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**Payday Lenders Regulations
made under Section 18U of the
*Consumer Protection Act***

R.S.N.S. 1989, c. 92

**O.I.C. 2009-324 (July 17, 2009, effective August 1, 2009), N.S. Reg. 248/2009
as amended up to O.I.C. 2013-105 (March 28, 2013, effective June 1, 2013), N.S. Reg. 86/2013**

Citation

1 These regulations may be cited as the *Payday Lenders Regulations*.

Definitions for Act and regulations

2 (1) In these regulations,

- (a) “Act” means the *Consumer Protection Act*;
- (b) “APR” means the annual percentage rate, which is the percent that the cost of borrowing is to the amount borrowed expressed as an annual rate;
- (c) “Board” means the Nova Scotia Utility and Review Board;
- (d) “Canadian Payments Association” means the association established under the *Canadian Payments Act* (Canada);
- (e) “cash card” means a card or other device, other than a credit card, that can be used to obtain cash or purchase goods or services issued by a payday lender to a borrower of a payday loan instead of advancing cash or transferring money to the borrower;
- (f) “repeat loan” means a payday loan granted to a borrower 24 hours or less after they repay a prior payday loan granted to them.

Clause 2(1)(f) added: O.I.C. 2011-369, N.S. Reg. 288/2011.

- (2) In Sections 18A to 18U of the Act and in these regulations, “security” includes real or personal property or an interest in real or personal property.

Application of *Consumer Protection Act Regulations* to payday lenders

3 The *Consumer Protection Act Regulations* apply to payday lenders, except for the following provisions of those regulations:

- (a) clause 3(1)(b), respecting the fee for a permit;
- (b) subsections 6(1) to (5), respecting hearings for refusing, cancelling or suspending [a] permit;

- (c) Section 11, respecting disclosing the percentage rate for each period during a term of credit;
- (d) Sections 15 to 20, respecting variable rates and credit.

Application of regulations to agents of lenders

- 4** An agent of a lender who is responsible for dealing with borrowers and prospective borrowers on behalf of a payday lender must comply with all the provisions of the Act and the regulations made under the Act that apply to payday lenders, except that an agent of a lender is not required to hold a permit under Section 18E of the Act.

Information to accompany application for permit

- 5 (1)** An applicant for a permit as a payday lender must submit all of the following with their application for a permit:
- (a) for each loan option offered by the payday lender, a completed sample loan agreement for a \$300 loan for a 14-day term that shows that the cost of borrowing and any charges do not exceed the maximums set by the Board and includes contact information, including a telephone number, for the payday lender and contact information for Service Nova Scotia and Municipal Relations as supplied by the department, together with the following statement: “Payday loans are regulated by government, for more information on the regulation of payday lenders or to register a complaint, contact: *(insert contact information as supplied)*.”;

Clause 5(1)(a) amended: O.I.C. 2011-369, N.S. Reg. 288/2011.

- (b) a form that a borrower may use to give written notice of cancellation of a payday loan to the lender;
- (c) a form of the receipt the lender uses to acknowledge receipt of what was paid or returned by a borrower when cancelling a loan;
- (d) except as provided in subsection (2), all of the following information, in Form A, on loans granted by the payday lender from the location specified in their permit for the 12-month period from July 1 to June 30 immediately before the date of the permit renewal:
 - (i) the number of loans granted,
 - (ii) the average size of loans granted,
 - (iii) the number of defaults on loans granted,
 - (iv) the average size of loans defaulted,
 - (v) the number of borrowers who have been granted more than 1 loan,
 - (vi) the number of repeat loans granted,
 - (vii) the total number of borrowers who have been granted repeat loans,
 - (viii) the number of borrowers who have been granted repeat loans, for the following number of times:
 - (A) 1 time,
 - (B) 2 times,
 - (C) 3 times,

- (D) 4 times,
- (E) 5 times,
- (F) 6 times,
- (G) 7 times,
- (H) 8 or more times.

Clause 5(1)(d) replaced: O.I.C. 2011-369, N.S. Reg. 288/2011.

Section 5 renumbered 5(1): O.I.C. 2011-369, N.S. Reg. 288/2011.

- (2) For permit renewals from July 1, 2012, to June 30, 2013, Form B must be used and the following information supplied:
 - (a) the information in subclauses (1)(d)(i) to (iv) for the entire 12-month period from July 1, 2011, to June 30, 2012; and
 - (b) the additional information in subclauses (1)(d)(v) to (viii) for the 6-month period from January 1, 2012, to June 30, 2012.

