

The Payday Loans Regulations

being

Chapter P-4.3 Reg 1 (effective January 1, 2012) as amended
by Saskatchewan Regulations [84/2012](#) and [105/2013](#).

NOTE:

This consolidation is not official. Amendments have been incorporated for convenience of reference and the original statutes and regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the original statutes and regulations, errors that may have appeared are reproduced in this consolidation.

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CHAPTER P-4.3 REG 1

The Payday Loans Act

PART I

Preliminary Matters

Title

1 These regulations may be cited as *The Payday Loans Regulations*.

Interpretation

2 In these regulations:

- (a) “**Act**” means *The Payday Loans Act*;
- (b) “**total cost of borrowing**” means the aggregate of all charges and expenses, whether in the form of a fee, penalty, commission or other similar charge or expense or in any other form, paid or to be paid by or on behalf of a borrower directly or indirectly in connection with a payday loan, irrespective of:
 - (i) the person to whom the charges and expenses are paid or are to be paid;
 - (ii) the agreement pursuant to which the obligation to pay the charges or expenses arises; and
 - (iii) the receipt by the borrower of a product, service or other benefit separate from the payday loan in return for payment of the charge or expense.

11 Jne 2010 cP-4.3 Reg 1 s2.

Non-application of Act

3(1) The Act does not apply to the following:

- (a) a bank or authorized foreign bank within the meaning of the *Bank Act* (Canada);
- (b) a credit union incorporated, continued or registered pursuant to *The Credit Union Act, 1998*;
- (c) a trust corporation or loan corporation licensed pursuant to *The Trust and Loan Corporations Act, 1997*;
- (d) a body corporate to which the *Trust and Loan Companies Act* (Canada) applies;

- (e) an association to which the *Cooperative Credit Associations Act* (Canada) applies or a central cooperative credit society for which an order has been made pursuant to subsection 473(1) of that Act;
 - (f) an insurance company that holds a valid licence pursuant to *The Saskatchewan Insurance Act*;
 - (g) an insurance company or a fraternal benefit society incorporated or formed pursuant to the *Insurance Companies Act* (Canada);
 - (h) employees of any entity mentioned in clauses (a) to (g) while those employees are acting in the regular course of their employment.
- (2) Sections 5 and 7 of the Act do not apply to an employee of a payday lender who is acting in the course of, and within the scope of, his or her employment.

11 Jne 2010 cP-4.3 Reg 1 s3.

PART II Licensing

Licensing fees

4 Every applicant for a licence or renewal of a licence shall pay a fee of \$2,000 for each licence issued or renewed by the director.

11 Jne 2010 cP-4.3 Reg 1 s4.

Additional requirements for licence

5(1) For the purposes of clause 6(1)(f) of the Act, every payday lender that applies for a licence or a renewal of a licence shall provide the director with:

- (a) evidence that it is registered as required by law to carry on business in Saskatchewan; and
 - (b) subject to subsection (2), a criminal record check, in a form satisfactory to the director, dated no earlier than three months before the date of the application with respect to:
 - (i) in the case of a payday lender that is a sole proprietor, the sole proprietor;
 - (ii) in the case of a payday lender that is a partnership, every partner; and
 - (iii) in the case of a payday lender that is a corporation, every director and officer.
- (2) A payday lender is not required to provide a criminal record check for a person mentioned in clause (1)(b) if:
- (a) the payday lender has previously provided the director with a criminal record check for that person; and
 - (b) the record check mentioned in clause (a) is dated no earlier than five years before the date of the application for a licence or renewal of a licence.

7 Dec 2012 SR 84/2012 s2.

Change in ownership of payday lender – defined

6 For the purposes of section 12 of the Act, a “**change in ownership**” means:

- (a) in the case of a corporation, a change of a direct or indirect ownership of shares that results in one person, or two or more persons who are associated within the meaning of *The Business Corporations Act*, being able to elect a majority of directors of the corporation;
- (b) in the case of a sole proprietorship, a change of sole proprietor;
- (c) in the case of a partnership that is a limited partnership, a change in the majority of the general partners; and
- (d) in the case of a partnership that is not a limited partnership, a change in the majority of the partners.

