

Consultation Draft

Payday Loans Act

September 30, 2008

Payday Loans Act

BE IT ENACTED by the Lieutenant Governor and the Legislative Assembly of the Province of Prince Edward Island as follows:

PART I INTERPRETATION, APPLICATION AND
ADMINISTRATION

1. (1) In this Act

Interpretation

(a) “advance” means the money transferred to or to the order of the borrower under a payday loan agreement and any other value, as prescribed, that the borrower receives under the agreement;

advance

(b) “borrower” means a corporation, partnership, sole proprietor, association or other entity or individual that receives a payday loan or indicates an interest in receiving a payday loan;

borrower

(c) “cost of borrowing” means the total of all amounts that a borrower is required to pay under, or as a condition of entering into, a payday loan agreement and all amounts that are prescribed as included in the cost of borrowing, but does not include default charges and the repayment of the advance;

cost of borrowing

(d) “default charge” means a charge imposed against a borrower who does not make a payment as it comes due under a payday loan agreement or who does not comply with any other obligation under a payday loan agreement, but does not include interest on an overdue payment;

default charge

(e) “Director” means the Director of Corporations appointed under section 2 of the *Companies Act* R.S.P.E.I. 1988, Cap. C-14;

Director

(f) “equity share” means, in respect of a corporation, a share of a class or series of shares of a corporation, where the class or series carries a voting right either under all circumstances or under circumstances that have occurred and are continuing;

equity share

(g) “investigator” means an investigator appointed under subsection 48 (1);

investigator

(h) “lender” means a corporation, partnership, sole proprietor, association or other entity or individual that makes a payday loan to a borrower or that holds oneself out as available to make such a loan;

lender

(i) “licence” means a licence issued under this Act;

licence

licensee	(j) “licensee” means a person who holds a licence issued under this Act;
loan broker	(k) “loan broker” means a corporation, partnership, sole proprietor, association or other entity or individual that assists a borrower in obtaining a payday loan or that holds oneself out as available to provide such assistance;
Minister	(l) “Minister” means the Attorney General;
officer	(m) “officer” includes <ul style="list-style-type: none"> (i) with respect to a corporation, the chair and any vice-chair of the board of directors, the president and any vice-president, the secretary and assistant secretary, the treasurer and assistant treasurer and the general manager and assistant general manager of the corporation, (ii) with respect to a partnership, a partner or general manager and assistant general manager of the partnership, and (iii) with respect to a corporation or partnership, any other individual designated as an officer by by-law or resolution or any other individual who performs functions normally performed by an individual occupying such office;
payday loan	(n) “payday loan” means an advancement of money 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;
payday loan agreement	(o) “payday loan agreement” means an agreement under which a lender makes a payday loan to a borrower;
prescribed	(p) “prescribed” means prescribed by the regulations;
Registrar	(q) “Registrar” means the Registrar appointed under section 5 of this Act;
regulations	(r) “regulations” means the regulations made under this Act.
Associated persons and entities	(2) For purposes of this Act, one person or entity is associated with another person or entity in any of the following circumstances: <ul style="list-style-type: none"> (a) one person or entity is a corporation of which the other person or entity is an officer or director; (b) one person or entity is a partnership of which the other person or entity is a partner; (c) both persons or entities are partners of the same partnership; (d) one person or entity is a corporation that is controlled directly or indirectly by the other person or entity;

- (e) both persons or entities are corporations and one corporation is controlled directly or indirectly by the same person or entity who controls directly or indirectly the other corporation;
- (f) both persons or entities are members of the same voting trust relating to shares of a corporation;
- (g) both persons or entities are associated within the meaning of clauses (a) to (f) with the same person or entity.

2. (1) Subject to the regulations, this Act applies in respect of all payday loans if the borrower, lender or loan broker is located in Prince Edward Island when the loan is made or to be made. Application of Act

(2) Except for section 32, this Act applies with necessary modifications to those loans, other than payday loans, that are prescribed and in that case the references to payday loans in this Act shall be read as references to those other loans. Other loans

3. This Act does not apply to the persons, entities or payday loans or classes of persons, entities or payday loans that are prescribed. Exemptions

4. In determining whether this Act applies to a person, entity, agreement or transaction, a court or other tribunal shall consider the real substance of the person, entity, agreement or transaction and in so doing may disregard the outward form. Anti-avoidance

5. (1) The Minister shall appoint a person as Registrar for the purposes of this Act. Registrar

(2) The Registrar may exercise the powers and shall perform the duties conferred on the Registrar under this Act under the supervision of the Director. Powers and duties

PART II LICENCES

6. (1) No person or entity shall act as a lender unless the person or entity (a) is licensed as a lender and, subject to section 17, has received notice in writing from the Registrar of the licence; or (b) is deemed to be licensed under section 18. Requirement for licence

(2) No person or entity shall act as a loan broker unless the person or entity (a) is licensed as a loan broker and, subject to section 17, has received notice in writing from the Registrar of the licence; or (b) is deemed to be licensed under section 18. Same, loan broker

(3) If a lender who is not licensed enters into a payday loan agreement with a borrower, the borrower is only required to repay the advance to the lender and is not liable to pay the cost of borrowing. Consequence