Subsection 5(2) added: O.I.C. 2011-369, N.S. Reg. 288/2011.

Permit fee

6 The annual fee for a permit and renewal of a permit as a payday lender is \$3237.50.

Section 6 amended: O.I.C. 2013-105, N.S. Reg. 86/2013.

Changes to loan agreement

7 A payday lender must submit any changes to its loan agreement, and a completed sample of the loan agreement as required by clause 5(1)(a), to the Registrar at least 21 days before the revised loan agreement is used.

Section 7 amended: O.I.C. 2012-115, N.S. Reg. 87/2012.

Signs displaying rates and fees for payday loans

- 8 (1)** The display of rates and fees for payday loans required by Sections 180 of the Act must be in the form of a sign that is immediately visible to persons when entering the payday lender's place of business.
- (2)** Signs required by subsection (1) must be a minimum of 61 cm wide by 76 cm high and shall contain lettering in a colour clearly contrasting with the background.
- (3)** A sign displaying rates and fees must contain the following information only:
 - (a) the heading "Payday Loans are High-Cost Loans" in letters that are at least 3 cm in height;
 - (b) immediately under the heading in clause (a), the subheading "Example: \$300 loan for 14 days" in letters that are at least 2.5 cm in height;
 - (c) immediately under the subheading in clause (b), the following lines of text in letters that are at least 2.5 cm in height:
 - (i) "Principal Amount \$300.00",
 - (ii) "Total Cost of Borrowing" followed by the total cost of borrowing in dollars and cents for \$300,

- (iii) “Total to Repay” followed by the sum of \$300 and the total cost of borrowing in dollars and cents for \$300,
 - (iv) “Annual Percentage Rate–APR” followed by the annual percentage rate for \$300.
- (4) A payday lender that offers more than one loan option, resulting in differing total costs of borrowing or annual percentage rates for a \$300, 14-day loan, must include the total costs of borrowing, totals to repay and annual percentage rates for each loan option offered by the payday lender in the manner described in clause (c) on any sign displaying the rates and fees under this Section.

Payday lender must display rates and fees for Internet payday loans

8A (1) A payday lender that offers, arranges or provides Internet payday loans must display on the payday lender’s website a notice that contains the information required by subsections 8(3) and (4) displayed in a clear and understandable manner in a colour clearly contrasting with the background.

- (2) The notice referred to in subsection (1) must be made visible to borrowers
 - (a) at or near the top of the introductory page of the website for borrowers in Nova Scotia; and
 - (b) in a location on the website that comes before the payday loan application.

Section 8A added: O.I.C. 2012-115, N.S. Reg. 87/2012.

Payday lender must display permit

8B A payday lender must prominently display its permit at the location specified in its permit from which the payday lender offers, arranges or provides payday loans.

Section 8B added: O.I.C. 2012-115, N.S. Reg. 87/2012.

Payday lender of Internet payday loans must display permit information

8C A payday lender that offers, arranges or provides Internet payday loans must prominently display all of the following permit information at or near the top of the introductory page of the payday lender’s website for borrowers in Nova Scotia:

- (a) the business name or style as specified in the permit;
- (b) the permit number;
- (c) the permit expiry date.

Section 8C added: O.I.C. 2012-115, N.S. Reg. 87/2012.

Disclosures to borrower

9 (1) The information required by clauses 18I(a) to (j) of the Act and the following information must be provided by the payday lender to a borrower in the loan agreement when a payday lender gives a borrower funds or access to funds under a payday loan:

- (a) all of the following information for the payday lender and any agent of the lender representing the payday lender to the borrower:
 - (i) name,
 - (ii) business address,

- (iii) mailing address,
 - (iv) telephone number,
 - (v) fax number,
 - (vi) e-mail address;
- (b) the borrower's name and address;
 - (c) the date that the advance is made or a cash card is provided;
 - (d) the amount of the advance;
 - (e) the term of the loan;
 - (f) the date on which repayment is due or, if repaid by installments, the dates on which payments are due;
 - (g) an itemization of all fees, charges, commissions, interest, penalties and any other amount to be paid or that could be paid by the borrower;
 - (h) a statement of the borrower's right to obtain a copy of the loan agreement from the lender at any time upon request;
 - (i) if a cash card is issued to a borrower, the terms and conditions of the cash card, including all of the following:
 - (i) the amount of credit available on the cash card,
 - (ii) any date the cash card expires,
 - (iii) that charges by a third party may apply for using the cash card at locations other than the payday lender.
- (2) The copy of the loan agreement required by clause 18I(1) of the Act must be signed by both the borrower and the lender.
- (3) A payday lender must provide a prospective borrower with the cost of borrowing, and may require only that the borrower give their name in return for the information.