11 Jne 2010 cP-4.3 Reg 1 s6.

Notification of change in circumstances

7 For the purposes of section 16 of the Act, a prescribed change in circumstances consists of:

- (a) a change in any of the following information previously provided to the director in an application for a licence, a renewal of a licence or the reinstatement of a licence:
 - (i) an address, including an address for service, or a telephone number;
 - (ii) the name of the applicant or the licensee;
 - (iii) if the applicant or licensee is a partnership or a corporation, the fiscal year;
 - (iv) if the applicant or licensee is a corporation, an officer or director of the corporation;
 - (v) if the applicant or licensee is a partnership, a partner of the partnership;
 - (vi) the location at which the licensee retains, or the applicant will retain, records required to be kept by the Act;
 - (vii) any other material change;
- (b) the licensee ceasing to carry on business at a location for which the licensee holds a licence;
- (c) the commencement of bankruptcy, receivership or winding-up proceedings with respect to the applicant or licensee;

- (d) the suspension, cancellation, surrendering or amendment of the applicant's or licensee's authority to carry on business as a payday lender in any other jurisdiction;
- (e) the imposition of any terms, conditions or restrictions on, or the variation or modification of any terms, conditions or restrictions imposed on, the applicant's or licensee's authority to carry on business as a payday lender in any other jurisdiction;
- (f) a civil action or a regulatory proceeding being brought against the applicant or licensee or any director, officer or partner of the applicant or licensee, in relation to fraud, breach of trust, deceit, misrepresentation or the business of payday lending;
- (g) the issuing of a judgment or decision by a court or other adjudicator against the applicant or licensee or any director, officer or partner of the applicant or licensee, in relation to fraud, breach of trust, deceit, misrepresentation or the business of payday lending;
- (h) the instituting of proceedings against, or conviction of, the applicant or licensee or any director, officer or partner of the applicant or licensee with respect to a criminal offence, or any other offence under the laws of any other jurisdiction, excluding traffic offences; or
- (i) any change in circumstances that provides reasonable grounds to believe that the financial security required by the director pursuant to subsection 7(1) of the Act may not be in force or effective in accordance with its terms or may otherwise fail to meet the requirements of the director.

11 Jne 2010 cP-4.3 Reg 1 s7.

PART III Forfeiture of Financial Security

Forfeiture of financial security

8(1) Notwithstanding that the Crown in right of Saskatchewan has not suffered any loss or damage:

- (a) every bond filed with the director pursuant to the Act must be construed as being a penal bond; and
- (b) if any bond is forfeited pursuant to this section, the amount due and owing as a debt to the Crown in right of Saskatchewan by the person bound by the bond must be determined as if the Crown had suffered a loss or damage that would entitle the Crown to be indemnified to the maximum amount of liability set out in the bond.

- (2) Subject to subsection (3), every bond filed pursuant to section 7 of the Act is forfeited on the demand of the director if:
- (a) the person with respect to whose conduct the bond is conditioned, or any agent or representative of that person, has been convicted of:
 - (i) an offence pursuant to the Act or these regulations; or
 - (ii) an offence involving fraud or theft or conspiracy to commit an offence involving fraud or theft pursuant to the *Criminal Code*;
 - (b) a judgment with respect to a claim in relation to a payday loan or the business of payday lending has been given against the person with respect to whose conduct the bond is conditioned or against any agent or representative of that person;
 - (c) the person with respect to whose conduct the bond is conditioned commits an act of bankruptcy, whether or not proceedings have been taken pursuant to the *Bankruptcy and Insolvency Act* (Canada); or
 - (d) a decision has been rendered by the director in writing stating in effect that after consideration and investigation of a complaint, the director is satisfied that the person with respect to whose conduct the bond is conditioned, or any agent or representative of that person:
 - (i) has contravened any provision of the Act or these regulations or has failed to comply with any of the terms, conditions or restrictions to which the person's licence is subject; or
 - (ii) is in breach of contract with a borrower.
- (3) Subsection (2) applies only if the conviction, judgment, order or decision mentioned in that subsection has become final by reason of lapse of time or of having been confirmed by the highest court to which any appeal may be taken.
- (4) Notwithstanding that the Crown in right of Saskatchewan has not suffered any loss or damage, the director may have recourse to a letter of credit provided pursuant to section 7 of the Act by presenting a demand to the issuer of the letter of credit, together with the letter of credit, if the director has reason to believe that any of the grounds set out in clauses (2)(a) to (d) exists.
- (5) On a demand of the director pursuant to subsection (4), the amount of the proceeds of the letter of credit is forfeited to the Crown in right of Saskatchewan.

(6) The director may pay any money realized pursuant to a bond or letter of credit to any of the following on any conditions the director considers appropriate:

- (a) the local registrar of the court in trust for any persons that may become judgment creditors of the payday lender named in the bond or the letter of credit, as the case may be, for claims arising out of a payday loan or the business of payday lending;
- (b) any trustee, custodian, interim receiver, receiver or liquidator of the payday lender named in the bond or the letter of credit, as the case may be;
- (c) any person that the director considers entitled to the money for a claim arising out of a payday loan or the business of payday lending.

(7) The director shall pay any money not paid pursuant to subsection (6) to the following after the payment of any expenditures incurred by the director in connection with the realization on the financial security and the determination and settlement of valid claims:

- (a) in the case of a bond, to the surety or obligor under the bond;
- (b) in the case of a letter of credit, to the obligor under the letter of credit.