Dealings between lenders and loan brokers	<p>7. (1) For the purposes of this Act, no lender shall deal with or through a loan broker who is not licensed.</p>
Same	<p>(2) For the purposes of this Act, no loan broker shall deal with or through a lender who is not licensed.</p>
Change in partnership	<p>8. A change in the membership of a partnership is deemed to create a new partnership for the purpose of a licence.</p>
No right to hearing	<p>9. (1) If an applicant for a licence or renewal of a licence does not meet the prescribed requirements, the Registrar shall refuse to issue or renew the licence, as the case may be.</p>
Non-application	<p>(2) Section 13 does not apply to a refusal under subsection (1) to issue or renew a licence.</p>
Notice of refusal	<p>(3) The Registrar shall give the applicant written notice of a refusal under subsection (1), setting out the reasons for the refusal.</p>
Service of notice	<p>(4) Subsection 61(3) does not apply to the notice.</p>
Right to hearing	<p>10. (1) If an applicant for a licence or renewal of a licence meets the prescribed requirements, the applicant is entitled to have the Registrar issue or renew the licence, as the case may be, unless</p> <ul style="list-style-type: none"> (a) the applicant is not a corporation and <ul style="list-style-type: none"> (i) the applicant cannot reasonably be expected to be financially responsible in the conduct of business having regard to the applicant's financial position or the financial position of an interested person or entity in respect of the applicant, (ii) the applicant cannot reasonably be expected to carry on business in accordance with law and with integrity and honesty having regard to the applicant's past conduct or that of an interested person or entity in respect of the applicant, or (iii) the applicant or an employee or agent of the applicant makes a false statement or provides a false statement in the application; (b) the applicant is a corporation and <ul style="list-style-type: none"> (i) the applicant cannot reasonably be expected to be financially responsible in the conduct of its business having regard to the applicant's financial position or the financial position of an interested person or entity in respect of the corporation, (ii) the applicant cannot reasonably be expected to be financially responsible in the conduct of the applicant's business, having regard to the financial position of the applicant's officers or directors or an interested person or entity in respect of the applicant's officers or directors, (iii) the applicant cannot reasonably be expected to carry on business in accordance with the law and with integrity and

honesty given the past conduct of the applicant's officers or directors or of an interested person or entity in respect of its officers or directors or of an interested person or entity in respect of the corporation, or

- (iv) an officer, director, employee or agent of the applicant makes a false statement or provides a false statement in the application;
- (c) the applicant or an interested person or entity in respect of the applicant is carrying on activities that are, or will be if the applicant is licensed, in contravention of this Act or the regulations;
- (d) the applicant is in breach of a condition of the licence;
- (e) the applicant fails to comply with a request made by the Registrar under subsection (3); or
- (f) the applicant is deemed to be licensed under section 18 and does not consent to having the Registrar apply conditions to the licence for which the applicant is applying.

(2) For the purposes of this section, a person or entity is deemed to be an interested person or entity in respect of another person or entity if the person or entity is associated with the other person or entity or if, in the opinion of the Registrar,

Interested person or entity

- (a) the person or entity has or may have a beneficial interest in the business of the other person or entity;
- (b) the person or entity exercises or may exercise control either directly or indirectly over the other person or entity; or
- (c) the person or entity has provided or may have provided financing either directly or indirectly to the business of the other person or entity.

(3) The Registrar may request an applicant for a licence or renewal of a licence to provide to the Registrar, in the form and within the time period specified by the Registrar,

Request for information

- (a) information specified by the Registrar that is relevant to the decision to be made by the Registrar as to whether or not to issue the licence or renewal; and
- (b) verification, by affidavit or otherwise, of any information described in clause (a) that the applicant is providing or has provided to the Registrar.

- 11.** (1) A licence is subject to the conditions that
- (a) the Registrar applies under subsection (2);
 - (b) the Director orders; or
 - (c) are prescribed.

Conditions of licence

(2) Subject to section 13, upon issuing or renewing a licence or at any other time, the Registrar may apply to the licence the conditions that the Registrar considers appropriate.

Conditions of Registrar

Licence not transferable No licence	<p>(3) A licence is not transferable.</p> <p>12. Subject to section 13, the Registrar may refuse to issue a licence or renewal of a licence or may suspend or revoke a licence if, in the opinion of the Registrar, the applicant or the licensee, as the case may be, is not entitled to a licence under section 10.</p>
Notice of proposal	<p>13. (1) The Registrar shall notify the applicant or licensee, as the case may be, in writing if the Registrar proposes to</p> <ul style="list-style-type: none"> (a) refuse to issue a licence or renewal of licence; (b) suspend or revoke a licence; or (c) apply conditions to a licence.
Content of notice	<p>(2) The notice of proposal shall set out the reasons for the proposed action and shall state that the applicant or licensee</p> <ul style="list-style-type: none"> (a) may consent to the proposal; or (b) may request a hearing.
Request for hearing	<p>(3) The applicant or licensee is entitled to a hearing by the Director if under clause (2)(b) the applicant or licensee serves a written request for a hearing on the Director within 15 days after service of the notice of proposal.</p>
Service	<p>(4) The notice of proposal shall be served on the applicant or licensee in accordance with section 61.</p>
If no request for hearing	<p>(5) If the applicant or licensee consents to the proposal or does not request a hearing in accordance with subsection (2), the Registrar may carry out the proposal.</p>
Hearing	<p>(6) If the applicant or licensee requests a hearing, the Director shall hold the hearing.</p>
Parties	<p>(7) The Registrar, the applicant or licensee and the other persons that the Director specifies are parties to the proceedings before the Director.</p>
Powers of Director	<p>(8) After holding the hearing, the Director may,</p> <ul style="list-style-type: none"> (a) by order, direct the Registrar to carry out the Registrar's proposal or substitute the Director's opinion for that of the Registrar; and (b) may attach conditions to the order or to a licence.
Immediate effect	<p>(9) Even if a licensee appeals an order of the Director, the order takes effect immediately but the Director may grant a stay until the disposition of the appeal.</p>
Service of hearing request	<p>14. (1) A request for a hearing under section 13 is sufficiently served if delivered personally or sent by registered mail to the Director.</p>

(2) If service is made by registered mail, it is deemed to be made on the third day after the day of mailing. Registered mail

(3) Despite subsection (1), the Director may order any other method of service he or she considers appropriate in the circumstances. Other methods

15. (1) If the Registrar proposes to suspend or revoke a licence under section 13 and if the Registrar considers it in the public interest to do so, the Registrar may, by order, suspend the licence. Immediate suspension

(2) The order takes effect immediately. Immediate effect

(3) If the licensee requests a hearing under section 13
(a) the order expires 15 days after the Director receives the written request for a hearing; or
(b) the Director may extend the time of expiration until the hearing is concluded, if a hearing is commenced within the 15-day period mentioned in clause (a). Expiry of order

(4) Despite subsection (3), if the Director is satisfied that the conduct of the licensee has delayed the commencement of the hearing, the Director may extend the time of the expiration for the order Extension of order

- (a) until the hearing commences; and
- (b) once the hearing commences, until the hearing is concluded.

