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(Consolidated up to 140/2014)

## ALBERTA REGULATION 178/99

### Fair Trading Act

#### DESIGNATION OF TRADES AND BUSINESSES REGULATION

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#### **Automotive business**

**1(1)** Part 10 of the *Fair Trading Act* applies to the automotive business.

**(2)** In this section,

(a) “automotive business” means the activities of

- (i) buying or selling vehicles, whether as a retailer or wholesaler, including the selling of vehicles on consignment,
- (ii) leasing vehicles when the term of the lease is for more than 120 days,
- (iii) negotiating or conducting on a consumer’s behalf an agreement in which the consumer buys, sells or leases a vehicle,
- (iv) recycling or dismantling vehicles, or
- (v) installing parts or equipment in, repairing or servicing vehicles;

(b) “vehicle” means

- (i) a motor vehicle as defined in the *Traffic Safety Act*, but does not include a motor cycle or off-highway vehicle as defined in that Act, and
- (ii) a recreational vehicle intended to be towed that combines transportation and temporary living accommodations for the purpose of travel or camping.

**(3)** For the purposes of this section, the automotive business does not include

- (a) the selling of vehicles by manufacturers to dealers,
- (b) cleaning or polishing the exterior or interior of vehicles, or
- (c) repairing chips or cracks in the windshield or any window of a vehicle and that does not involve replacing the windshield or window.

AR 178/99 s1;221/2004;8/2006

### Marketing of gas business

**2(1)** Part 10 of the *Fair Trading Act* applies to the marketing of gas business.

**(2)** In this section,

- (a) “consumer” means a person who enters into a marketing contract to purchase less than 2500 gigajoules of gas per year;
- (b) “gas” means gas as defined in the *Gas Utilities Act*;
- (c) “gas distributor” means a gas distributor as defined in section 28 of the *Gas Utilities Act*;
- (d) “Internet” means the decentralized global network connecting networks of computers and similar devices to each other for the electronic exchange of information;
- (e) “Internet marketing contract” means a marketing contract formed by text-based Internet communications;
- (f) “marketer” means a person who is engaged in the marketing of gas business;
- (g) “marketing contract” means a contract under which a consumer obtains gas or any other retail gas services from a marketer;
- (h) “marketing of gas business” means the activities
  - (i) of soliciting, negotiating, concluding or performing the whole or any part of a marketing contract on behalf of a consumer, or
  - (ii) of soliciting a person in any manner for the purpose of having that person enter into a marketing contract or of negotiating, concluding or performing the whole or any part of a marketing contract;
- (i) “retail gas services” means retail gas services as defined in section 28 of the *Gas Utilities Act*.

AR 178/99 s2;251/2001;144/2004;8/2006

### Marketing of electricity business

**2.1(1)** Part 10 of the *Fair Trading Act* applies to the marketing of electricity business.

**(2)** In this section,

- (a) “consumer” means a person who enters into a marketing contract to purchase less than 250 MWh of electricity in a year;
- (b) “electricity” means electricity as defined in the *Electric Utilities Act*;
- (c) “electricity services” means the services associated with the provision of electricity to a consumer;
- (d) “Internet” means the decentralized global network connecting networks of computers and similar devices to each other for the electronic exchange of information;
- (e) “Internet marketing contract” means a marketing contract formed by text-based Internet communications;
- (f) “marketer” means a person who is engaged in the marketing of electricity business;

- (g) “marketing contract” means a contract under which a consumer obtains either or both of
- (i) a supply of electricity from a marketer, or
  - (ii) electricity services from a marketer,
- but does not include a contract for electricity or electricity services from an owner or a contract with a consumer assigned to a default supplier as appointed under section 3 of the *Roles, Relationships and Responsibilities Regulation, 2003* (AR 169/2003);
- (h) “marketing of electricity business” means the activities
- (i) of soliciting, negotiating, concluding or performing the whole or any part of a marketing contract on behalf of a consumer, or
  - (ii) of soliciting a person in any manner for the purpose of having that person enter into a marketing contract or of negotiating, concluding or performing the whole or any part of a marketing contract;
- (i) “owner” means
- (i) the owner of an electric distribution system, or
  - (ii) if the owner makes arrangements under which one or more other persons perform any or all of the duties or functions of the owner, the owner and those one or more other persons;
- (j) “wire services provider” means a wire services provider within the meaning of the *Electric Utilities Act*.