11 Jne 2010 cP-4.3 Reg 1 s8.

PART IV Regulation of Payday Lenders

No derogation from *The Cost of Credit Disclosure Act, 2002*

9 The requirements imposed by these regulations are in addition to and not in derogation of the requirements imposed by *The Cost of Credit Disclosure Act, 2002*.

11 Jne 2010 cP-4.3 Reg 1 s9.

Contents of payday loan agreement

10(1) In this section, “**annualized borrowing rate**” means the annual rate, expressed as a percentage, that relates the amount received or to be received by the borrower in connection with the payday loan to the total cost of borrowing in connection with the payday loan and that is calculated in accordance with the following formula:

$$ABR = \frac{TCB}{T \times P} \times 100$$

where:

ABR is the annualized borrowing rate;

TCB is the total cost of borrowing;

T is the term of the loan in days divided by 365; and

P is the amount of the principal to be advanced under the payday loan agreement.

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(2) For the purposes of clause 18(2)(h) of the Act, the payday loan agreement must include the following table in 12-point bold font, which must appear on the first page of the payday loan agreement:

Loan Details

Amount borrowed (in dollars)	A
Term of loan (in days)	B
Total cost of borrowing (in dollars)	C
Annualized borrowing rate	D
Cost per \$100 borrowed (in dollars)	E
Total amount to be paid by borrower (in dollars)	F
Repayment date	G
Borrower's signature	H

where:

A is the amount of principal to be advanced under the payday loan agreement, expressed in dollars;

B is the term of the payday loan agreement, expressed in days;

C is the total cost of borrowing, expressed as a dollar amount;

D is the annualized borrowing rate;

E is the total cost of borrowing expressed as a dollar amount per \$100 borrowed under the payday loan agreement;

F is the total amount of all payments that the borrower is required to make in connection with the payday loan agreement, including the principal amount and the total cost of borrowing;

G is the date on which the borrower is required to pay the amount F; and

H is the borrower's signature.

11 Jne 2010 cP-4.3 Reg 1 s10.

Copy of payday loan agreement

11 A payday lender must provide a copy of the payday loan agreement to the borrower, in writing, immediately on entering into the payday loan agreement as follows:

(a) in the case of a payday loan agreement that is made in person, by delivering the payday loan agreement in person; and

- (b) in the case of a payday loan agreement that is not made in person:
 - (i) by delivering the payday loan agreement in person;
 - (ii) by sending the payday loan agreement by electronic mail to the electronic mail address the borrower has given to the payday lender for the purposes of providing information relating to the payday loan; or
 - (iii) by transmitting the payday loan agreement by fax to the fax transmission number the borrower has given to the payday lender for the purposes of providing information relating to the payday loan.

11 Jne 2010 cP-4.3 Reg 1 s11.

Documents to accompany disclosure statement

12 For the purposes of clause 20(2)(g) of the Act, a disclosure statement must be accompanied by a document that provides contact information for Credit Counselling Canada.

11 Jne 2010 cP-4.3 Reg 1 s12.

Signs to be posted

13(1) For the purposes of subsection 21(2) of the Act, every payday lender must post the following signs:

- (a) a sign that is visible to a borrower immediately on entering the place of business;
 - (b) a sign that is visible to a borrower at each place, within the place of business, where a payday loan agreement is negotiated.
- (2) Each sign mentioned in subsection (1) must:
- (a) be at least 61 centimetres wide and 76 centimetres high;
 - (b) have a brightly coloured border that is at least five centimetres wide; and
 - (c) contain the following information:
 - (i) a heading setting out:
 - (A) the total cost of borrowing expressed as a dollar amount for \$100 advanced under the payday loan agreement, in 144-point font; and
 - (B) the words “per \$100 borrowed” in 72-point font;
 - (ii) a subheading in 54-point font that says “Example: \$300 loan for 14 days”;

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- (iii) the following text in 54-point font:
 - (A) the words “Principal Amount \$300”;
 - (B) the words “Total Cost of Borrowing” followed by the total cost of borrowing per each \$300 advanced under the payday loan agreement;
 - (C) the words, “Total to Pay” followed by the total of \$300 and the total cost of borrowing per each \$300 advanced under the payday loan agreement;
- (iv) the words “This information conforms to the requirements of *The Payday Loans Act*” in 36-point font.
- (3) A payday lender who carries on business as a payday lender:
 - (a) over the Internet must display the information set out in this section on a page of the payday lender’s website that precedes the payday loan application; and
 - (b) over the telephone must disclose to a prospective borrower the information set out in this section before entering into the payday loan agreement.