16. The Registrar may cancel a licence upon the request in writing of the licensee and section 13 does not apply to the cancellation. Voluntary cancellation

17. If, within the time prescribed or, if no time is prescribed, before the expiry of a licence, the licensee has applied for renewal of the licence and paid the required fee, the licence is deemed to continue Continuation pending renewal

- (a) until the renewal is issued;
- (b) until the Registrar gives the licensee written notice of the Registrar's refusal under section 9 to issue the renewal; or
- (c) until the time for requesting a hearing has expired if the licensee is served notice under subsection 13(1) that the Registrar proposes to refuse to issue the renewal and
 - (i) the licensee does not request a hearing, or
 - (ii) the licensee requests a hearing and the Director makes his or her order.

18. (1) A corporation, partnership, sole proprietor, association or other entity or individual acting as a lender or a loan broker on the day this section comes into force is deemed to be licensed as a lender or loan broker, as the case may be, until the expiry of the prescribed time. Transition, licences

(2) If a corporation, partnership, sole proprietor, association or other entity or individual that is deemed to be licensed under subsection (1) Application for licence

applies for a licence and pays the required fee within the prescribed time mentioned in that subsection, the applicant continues to be deemed to be licensed until

- (a) the Registrar issues the licence to the applicant;
- (b) the Registrar gives the applicant written notice of the Registrar's refusal under section 9 to issue the licence; or
- (c) the time for requesting a hearing has expired if the licensee is served notice under subsection 13(1) that the Registrar proposes to refuse to issue the licence and
 - (i) the licensee does not request a hearing, or
 - (ii) the licensee requests a hearing and the Director makes his or her order.

- Further application **19.** If the refusal to issue a licence or renewal of a licence has become final or if the revocation of a licence has become final, the applicant or licensee, as the case may be, may reapply for a licence only if
- (a) the prescribed time has passed since the refusal or revocation; and
 - (b) new or other evidence is available or it is clear that material circumstances have changed.

PART III REGULATION OF LICENSEES

Disclosure to Registrar

- Information on corporation **20.** (1) An applicant for a licence or renewal of a licence that is a corporation shall disclose to the Registrar the identity of
- (a) each person or entity that beneficially owns or controls 10 per cent or more of the equity shares of the corporation issued and outstanding at the time of the application; and
 - (b) persons or entities that are associated with each other and that together beneficially own or control 10 per cent or more of the equity shares of the corporation issued and outstanding at the time of the application.

- Calculating number of shares (2) In calculating the total number of equity shares of the corporation beneficially owned or controlled for the purposes of subsection (1), the total number shall be calculated as the total number of all shares beneficially owned or controlled, but each share that carries the right to more than one vote shall be calculated as the number of shares equalling the total number of votes it carries.

- Notice of changes in shares **21.** (1) In addition to the disclosure required under section 20, every licensee that is a corporation shall notify the Registrar in writing within 30 days after the issue of any equity shares of the corporation, if the issue results in

- (a) any person or entity, or any persons or entities that are associated with each other, acquiring or accumulating beneficial ownership or control of 10 per cent or more of the total number of all issued and outstanding equity shares of the corporation; or
- (b) an increase in the percentage of issued and outstanding equity shares of the corporation beneficially owned or controlled by any person or entity, or any persons or entities that are associated with each other, if the person, entity or the associated persons or entities already beneficially owned or controlled 10 per cent or more of the total number of all issued and outstanding equity shares of the corporation before the issue.

(2) In addition to the disclosure required under section 20, every licensee that is a corporation shall notify the Registrar in writing within 30 days after it comes to the attention of any of its officers or directors that a transfer of any equity shares of the corporation has occurred, if the transfer produces either of the results described in clause (1)(a) or (b).

Transfer of shares

(3) In calculating the total number of equity shares of the corporation beneficially owned or controlled for the purposes of this section, the total number shall be calculated as the total number of all shares beneficially owned or controlled, but each share that carries the right to more than one vote shall be calculated as the number of shares equalling the total number of votes it carries.

Calculating number of shares

(4) The notice required under subsection (1) or (2) shall identify the persons or entities described in the applicable clause of subsection (1) or in subsection (2), as the case may be.

Notice of identity of persons or entities

22. (1) Every licensee shall, within five days after the event, notify the Registrar in writing of

Notice of changes to Registrar

- (a) any change in the licensee's address for service; and
- (b) any change in the officers or directors of the licensee in the case of a corporation or partnership.

(2) The Registrar is deemed to have received the notice mentioned in subsection (1),

Timing

- (a) on the day on which the Registrar actually received it, if it was not sent by mail; or
- (b) on the day of mailing, if it was sent by mail.

23. (1) The Registrar may at any time require a licensee to provide the Registrar with copies of any letters, forms, form letters, notices, pamphlets, brochures, payday loan agreements or other materials, including prescribed materials, that the licensee uses or proposes to use in the course of conducting business.

Business materials

(2) No licensee shall make or shall facilitate the making of representations or cause representations to be made relating to a payday loan or a payday loan agreement, whether orally, in writing or in any other form, unless the representations comply with the prescribed requirements, if any.

Requirements

27. (1) No licensee shall falsify, assist in falsifying or induce or counsel another person to falsify or assist in falsifying any information or document relating to a payday loan or a payday loan agreement.

