unless

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**(4) A collector must not continue to communicate with a debtor**

- (a) except in writing, if the debtor
  - (i) has notified the collector to communicate in writing only, and
  - (ii) has provided a mailing address at which the debtor may be contacted,

**118** (1) In this section, "statutory holiday" means a holiday, except Sunday, unless the holiday falls on a Sunday.

(2) Except on the request of the person contacted, a collector must not communicate, either by telephone or in person, with the debtor, a member of the debtor's family or household, or a relative, neighbour, friend or acquaintance of the debtor, or the debtor's employer or guarantor

- (a) on a statutory holiday,
- (c) on any other day, except between the hours of 7 a.m. and 9 p.m. local time for the person contacted.

**New Brunswick:            *General Regulation-Collections Agencies Act***

***(NEW BRUNSWICK REGULATION 84-256 under the Collection Agencies Act (O.C. 84-907)***

14(1) Subject to subsection (3), no collection agency, branch office of a collection agency or collector shall

- (b) subject to paragraphs (c) and (d), communicate or attempt to communicate with any person other than the debtor for any purpose in relation to the debt or debtor,

**(c) communicate or attempt to communicate with the debtor or any other person at the place of employment of the debtor for any purpose in relation to the debt or debtor, except with the debtor's approval,**

**(d) except on the request of the person being contacted, make a telephone call to, or a personal call on, a debtor, any member of the debtor's family or household, any relative, neighbour, friend or acquaintance of the debtor, or the debtor's employer or guarantor,**

**(ii) on a holiday other than a Sunday, or**

**(iii) on any other day, other than between the hours of 7 a.m. and 9 p.m. local time for the person being contacted,**

**(l) continue to communicate with a debtor,**

**(i) other than in writing, if the debtor has provided written notice to the collection agency, branch office of a collection agency or collector to communicate with the debtor in writing only and has provided the collection agency, branch office or collector with an address at which the debtor may be contacted,**

**(n) request that a debtor waive any rights, benefits or protection provided under this Regulation.**

**Newfoundland and Labrador: Collections Regulations under the *Collections Act* (O.C. 96-156)**

12. (1) In accordance with the following Code of Practice, a collection agency or collector shall not, in an attempt to make collections,

**(a) where the debtor is an employee, contact the debtor by telephone, mail or in person at the debtor's place of employment;**

**(b) contact the employer of the debtor without the debtor's consent;**

**(e) use coercive language, threaten loss of employment or loss of community ranking;**

**Quebec: *An Act respecting the collection of certain debts***

**3. No person may, for the collection of a debt,**

**(1) represent that, failing payment, the debtor is liable to arrest or penal proceedings;**

**Yukon: Consumer Protection Act**

**72 No person, whether on their own behalf or on behalf of another directly, or through others, shall**

**(d) verbally or in writing, collect or attempt to collect money or effect or attempt to effect seizure of goods by stating an intention or threat to proceed with any action for which the person does not have lawful authority;**

**NWT: Debt Collection Practice Regulations, (NWT Reg 049-2003)**

12. (1) No collection agency and no collector acting for a collection agency shall continue to communicate with a debtor, other than in writing, after the debtor has, in writing,

(a) requested the collection agency to communicate with the debtor only in writing; and

(b) provided the collection agency with an address at which the debtor may be contacted.

**Proposals for Additional Prohibited Practices**

- **1) A provision providing for *Successor Obligations* on Collection Agencies:**
  - Many collection agencies pass along/re-sell/transfer collection of the debt to other collection agency companies as soon as they learn that the debtor has legal counsel—this allows the new company the ability to evade the clear provisions in the current s. 20 (1)(e) of the *Collection Agencies Act* which prohibits collectors from contacting a debtor where they have been told in writing to ‘contact the debtor’s legal counsel.’
  
- 2) A provision prohibiting the collection of stale (i.e., statute barred) debts**