Advertising

9A (1) A payday lender must include all of the following in its payday loan advertisements:

- (a) the total cost of borrowing for a payday loan, expressed in dollars and cents per \$100 for a 14-day loan;
- (b) the statement "Payday Loans are High-Cost Loans".

- (2) The information required by clauses (1)(a) and (b) must be displayed at least as prominently as any other representation in an advertisement and in the same manner as other representations are made, whether visually or aurally or both.

Section 9A added: O.I.C. 2011-369, N.S. Reg. 288/2011.

Form for written notice of cancellation must be given to borrower

- 10 When a payday lender gives a borrower funds or access to funds under a payday loan, the payday lender must give the borrower the form submitted under clause 5(1)(b) for the borrower to use to notify the lender in writing of cancellation of the loan.

Section 10 amended: O.I.C. 2012-115, N.S. Reg. 87/2012.

Balance remaining on cash cards

- 11 (1) At the request of the borrower, the balance remaining on a cash card, even if expired, must be applied towards repaying the payday loan.

- (2) When a payday loan has been repaid, a borrower is entitled to receive any amount remaining on the cash card from the payday lender, whether or not the cash card has expired.

Rules for when repayment by pre-authorized debit dishonoured

- 12 The rules of the Canadian Payments Association for rejected transactions apply when an attempt to obtain repayment by pre-authorized debit is dishonoured.

One form of repayment only

- 13 A payday lender must not require more than 1 form of repayment from a borrower.

Borrower must not be required to repay loan earlier than borrower's payday

- 14 (1) A payday lender must not set the due date for repaying a payday loan any earlier than the borrower's next payday.

- (2) In subsection (1), "the borrower's next payday" means the next day that the borrower's regular wages, compensation or other income, including employment income, income assistance, unemployment insurance or other income guarantee, is paid to the borrower.

Receipts for repayment of loan

- 15 (1) A receipt issued by a payday lender under Section 18M of the Act must be in duplicate so there are copies for both the lender and the borrower.

- (2) With the borrower's consent, the borrower's bank records satisfy the requirement for a payday lender to issue a receipt under Section 18M of the Act for any form of repayment of a payday loan other than repayment in cash.

Wage assignments not used to facilitate loans

- 16 A payday lender must not request or accept a wage assignment, or an assignment of any other kind of income, to facilitate repaying a payday loan.

Future payments not to exceed total amount of loan

17 A payday lender must not require a borrower to provide pre-authorized debits or future payments of a similar nature for an amount greater than the amount necessary to repay the payday loan on the due date.

Charges included in cost of borrowing

18 (1) Any charges or fees that a payday lender requires a borrower to pay in relation to the advance of a payday loan, except for penalties or charges relating to renewals or extensions, must be included in the cost of borrowing, including the following:

- (a) interest;
- (b) administration fees;
- (c) commissions;
- (d) cheque cashing fees on cheques used to repay a payday loan, even if the loan is past due;
- (e) fees related to pre-authorized debits used to repay a payday loan, even if the loan is past due;
- (f) fees relating to issuing and loading a cash card, even if payable to a third party;
- (g) cash card transaction fees charged at the payday lender's place of business;
- (h) agent of lender or broker fees.

(2) A payday lender must not charge for any default by a borrower of a payday loan except as permitted by an order of the Board under Section 18T of the Act and disclosed to the borrower in the loan agreement.

Loan must not be contingent on other purchase

19 A payday lender must not make a payday loan contingent on purchasing any product or service, including insurance.

When refund must be paid under subsection 18P(4) of Act

20 In subsection 18P(4) of the Act, "immediately upon demand by the borrower or by the Registrar" means at the time that a request is made for a refund in person at the payday lender's place of business, or no later than the next business day if the request is made other than in person.

Time period for borrower to cancel loan advanced using cash card

21 For a payday loan that is advanced by means of a cash card, the time before which a borrower may cancel a loan under subsection 18Q(1) of the Act is the end of the business day immediately after the day when the cash card is capable of being used to obtain cash or purchase goods or services.

Records retained by payday lender

22 (1) In accordance with Sections 18M and 18S of the Act, copies of loan agreements and receipts issued to borrowers for loan repayments and on cancellation of loans must be retained for a minimum of 3 years from the date the loan was advanced or the receipt was issued.