False information

(2) No licensee shall furnish, assist in furnishing or induce or counsel another person to furnish or assist in furnishing any false, misleading, or deceptive information or documents relating to a payday loan or a payday loan agreement.

Furnishing false information

28. (1) No loan broker shall receive or demand any payment from a borrower for assisting the borrower in obtaining a payday loan.

No payments to loan broker

(2) All payments that a borrower is required to make under a payday loan agreement shall be made to the lender, and not to any other person or entity, including a loan broker.

Same, under payday loan agreement

(3) No lender shall facilitate a contravention of subsection (1) or (2).

Duty of lender

(4) If parties enter into a payday loan agreement that results in a contravention of subsection (2), the borrower is only required to repay the advance to the lender and is not liable to pay the cost of borrowing or any payment in contravention of that subsection.

Consequence

29. (1) A lender under a payday loan agreement shall ensure that the agreement is in writing and meets the prescribed requirements, if any, and shall deliver a copy of the agreement to the borrower no later than upon entering into the agreement.

Requirements for agreements

(2) A lender under a payday loan agreement shall ensure that the advance is delivered to the borrower no later than upon entering into the agreement.

Advance

(3) No loan broker shall facilitate a contravention of subsection (1) or (2).

Duties of loan broker

(4) If parties enter into a payday loan agreement that results in a contravention of subsection (1) or (2), the borrower is only required to repay the advance to the lender and is not liable to pay the cost of borrowing.

Consequence

30. (1) A borrower under a payday loan agreement may, without any reason, cancel the agreement at any time up to the end of

Cancellation

- (a) the second day after the time that the lender complies with subsections 29(1) and (2), if the lender is open for business on that day; or
- (b) the next day that the lender is open for business following the second day described in clause (a), if the lender is not open for business on that second day.

Notice	(2) To cancel a payday loan agreement under subsection (1), the borrower shall give notice, within the time required by that subsection, to the prescribed person or entity.
No deductions from advance	31. (1) Subject to section 34, a lender under a payday loan agreement shall not receive or demand payment of any portion of the cost of borrowing from the borrower until the end of the term of the agreement.
Duty of loan broker	(2) No loan broker shall facilitate a contravention of subsection (1).
Consequence	(3) If parties enter into a payday loan agreement that results in a contravention of subsection (1), the borrower is only required to repay the advance to the lender and is not liable to pay the cost of borrowing.
Cost of borrowing	32. (1) This section applies to a payday loan agreement if <ul style="list-style-type: none"> (a) the advance under the agreement is \$1,500 or less; and (b) the term of the agreement is 62 days or less.
Duty of lender	(2) The lender under a payday loan agreement shall ensure that the cost of borrowing under the agreement does not exceed the prescribed limits.
Duty of loan broker	(3) No loan broker shall facilitate a contravention of subsection (2).
Consequence	(4) If the cost of borrowing under a payday loan agreement exceeds the prescribed limits, the borrower is only required to repay the advance to the lender and is not liable to pay the cost of borrowing.
Restriction on default charges	33. (1) A lender shall not impose against a borrower under a payday loan agreement, and the borrower is not liable to pay, default charges other than <ul style="list-style-type: none"> (a) reasonable charges in respect of legal costs that the lender incurs in collecting or attempting to collect a required payment by the borrower under the agreement; or (b) reasonable charges reflecting the costs that the lender incurs because a cheque or other instrument of payment given by the borrower under the agreement has been dishonoured.
Duty of loan broker	(2) No loan broker shall facilitate a contravention of subsection (1).

- 34.** A borrower is entitled to pay the full outstanding balance under a payday loan agreement at any time without any prepayment charge or penalty. Prepayment
- 35.** (1) The lender under a payday loan agreement shall not enter into a new payday loan agreement with the borrower before
(a) at least seven days have passed since the borrower has paid the full outstanding balance under the first agreement; or
(b) the borrower has provided to the lender proof that the borrower has paid the full outstanding balance under the first agreement. No concurrent or replacement payday loan agreements
- (2) No loan broker shall facilitate a contravention of subsection (1). Duty of loan broker
- (3) No loan broker shall facilitate the making of more than one payday loan agreement between the same borrower and different lenders unless
(a) at least seven days have passed since the borrower has paid the full outstanding balance under the first agreement; or
(b) the borrower has provided to the loan broker proof that the borrower has paid the full outstanding balance under the first agreement. Same loan broker, different lenders
- (4) No lender shall facilitate a contravention of subsection (3). Duty of lender
- (5) If parties enter into a payday loan agreement that results in a contravention of subsection (1) or (3), the borrower is only required to repay the advance to the lender and is not liable to pay the cost of borrowing. Consequence
- 36.** (1) The lender under a payday loan agreement shall not extend the agreement unless the regulations permit extensions of payday loan agreements and the extension complies with the prescribed requirements. Extensions of payday loan agreements
- (2) No loan broker shall facilitate a contravention of subsection (1). Duty of loan broker

General

- 37.** (1) A licensee who is required to disclose information under this Act shall ensure that the disclosure is clear, comprehensible and prominent. Form of disclosure of information
- (2) A licensee who is required to deliver information to a borrower under this Act shall ensure that the information, in addition to complying with subsection (1), is in a form that allows the borrower to retain it. Information to borrower
- 38.** (1) In this section, “prohibited activities” means a practice that a collection agency or collector is prohibited from undertaking pursuant to section 5 of the *Collection Agencies Act* Regulations. Prohibited activities
- (2) No lender or loan broker shall engage in any practice that would be a prohibited activity if the lender or loan broker were a collection agency. No prohibited activities

or collector within the meaning of the *Collection Agencies Act Regulations*.

Application of
*Collection Agencies
Act Regulations*

(3) For the purposes of this section, section 5 of the *Collection Agencies Act Regulations* applies, with any necessary modification, to a lender or loan broker as if that lender or loan broker were a collection agency or collector within the meaning of the Act.