AR 93/2000 s2;144/2004;8/2006

### Direct selling business

**3(1)** Part 10 of the *Fair Trading Act* applies to the direct selling business.

**(2)** In this section, “direct selling business” means the activities of soliciting, negotiating or concluding in person, at any place other than the seller’s place of business, sales contracts, including direct sales contracts to which Part 3 of the *Fair Trading Act* applies, for the provision of goods or services, where the buyer is a consumer.

**(3)** For the purposes of this section, the direct selling business does not include

- (a) a farmer or member of the farmer’s family engaging in the selling of farm products raised on their farm in Canada,
- (b) an employee of the farmer who engages in the selling of farm products raised in Canada on the farm of that farmer, where the employee has the authority of the farmer to sell the farm products on the farmer’s behalf,
- (c) a person who sells food or food products that are in a perishable state at the time of delivery to the consumer,
- (d) a student in full-time attendance at an elementary school, junior high school, high school, college, technical institute or university who sells goods or services if
  - (i) the governing body of the school in which the student is registered approves the scheme of selling,
  - (ii) consideration for sales made by the student is paid into the school savings fund administered by the principal of the school in which the student is registered, and
  - (iii) no remuneration is paid to the student for selling the goods or services,
- (e) a person who sells goods at a street or road location or in a park,
- (f) a person soliciting, negotiating or concluding a sales contract at a market place, auction, trade fair,

- agricultural fair or exhibition,
- (g) a person trading in securities or exchange contracts who is registered to do so under the *Securities Act*,
  - (h) a person selling, leasing or renting or offering for sale, lease or rent a lot, plot, compartment, crypt or other space in a cemetery, columbarium or mausoleum, if the person is licensed to do so under the *Cemeteries Act*,
  - (i) a person undertaking to provide or make provision for another's funeral services under a funeral services contract or soliciting another person to enter into a funeral services contract, if the person is licensed to do so under the *Funeral Services Act*,
  - (j) an insurer or reciprocal insurance exchange acting under the authority of a licence issued under the *Insurance Act* or a person acting under a certificate of authority issued under the *Insurance Act*,
  - (k) a bank carrying out an activity authorized under the *Bank Act* (Canada),
  - (l) a loan corporation or trust corporation carrying out an activity authorized under the *Loan and Trust Corporations Act*,
  - (m) a credit union carrying out an activity authorized under the *Credit Union Act*,
  - (n) a person authorized under the *Real Estate Act* to trade in real estate as a real estate broker,
  - (o) a person authorized under the *Real Estate Act* to deal as a mortgage broker,
  - (p) a person who makes a solicitation as defined in the *Charitable Fund-raising Act* and is licensed or registered under that Act or is permitted to make such a solicitation without having to be licensed or registered under that Act,
  - (q) a person selling or offering for sale material or apparatus intended to be used for the protection of buildings from damage by lightning, or installing such material or apparatus on a building, who is approved for that purpose by the Administrator of Fire Safety, Government of Alberta,
  - (r) a person maintaining or operating a school or providing correspondence courses for the purpose of giving instruction or training in a vocation, or an agent of that person, who holds a licence for that purpose under the *Private Vocational Schools Act*,
  - (s) a person who drills a water well or sells services to maintain a water well, if the person holds a Class A, B or D approval for water wells under the *Water (Ministerial) Regulation* (AR 205/98),
  - (t) a person who is engaged in the direct marketing of gas business as designated under section 2 and is licensed under the *Energy Marketing and Residential Heat Sub-metering Regulation* (AR 246/2005),
  - (u) a person who is engaged in the prepaid contracting business as designated under section 5 and is licensed under the *Prepaid Contracting Business Licensing Regulation*,
  - (v) a person who is engaged in the retail home sales business as designated under section 6 and is licensed under the *Retail Home Sales Business Licensing Regulation*,
  - (w) a person who is engaged in the marketing of electricity business as designated under section 2.1 and is licensed under the *Energy Marketing and Residential Heat Sub-metering Regulation* (AR 246/2005), or
  - (x) a person who is engaged in the time share business as designated under section 6.3 and is licensed under the *Time Share and Points-based Contracts and Business Regulation*.