11 Jne 2010 cP-4.3 Reg 1 s13.

Limits on fees and charges

- 14(1) For the purposes of subsection 23(1) of the Act and subject to subsection (2), the total cost of borrowing shall not exceed 23% of the principal amount as set out in the payday loan agreement.
- (2) For the purposes of subsection 23(3) of the Act, if a borrower defaults under a payday loan agreement, the payday lender may charge or receive:
 - (a) interest at a rate of 30% per annum on the outstanding principal balance; and
 - (b) a fee of \$50 for a dishonoured cheque or a dishonoured pre-authorized debit.
- (3) The fee mentioned in clause (2)(b) may be charged only once with respect to each payday loan agreement, regardless of the number of dishonoured cheques or dishonoured pre-authorized debits that are accumulated with respect to that payday loan agreement.
- (4) For the purposes of subsection 23(5) of the Act, a payday lender may charge fees relating to a product or service that is not connected in any manner, directly or indirectly, to a payday loan and that is not otherwise prohibited.

11 Jne 2010 cP-4.3 Reg 1 s14.

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Payday loans not to exceed 50% of borrowers net pay

15(1) In this section, “**net pay**” includes, in the case of a person who is not paid a wage or salary, the person’s net income.

(2) No payday lender shall enter into a payday loan agreement with a borrower that is in excess of 50% of the borrower’s net pay during the term of the payday loan.

11 Jne 2010 cP-4.3 Reg 1 s15.

Prohibited practices

16(1) In this section, “**rollover loan**” means the extension or renewal of a payday loan that imposes additional amounts, fees, rates, penalties or other charges on the borrower, other than interest mentioned in clause 14(2)(a), and includes an advancement under a new payday loan agreement to pay out an existing payday loan.

(2) No payday lender shall do any of the following:

(a) enter into a rollover loan;

(b) require that the principal balance under a payday loan agreement fall due before the first day on which the borrower will receive his or her pay or other income following the date of the payday loan agreement;

(c) require, request or accept information that would give the payday lender direct access to a borrower’s bank account, except for the purposes of pre-authorized payments with respect to a specific payday loan agreement;

(d) attempt to obtain repayment by means of a pre-authorized debit provided by the borrower after an attempt to obtain repayment by pre-authorized debit is dishonoured, except as follows:

(i) one additional attempt to obtain repayment by means of a pre-authorized payment may be attempted;

(ii) the amount of the additional attempt must be the same amount as the initial attempt; and

(iii) the additional attempt must be made within 30 days after the payday lender received notice that the initial attempt was not successful.

11 Jne 2010 cP-4.3 Reg 1 s16; 20 Dec 2013 SR 105/2013 s2.

Records

17(1) Subject to subsections (2) and (3), a licensee shall retain the records mentioned in section 36 of the Act for at least three years after the records were created.

(2) Records relating to a payday loan that is repaid or cancelled shall be retained by the licensee for at least three years after the payday loan is repaid or a receipt is issued with respect to the cancellation.

(3) Records relating to a payday loan that is not repaid shall be retained by the licensee for at least three years after the last attempt is made by the licensee to recover payment pursuant to the payday loan agreement.

11 Jne 2010 cP-4.3 Reg 1 s17.

PART V
Coming into Force

Coming into force

18(1) Subject to subsection (2), sections 1, 2, 9 to 13, 15 and 17 of these regulations come into force on the day on which section 1 of *The Payday Loans Act* comes into force.

(2) If these regulations are filed with the Registrar of Regulations after the day on which section 1 of *The Payday Loans Act* comes into force, sections 1, 2, 9 to 13, 15 and 17 of these regulations come into force on the day on which these regulations are filed with the Registrar of Regulations.

(3) Subject to subsection (4), section 3 of these regulations comes into force on the day on which section 3 of *The Payday Loans Act* comes into force.

(4) If these regulations are filed with the Registrar of Regulations after the day on which section 3 of *The Payday Loans Act* comes into force, section 3 of these regulations comes into force on the day on which these regulations are filed with the Registrar of Regulations.

(5) Subject to subsection (6), sections 4 to 8 of these regulations come into force on the day on which section 5 of *The Payday Loans Act* comes into force.

(6) If these regulations are filed with the Registrar of Regulations after the day on which section 5 of *The Payday Loans Act* comes into force, sections 4 to 8 of these regulations come into force on the day on which these regulations are filed with the Registrar of Regulations.

(7) Subject to subsection (8), section 14 of these regulations comes into force on the day on which section 23 of *The Payday Loans Act* comes into force.

(8) If these regulations are filed with the Registrar of Regulations after the day on which section 23 of *The Payday Loans Act* comes into force, section 14 of these regulations comes into force on the day on which these regulations are filed with the Registrar of Regulations.

(9) Subject to subsection (10), section 16 of these regulations comes into force on the day on which section 33 of *The Payday Loans Act* comes into force.

(10) If these regulations are filed with the Registrar of Regulations after the day on which section 33 of *The Payday Loans Act* comes into force, section 16 of these regulations comes into force on the day on which these regulations are filed with the Registrar of Regulations.