PART IV BORROWERS' RIGHTS AND REMEDIES

General

Rights reserved

39. Nothing in this Act shall be interpreted to limit any right or remedy that a borrower may have in law.

No waiver of rights

40. (1) The substantive and procedural rights given under this Act apply despite any agreement or waiver to the contrary.

Term requiring
arbitration

(2) Without limiting the generality of subsection (1), any term or acknowledgment in a payday loan agreement that requires or has the effect of requiring that disputes arising out of the payday loan agreement be submitted to arbitration is invalid in so far as it prevents a borrower from exercising a right to commence an action in the Supreme Court under this Act.

Procedure to resolve
dispute

(3) Despite subsections (1) and (2), after a dispute over which a borrower may commence an action in the Supreme Court arises, the borrower, the licensee and any other person involved in the dispute may agree to resolve the dispute using any procedure that is available in law.

Settlements or
decisions

(4) A settlement or decision that results from the procedure agreed to under subsection (3) is as binding on the parties as the settlement or decision would be if it were reached in respect of a dispute concerning an agreement to which this Act does not apply.

Non-application of
Arbitration Act

(5) Section 4 of the *Arbitration Act* R.S.P.E.I. 1988, Cap. A-16 does not apply in respect of any proceeding to which subsection (2) applies unless, after the dispute arises, the borrower agrees to submit the dispute to arbitration.

Ambiguities to
benefit borrower

41. Any ambiguity that allows for more than one reasonable interpretation of a payday loan agreement that a licensee provides to a borrower or of any information that this Act or the regulations require to be disclosed to a borrower shall be interpreted to the benefit of the borrower.

Procedures

- 42.** (1) A notice that a borrower is required to give to a person or entity under this Act may be expressed in any way, as long as it indicates the purpose of the notice and complies with the requirements, if any, that are prescribed. Form of notice from borrower
- (2) Unless the regulations prescribe otherwise, the notice shall be in writing and may be given by any means. Means of giving notice
- (3) If notice in writing is given other than by personal service, the notice is deemed to be given when sent. Timing
- (4) The borrower may send the notice to Address
- (a) the address of the person or entity who is to receive the notice as the address is set out in the payday loan agreement, if the address is set out in the agreement; or
 - (b) any address of the person or entity on record with the Government of Prince Edward Island or the Government of Canada or an address of the person or entity known by the borrower, if the address is not set out in the payday loan agreement or if the borrower did not receive the copy of the agreement under subsection 29(1).
- 43.** (1) If a borrower cancels a payday loan agreement under subsection 30(1), the cancellation takes effect when the borrower gives the notice required by subsection 30(2). Cancellation
- (2) The cancellation operates to cancel the payday loan agreement as if it had never existed. Effect of cancellation
- (3) If a borrower cancels a payday loan agreement under subsection 30(1), Obligations of parties
- (a) the lender shall, in accordance with the prescribed requirements, if any,
 - (i) refund to the borrower all payments, if any, made under the agreement or made as a condition of entering into the agreement, except repayments of any part of the advance,
 - (ii) return to the borrower all post-dated cheques, pre-authorized debits and authorizations for future payments provided under the agreement, if those cheques, debits and authorizations are in tangible form, and
 - (iii) destroy all pre-authorized debits and authorizations for future payments provided under the agreement, if those debits and authorizations are created, recorded, transmitted or stored in digital form or in other intangible form by electronic, magnetic or optical means or by any other means that has capabilities for

creation, recording, transmission or storage similar to those means; and

(b) the borrower shall, in accordance with the prescribed requirements, if any,

(i) repay the advance to the lender, and

(ii) return to the lender all goods, if any, received under the agreement.

Illegal payments	44. (1) If a licensee has received a payment from a borrower to which the licensee is not entitled under this Act or that the borrower is not liable to make under this Act, the borrower may demand a refund of the payment by giving notice to the prescribed person or entity in accordance with section 42 within one year after making the payment.
Refund	(2) A person or entity that receives a notice demanding a refund under subsection (1) shall take the prescribed action.
Right of action	(3) The borrower may commence an action in accordance with section 45 to recover the refund mentioned in subsection (1).
Non-licensed lender	(4) Subsections (1), (2), and (3) apply, with necessary modifications, to the case where a lender who is not licensed enters into a payday loan agreement with a borrower and receives a payment from the borrower to which the lender is not entitled under subsection 6(3) and that the borrower is not liable to make under that subsection, as if the lender were a licensee mentioned in subsection (1).
Action in Supreme Court	45. (1) A borrower who has a right to commence an action under this Act may commence the action in the Supreme Court.
Waiver of notice	(2) If a borrower is required to give notice under this Act in order to obtain a remedy, the court may disregard the requirement to give the notice or any requirement relating to the notice if it is in the interest of justice to do so.
Judgment	(3) If the borrower is successful in the action, the court <ul style="list-style-type: none"> (a) shall order that the borrower recover the full payment to which the borrower is entitled under this Act, unless in the circumstances it would be inequitable to do so; and (b) may order exemplary or punitive damages or other relief that the court considers proper.

PART V COMPLAINTS, INSPECTIONS AND ENFORCEMENT

Complaints

- 46.** (1) If the Registrar receives a complaint about a licensee, the Registrar may request information in relation to the complaint from any licensee. Complaints
- (2) A request for information under subsection (1) shall indicate the nature of the complaint. Request for information
- (3) A licensee who receives a written request for information shall provide the information as soon as practicable. Duty to comply
- (4) In handling complaints, the Registrar may do any of the following, as appropriate: Procedures
- (a) attempt to mediate or resolve the complaint;
 - (b) give the licensee a written warning that, if the licensee continues with the activity that led to the complaint, the Registrar may take action against the licensee;
 - (c) take an action under section 12, subject to section 13; or
 - (d) take further action as is appropriate in accordance with this Act.