AR 178/99 s3;93/2000;221/2004;246/2005;8/2006;66/2009;98/2010;  
45/2014;140/2014

### Employment agency business

- 4(1)** Part 10 of the *Fair Trading Act* applies to the employment agency business.
- (2)** In this section, “employment agency business” means any of the following activities:
- (a) securing or attempting to secure individuals in Alberta for employment;
  - (b) securing or attempting to secure employment in Alberta for individuals;
  - (c) evaluating or testing an individual, or arranging for an individual to be evaluated or tested, for skills or knowledge required for employment by an employer where the individual or the employment is located in Alberta;
  - (d) any activities specified under the *Employment Agency Business Licensing Regulation* as activities that constitute engaging in the employment agency business.
- (3)** For the purposes of this section, the employment agency business does not include
- (a) the activities of a school licensed under the *Private Vocational Training Act* with respect to securing or attempting to secure employment for students or graduates of the school,
    - (a.1) the activities of a
      - (i) public post-secondary institution, or
      - (ii) publicly funded private college,  
as defined in the *Post-secondary Learning Act*, with respect to securing or attempting to secure employment for students of the public post-secondary institution or publicly funded private college,
    - (a.2) the activities of an organization that is funded by government to assist individuals in securing employment,
    - (a.3) the activities of an employer with respect to securing or attempting to secure employees or evaluating or testing potential employees for skills or knowledge required for employment by the employer,
    - (a.4) the activities of an industry association with respect to securing or attempting to secure employees for its members, or evaluating or testing potential employees for skills or knowledge required for employment by its members, if
      - (i) the Minister has designated the industry association as an industry association to which this clause applies, and
      - (ii) no fee, reward or other compensation is directly or indirectly demanded or collected from the employees or potential employees or from another person on behalf of the employees or potential employees,
    - (a.5) the activities of a board or commission established under the *Marketing of Agricultural Products Act* with respect to securing or attempting to secure employees for producers under the plan administered by the board or commission under that Act, or evaluating or testing potential employees for skills or knowledge required for employment by producers under that plan, if no fee, reward or compensation is directly or indirectly demanded or collected from the employees or potential employees or from another person on behalf of the employees or potential employees,
  - (b) the operation of a trade union within the meaning of the *Labour Relations Code* or the *Public Service Employee Relations Act*, or
  - (c) repealed AR 133/2009 s2,
  - (d) securing employment for athletes or performing artists in their area of expertise in athletics or the performing arts.

**Payday loan business**

**4.1(1)** Part 10 of the *Fair Trading Act* applies to the payday loan business.

**(2)** In this section,

- (a) “payday lender” means a person who offers, arranges or provides payday loans;
- (b) “payday loan” means an advancement of money with a principal of \$1500 or less and a term of 62 days or less, made in exchange for a post-dated cheque, a pre-authorized debit or a future payment of a similar nature, but not for any guarantee, suretyship, overdraft protection or security on property and not through a margin loan, pawnbroking, a line of credit or a credit card;
- (c) “payday loan business” means the activity of offering, arranging or providing payday loans by a payday lender.

AR 147/2009 s2

**Prepaid contracting business**

**5(1)** Part 10 of the *Fair Trading Act* applies to the prepaid contracting business.

**(2)** In this section,

- (a) “construction or maintenance contract” means a contract for the purpose of
  - (i) constructing, altering, maintaining, repairing, adding to or improving
    - (A) a building that is used or is to be used by the owner, occupier or person in control of it as the owner’s, occupier’s or person’s own private dwelling, or
    - (B) a structure that is to be used in connection with a building referred to in paragraph (A) and that is located on the same parcel as that building,
  - or
  - (ii) altering, maintaining or improving real property to be used in connection with a building or structure referred to in subclause (i),
 but does not include a contract referred to in subsection (3);
- (b) “prepaid contract” means a construction or maintenance contract in which all or part of the contract price is to be paid before all the goods or services called for in the contract are provided;
- (c) “prepaid contracting business” means the activities of soliciting, negotiating or concluding in person, at any place other than the seller’s place of business, a prepaid contract.

**(3)** A construction or maintenance contract does not include

- (a) a contract in which the building, structure or real property that is to be constructed, altered, maintained, repaired, added to or improved is used or is to be used primarily for the business purposes of the owner, occupier or person in control of it,
- (b) a contract between any 2 of a general contractor, a subcontractor and a subtrade,
- (c) a contract for the construction of a home where the contract is covered by the Alberta New Home Warranty Program,
- (d) a contract for the construction or renovation of a home where the contract is covered by the National Home Warranty Programs, or

- (e) a contract for the drilling of a water well or a contract for the maintenance of a water well if the party to the contract who is to drill or maintain the water well holds a Class A, B or D approval for water wells under the *Water (Ministerial) Regulation* (AR 205/98).