(2) If a receipt is not issued to a borrower for repayment of a payday loan in accordance with subsection 15(2), records of repayment must be retained by the payday lender for a minimum of 3 years from the date the payment was received.

- (3) A payday lender's record retention system must be capable of providing an inspector with the particulars of all loans advanced in any period during the previous 3 years, including all of the following:
 - (a) the name and address of each borrower;
 - (b) each charge and payment relative to each loan;
 - (c) whether the loan is paid-out or outstanding.
- (4) The records referred to in this Section must be maintained or made available for inspection on demand at the location specified in the permit.

Subsection 22(4) added: O.I.C. 2012-115, N.S. Reg. 87/2012.

Remedies for contraventions of Section 18N of Act

- 23** (1) If a payday lender charges a borrower a fee for repaying a payday loan before the due date in contravention of clause 18N(g) of the Act, the borrower is entitled to a refund of any amount paid that exceeds the total amount borrowed.
- (2) If a payday lender deducts or withholds a portion of the cost of borrowing from an advance under a payday loan in contravention of clause 18N(d) of the Act, the borrower is not liable to pay the lender any amount that exceeds the advance less the portion deducted or withheld, and is entitled to a refund of any amount paid that exceeds the advance less the portion deducted or withheld.
- (3) If a payday lender grants a rollover of a payday loan in contravention of clause 18N(h) of the Act, the borrower is entitled to a refund of any amount paid that exceeds the total amount borrowed and, if the rollover is an advancement of a new payday loan to pay out an existing payday loan, the borrower is not liable to pay the payday lender any amount that exceeds the principal of the existing payday loan.

Form A

(for permit renewals on and after July 1, 2013)

**Information Required for Each Payday Lender Location for the
12-month Period from July 1 to June 30
(pursuant to Section 5 of the *Payday Loan Regulations*)**

Information about payday lender

Payday lender business name: _____
 Location civic address: _____
 Location mailing address: _____
 Permit number: _____

Information about payday loans

All of the following information must be completed in accordance with Section 5 of the *Payday Loan Regulations*:

1. Number of loans granted _____

- 2. Average size of loans granted _____
- 3. Number of defaults on loans granted _____
- 4. Average size of loans defaulted _____
- 5. Number of borrowers who have been granted more than one loan _____
- 6. Number of repeat loans granted _____

(Note: A repeat loan is defined as a payday loan granted to a borrower 24 hours or less after they repay a prior payday loan granted to them.)

- 7. Total number of borrowers who have been granted repeat loans _____
- 8. Number of borrowers who have been granted repeat loans, for the following number of times:
 - (A) 1 time _____
 - (B) 2 times _____
 - (C) 3 times _____
 - (D) 4 times _____
 - (E) 5 times _____
 - (F) 6 times _____
 - (G) 7 times _____
 - (H) 8 or more times _____

(Note: Do not include a borrower more than once in the totals here – include them only in the count for the total number of times they have been granted repeat loans.)

Form A added: O.I.C. 2011-369, N.S. Reg. 288/2011.

Form B

(for permit renewals from July 1, 2012, to June 30, 2013, only)

Information Required for Each Payday Lender Location

(pursuant to Section 5 of the *Payday Loan Regulations*)

Information about payday lender

- Payday lender business name: _____
- Location civic address: _____
- Location mailing address: _____
- Permit number: _____

Information about payday loans

All of the following information must be completed in accordance with Section 5 of the *Payday Loan Regulations*:

For the 12-month period from July 1, 2011, to June 30, 2012:

- 1. Number of loans granted _____

- 2. Average size of loans granted _____
- 3. Number of defaults on loans granted _____
- 4. Average size of loans defaulted _____

For the 6-month period from January 1, 2012, to June 30, 2012:

- 5. Number of borrowers who have been granted more than one loan _____
- 6. Number of repeat loans granted _____

(Note: A repeat loan is defined as a payday loan granted to a borrower 24 hours or less after they repay a prior payday loan granted to them.)

- 7. Total number of borrowers who have been granted repeat loans _____
- 8. Number of borrowers who have been granted repeat loans, for the following number of times:

- (A) 1 time _____
- (B) 2 times _____
- (C) 3 times _____
- (D) 4 times _____
- (E) 5 times _____
- (F) 6 times _____
- (G) 7 times _____
- (H) 8 or more times _____

(Note: Do not include a borrower more than once in the totals here – include them only in the count for the total number of times they have been granted repeat loans.)

Form B added: O.I.C. 2011-369, N.S. Reg. 288/2011.