Inspections and Investigations

- 47.** (1) The Registrar or a person designated in writing by the Registrar may conduct an inspection and may, as part of the inspection, enter and inspect at any reasonable time the business premises of a licensee, other than any part of the premises used as a dwelling, for the purpose of Inspection
- (a) ensuring compliance with this Act and the regulations;
 - (b) dealing with a complaint under section 46; or
 - (c) ensuring the licensee remains entitled to a licence.
- (2) While carrying out an inspection, an inspector Powers on inspection
- (a) is entitled to free access to all money, valuables, pre-authorized debits and authorizations for future payments, documents and records of the licensee that are relevant to the inspection;
 - (b) may use any data storage, processing or retrieval device or system used in carrying on business in order to produce information that is relevant to the inspection and that is in any form; and
 - (c) may, upon giving a receipt for them, remove for examination and may copy anything relevant to the inspection, including any data storage disk or other retrieval device in order to produce information, but shall promptly return the thing to the licensee.
- (3) An inspector shall produce, on request, evidence of the authority to carry out an inspection. Identification

No obstruction	(4) No person shall obstruct an inspector conducting an inspection or withhold from the inspector or conceal, alter or destroy any money, valuables, pre-authorized debits or authorizations for future payments, documents or records that are relevant to the inspection.
No use of force	(5) An inspector shall not use force to enter and inspect premises under this section.
Assistance	(6) An inspector may, in the course of an inspection, require a person to produce a pre-authorized debit or authorization for future payments, document or record and to provide whatever assistance is reasonably necessary, including using any data storage, processing or retrieval device or system to produce information that is relevant to the inspection and that is in any form, and the person shall produce the pre-authorized debit or authorization for future payments, document or record or provide the assistance.
Admissibility of copies	(7) A copy of a document or record certified by an inspector to be a true copy of the original is admissible in evidence to the same extent as the original and has the same evidentiary value.
Appointment of investigators	48. (1) The Director may appoint persons to be investigators for the purposes of conducting investigations.
Certificate of appointment	(2) The Director shall issue to every investigator a certificate of appointment bearing the Director's signature or a facsimile of the signature.
Production of certificate of appointment	(3) Every investigator who is conducting an investigation, including under section 49, shall, upon request, produce the certificate of appointment as an investigator.
Search warrant	49. (1) Upon application made without notice by an investigator, the Supreme Court may issue a warrant, if satisfied on information under oath that there is reasonable ground for believing that <ul style="list-style-type: none"> (a) a person or entity has contravened or is contravening this Act or the regulations or has committed an offence under the law of any jurisdiction that is relevant to the fitness, under this Act, of the person or entity for a licence; and (b) there is, <ul style="list-style-type: none"> (i) anything in any building, dwelling, receptacle or place relating to the contravention of this Act or the regulations or to the fitness, under this Act, of the person or entity for a licence, or (ii) information or evidence that relates to the contravention of this Act or the regulations or the fitness, under this Act, of the person or entity for a licence and that may be obtained through the

use of an investigative technique or procedure or the doing of anything described in the warrant.

(2) Subject to any conditions contained in it, a warrant obtained under subsection (1) authorizes an investigator Powers under warrant

(a) to enter or access the building, dwelling, receptacle or place specified in the warrant and examine and seize anything described in the warrant;

(b) to use any data storage, processing or retrieval device or system used in carrying on business in order to produce information or evidence described in the warrant, in any form;

(c) to exercise any of the powers specified in subsection (10); and

(d) to use any investigative technique or procedure or do anything described in the warrant.

(3) Despite subsection (2), an investigator shall not exercise the power under a warrant to enter a place, or part of a place, used as a dwelling, unless Entry of dwelling

(a) the court is informed that the warrant is being sought to authorize entry into a dwelling; and

(b) the court authorizes the entry into the dwelling.

(4) A warrant obtained under subsection (1) shall contain the conditions that the court considers advisable to ensure that any search authorized by the warrant is reasonable in the circumstances. Conditions on warrant

(5) The warrant may authorize persons who have special, expert or professional knowledge and other persons as necessary to accompany and assist the investigator in respect of the execution of the warrant. Expert help

(6) An entry or access under a warrant issued under this section shall be made between 6 a.m. and 9 p.m., unless the warrant specifies otherwise. Time of execution

(7) A warrant issued under this section shall name a date of expiry, which shall be no later than 30 days after the warrant is issued, but the court may extend the date of expiry for an additional period of no more than 30 days, upon application without notice by an investigator. Expiry of warrant

(8) An investigator may call upon police officers for assistance in executing the warrant and the police officers may use whatever force is reasonably necessary to execute the warrant. Use of force

(9) No person shall obstruct an investigator executing a warrant under this section or withhold from the investigator or conceal, alter or destroy anything relevant to the investigation being conducted pursuant to the warrant. No obstruction

Assistance	(10) An investigator may, in the course of executing a warrant, require a person to produce the evidence or information described in the warrant and to provide whatever assistance is reasonably necessary, including using any data storage, processing or retrieval device or system to produce, in any form, the evidence or information described in the warrant and the person shall produce the evidence or information or provide the assistance.
Return of seized items	(11) An investigator who seizes any thing under this section or section 50 may make a copy of it and shall return it within a reasonable time.
Admissibility	(12) A copy of a document or record certified by an investigator as being a true copy of the original is admissible in evidence to the same extent as the original and has the same evidentiary value.
Seizure of things not specified	50. An investigator who is lawfully present in a place pursuant to a warrant or otherwise in the execution of the investigator's duties may, without a warrant, seize anything in plain view that the investigator believes on reasonable grounds will afford evidence relating to a contravention of this Act or the regulations.
Searches in exigent circumstances	51. (1) An investigator may exercise any of the powers described in subsection 49(2) without a warrant if the conditions for obtaining the warrant exist but by reason of exigent circumstances it would be impracticable to obtain the warrant.
Dwellings	(2) Subsection (1) does not apply to a building or part of a building that is being used as a dwelling.
Use of force	(3) The investigator may, in executing any authority given by this section, call upon police officers for assistance and the police officers may use whatever force is reasonably necessary.
Applicability of section 49	(4) Subsections 49(5), (9), (10), (11) and (12) apply with necessary modifications to a search under this section.