AR 178/99 s5;8/2006

### **Retail home sales business**

**6(1)** Part 10 of the *Fair Trading Act* applies to the retail home sales business.

**(2)** In this section,

- (a) “manufactured home” means a home that is constructed
- (i) as an individual pre-assembled unit intended for delivery to a residential site, or
  - (ii) from a number of pre-assembled units that are intended for delivery to and assembly at a residential site;
- (b) “mobile home” means a portable dwelling that
- (i) is designed to be used as a residence,
  - (ii) is mounted on or otherwise attached to its own chassis and running gear, and
  - (iii) is capable of being transported on its own chassis and running gear by towing or other means;
- (c) “package home” means a home consisting of materials that are pre-cut or partially pre-assembled and that are intended for assembly, erection or construction into a home at a residential site;
- (d) “retail home sales business” means the activities of selling or the offering for sale of manufactured homes, mobile homes or package homes, or any of the units or materials constituting those homes, to an individual for use as a residence.

**(3)** For the purposes of this section, the retail home sales business does not include the sale of a manufactured home, mobile home or package home in accordance with the *Real Estate Act* by an agent licensed under that Act or by a salesman of an agent licensed under that Act.

AR 178/99 s6;8/2006

### **Travel club business**

**6.1(1)** Part 10 of the *Fair Trading Act* applies to the travel club business.

**(2)** In this section,

- (a) “travel club business” means the activities of soliciting, negotiating, concluding and performing travel club contracts;
- (b) “travel club contract” has the meaning given to it in the *Travel Clubs Regulation*.

AR 45/2002 s2;8/2006

### **Home inspection business and occupation**

**6.2(1)** Part 10 of the *Fair Trading Act* applies to

- (a) the home inspection business, and
- (b) the home inspection occupation.

**(2)** In this section,

- (a) “dwelling” means a residential dwelling and includes a garage or carport whether attached or not;

- (b) “home inspection” means an opinion as to the condition of a dwelling based primarily on a non-invasive examination of readily accessible features and components of the dwelling;
- (c) “home inspection business” means the activity of providing home inspection services to consumers;
- (d) “home inspection occupation” means the occupation of performing home inspections.

**(3)** For the purposes of this section, the home inspection business and the home inspection occupation do not include

- (a) the inspection of the common areas of a condominium property,
  - (b) the inspection of a dwelling to be used for commercial or business purposes, including its use as a rental property,
  - (c) the inspection of a dwelling that is conducted
    - (i) by a person participating in a home inspection training course offered by an educational institution approved by the Director if
      - (A) the consideration, if any, for the home inspection is paid to the educational institution, and
      - (B) no remuneration is paid to the person participating in the home inspection training course,
    - (ii) by a person as part of a test home inspection supervised by an educational institution approved by the Director if
      - (A) the consideration, if any, for the home inspection is paid to the educational institution, and
      - (B) no remuneration is paid to the person conducting the home inspection,
    - (iii) by a person as part of a test home inspection supervised by a licensed home inspector holding a Certified Master Inspector (CMI) designation granted by the Master Inspector Certification Board, Inc. if
      - (A) the consideration, if any, for the home inspection is paid to the Certified Master Inspector (CMI), and
      - (B) no remuneration is paid to the person conducting the home inspection,
- or
- (iv) by a person as part of a test home inspection supervised by a licensed home inspector holding a Registered Home Inspector (RHI) designation granted by the Canadian Association of Home and Property Inspectors (Alberta) if
    - (A) the consideration, if any, for the home inspection is paid to the Registered Home Inspector (RHI), and
    - (B) no remuneration is paid to the person conducting the home inspection,
  - (d) the inspection of a dwelling by a safety codes officer pursuant to the *Safety Codes Act*, and
  - (e) the inspection of a dwelling for purposes of constructing, altering, maintaining, repairing or improving the dwelling.

AR 77/2011 s2

### **Time share business**

**6.3(1)** Part 10 of the *Fair Trading Act* applies to the time share business.



(2) In this section,

- (a) “exchange program” and “points-based contract” have the meanings given to those terms in the *Time Share and Points-based Contracts and Business Regulation*;
- (b) “time share business” means the activities of offering, soliciting, negotiating or concluding time share contracts or points-based contracts.

(3) For the purposes of this section, the time share business does not include the following:

- (a) any activity by an industry member as defined in the *Real Estate Act* who is acting in the course of a profession or calling to which that Act applies;
- (b) the activities of offering, soliciting, negotiating or concluding any collateral agreement under which a consumer agrees to participate in an exchange program.

AR 98/2010 s3;31/2012

### **Expiry**

**7** For the purpose of ensuring that this Regulation is reviewed for ongoing relevancy and necessity, with the option that it may be repressed in its present or an amended form following a review, this Regulation expires on September 1, 2015.

AR 178/99 s7;144/2004;8/2006

### **Coming into force**

**8** This Regulation comes into force on September 1, 1999.

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