Orders and Offences

Freeze orders	<p>52. (1) The Director may make an order described in subsection (2) in respect of the money or assets of a person or entity that is not licensed and that is alleged to have conducted business for which a licence is required at a time when the person or entity was not licensed if</p> <p style="padding-left: 20px;">(a) the Director receives an affidavit in which it is alleged, and in which facts are set out supporting the allegation, that the person or entity that is not licensed</p> <p style="padding-left: 40px;">(i) is subject to criminal proceedings or proceedings in relation to a contravention under this Act or any other Act that are about to be or have been instituted against the person or entity in</p>
---------------	--

connection with or arising out of conducting business for which a licence is required, or

(ii) owns a building, dwelling, receptacle or place, or carries on activities in a building, dwelling, receptacle or place, in respect of which a search warrant has been issued under section 49; and

(b) the Director, based on the affidavit mentioned in clause (a), finds reasonable grounds to believe that

(i) the person or entity that is the subject of the allegation mentioned in that clause has received money or assets from borrowers or customers in the course of conducting business for which a licence is required, and

(ii) the interests of those borrowers or customers require protection.

(2) In the circumstances described in subsection (1), the Director may, in writing, Order respecting non-licensee

(a) order any person having on deposit or controlling any money or asset of the person or entity that is the subject of the allegation mentioned in clause (1)(a) to hold the money or asset; or

(b) order the person or entity that is the subject of the allegation mentioned in clause (1)(a)

(i) to refrain from withdrawing any money or asset from a person having the money or asset on deposit or controlling the money or asset, or

(ii) to hold any money or asset of a borrower, customer or other person in trust for the person who is entitled to the money or asset.

(3) If the conditions in subsection (4) are met, the Director may, in writing, Order respecting licensee

(a) order any person having on deposit or controlling any money or asset of a licensee or former licensee to hold that money or asset;

(b) order a licensee or former licensee to refrain from withdrawing any money or asset from a person having any money or asset on deposit or controlling the money or asset; or

(c) order a licensee or former licensee to hold any money or asset of a borrower, customer or other person in trust for the person entitled to the money or asset.

(4) The Director may make an order under subsection (3) if, in the opinion of the Director, it is advisable for the protection of the borrowers or customers of a licensee or former licensee and Conditions

(a) a search warrant has been issued under this Act; or

(b) criminal proceedings or proceedings in relation to a contravention under this Act or under any other Act are about to be or have been instituted against the licensee or former licensee in

connection with or arising out of the business in respect of which the licensee or former licensee is or was licensed.

Limitation

(5) In the case of a financial institution described in subsection (6), an order made under subsection (2) or (3) applies only to the offices and branches named in the order.

Financial institutions

(6) A financial institution mentioned in subsection (5) is

- (a) a bank or authorized foreign bank within the meaning of section 2 of the *Bank Act* (Canada);
- (b) a corporation authorized by the Director of Corporations under section 4 of the *Extra-Provincial Corporations Registration Act* R.S.P.E.I. 1988, Cap. E-14, to carry on the business of a trust company or a loan corporation in the province; or
- (c) a credit union within the meaning of the *Credit Unions Act* R.S.P.E.I. 1988, Cap. C-29.1.

Release of assets

(7) The Director may consent to the release of any particular money or asset from the order or may wholly revoke the order.

Exception

(8) The Director shall not make an order under subsection (2) or (3) if the person or entity that is the subject of the allegation mentioned in clause (1) (a), the licensee or former licensee, as the case may be, files with the Director, in the manner and amount that the Director determines,

- (a) a personal bond accompanied by collateral security;
- (b) a bond of an insurer licensed under the *Insurance Act* R.S.P.E.I. 1988, Cap. I-4 to write surety and fidelity insurance;
- (c) a bond of a guarantor accompanied by collateral security; or
- (d) another prescribed form of security.

Application to Supreme Court

(9) An application may be made to the Supreme Court for a determination in respect of the disposition of money or an asset

- (a) by a person in receipt of an order made under subsection (2) or (3), if the person is in doubt as to whether the order applies to the money or asset; or
- (b) by a person who claims an interest in the money or asset that is subject to the order.

Notice

(10) If an order is made under this section, the Director may register in the Registry of Deeds a notice that the Director has made the order and that the order may affect land belonging to the person mentioned in the notice, and the notice has the same effect as the registration of a certificate of pending litigation, except that the Director may in writing revoke or modify the notice.

Cancellation or discharge application

(11) The person or entity that is the subject of the allegation mentioned in clause (1)(a) and in respect of which an order is made under

subsection (2) or the licensee or former licensee in respect of which an order is made under subsection (3) or any person having an interest in land in respect of which a notice is registered under subsection (10) may apply to the Supreme Court for cancellation in whole or in part of the order or for discharge in whole or in part of the registration.

(12) The Director may make application to the Supreme Court and the court may dispose of the application after a hearing and may cancel the order or discharge the registration in whole or in part if the court finds

Disposition by the Supreme Court

- (a) that the order or registration is not required in whole or in part for the protection of borrowers or customers of the applicant or of other persons having an interest in the land; or
- (b) that the interests of other persons are unduly prejudiced by the order or registration.

(13) The applicant, the Director and the other persons that the court specifies are parties to the proceedings before the court.

Parties

(14) If the Director has made an order under subsection (2) or (3) or registered a notice under subsection (10), the Director may apply to the Supreme Court for directions or an order relating to the disposition of money, assets or land affected by the order or notice.

Application to Supreme Court

(15) The Director may make an application under subsection (14) without notice to any person or entity.

Notice not required

53. (1) If the Registrar believes on reasonable grounds that a licensee is making a false, misleading or deceptive statement relating to a payday loan or a payday loan agreement in any material published by any means, including an advertisement, circular or pamphlet, the Registrar may

Order of Registrar re: false advertising

- (a) order the cessation of the use of the material;
- (b) order the licensee to retract the statement or publish a correction of equal prominence to the original publication; or
- (c) order both a cessation described in clause (a) and a retraction or correction described in clause (b).

(2) Section 13 applies with necessary modifications to an order under this section in the same manner as to a proposal by the Registrar to refuse to issue a licence.

Procedures

(3) The order of the Registrar shall take effect immediately, but the Director may grant a stay until the Registrar's order becomes final.

Effect

(4) If the licensee does not appeal an order under this section or if the Director upholds the order or a variation of it, the licensee shall, upon the request of the Registrar, submit all statements in any advertisement, circular, pamphlet or material to be published by any means to the

Pre-approval

Registrar for approval before publication for the time period that the Registrar specifies.

Specified period	(5) The Registrar shall not specify under subsection (4) a period <ul style="list-style-type: none"> (a) that exceeds a period that is prescribed; or (b) any part of which falls outside the period that is prescribed.
Restraining orders	54. (1) If it appears to the Director that a person or entity is not complying with this Act or the regulations or an order made under this Act, the Director may apply to the Supreme Court for an order directing the person or entity to comply, and, upon the application, the court may make the order that the court thinks fit.
Same	(2) Subsection (1) applies in addition to any other procedures that may be available to the Director, whether or not the Director has exercised his or her rights under such procedures.
Appeal	(3) An appeal lies to the Court of Appeal from an order made under subsection (1).
Appeal to Supreme Court	55. (1) Any person who is directly affected by an order of the Director pursuant to this Act may appeal the order or decision to the Supreme Court.
Time for appeal	(2) An appeal must be made within 30 days after a decision or order of the Director.
Service of notice of appeal	(3) An appellant shall serve a notice of appeal on the Director and any other person that the court may order.
Documents to be filed with the court for purposes of appeal	(4) On receipt of a notice of an appeal pursuant to subsection (1), the Director shall file with the court true copies of <ul style="list-style-type: none"> (a) all documents and materials that were before the Director when the director made his or her decision or order; (b) the Director's decision or order; and (c) the Director's written reasons for the decision or order.
Decision by court	(5) On hearing an appeal pursuant to subsection (1), the court may <ul style="list-style-type: none"> (a) dismiss the appeal; (b) allow the appeal; (c) allow the appeal subject to terms and conditions; (d) vary the decision or order of the director; (e) refer the matter back to the director for <ul style="list-style-type: none"> (i) further consideration, and (ii) a decision or order; or (f) make any other order that the court considers appropriate.

(6) The court may make any order as to costs on an appeal that the court considers appropriate. Costs

(7) The commencement of an appeal pursuant to subsection (1) does not stay the effect of the decision or order appealed from, unless the court orders otherwise. Application for stay

56. (1) A person or entity is guilty of an offence who Offence
(a) furnishes false information in any application under this Act or in any statement or return required under this Act;
(b) fails to comply with any order under this Act;
(c) contravenes or fails to comply with any section of this Act or the regulations; or
(d) attempts to commit any offence mentioned in clause (a), (b) or (c).

(2) An officer or director of a corporation who fails to take reasonable care to prevent the corporation from committing an offence mentioned in subsection (1) is guilty of the offence. Corporations

(3) A person or entity that is convicted of an offence under this Act is liable to Penalties
(a) a fine of not more than \$50,000 or to imprisonment for a term of not more than two years less a day, or both, if the person or entity is an individual; or
(b) a fine of not more than \$250,000, if the person or entity is not an individual.

(4) No proceeding under this section shall be commenced more than two years after the facts upon which the proceeding is based first came to the knowledge of the Director. Limitation

57. If a person or entity is convicted of an offence under this Act, the court making the conviction may, in addition to any other penalty, order the person or entity convicted to pay compensation or make restitution. Orders for compensation, restitution

58. (1) If a charge mentioned in subsection (2) is in default for at least 60 days, the Director may disclose to a consumer reporting agency the name of the defaulter, the amount of the charge and the date the charge went into default. Default in payment of fines or penalties

(2) Subsection (1) applies to a fine payable as a result of a conviction for an offence under this Act. Same

(3) Within 10 days after the Director has notice that the charge has been paid in full, the Director shall inform the consumer reporting agency of the payment. If payment made

- Liens and charges **59.** (1) If a charge mentioned in subsection 58(2) is in default for at least 60 days, the Director may by order create a lien against the property of the person who is liable to pay the charge.
- Liens on personal property (2) If the lien created by the Director under subsection (1) relates to personal property
- (a) the *Personal Property Security Act* R.S.P.E.I. 1988, Cap. P-3.1, except Part V, applies with necessary modifications to the lien, despite clause 4 (1) (a) of that Act;
 - (b) the lien is deemed to be a security interest that has attached for the purposes of the *Personal Property Security Act*; and
 - (c) the Director may perfect the security interest mentioned in clause (b) for the purposes of the *Personal Property Security Act* by the registration of a financing statement under that Act.
- Charges on real property (3) If the lien created by the Director under subsection (1) relates to real property, the Director may register the lien in the Registry of Deeds against the property of the person liable to pay the charge covered by the lien and, on registration, the obligation under the lien becomes a charge on the property.
- Initiation of sale proceedings prohibited (4) The Director shall not initiate sale proceedings in respect of any real property against which the Director has registered a lien under subsection (3).
- Proceeds of sale (5) If a lien is perfected by registration under subsection (2) or is registered against real property under subsection (3) and the related real or personal property is sold, the Director shall ensure that the funds that the Director receives as a result of the sale are used to pay the charge covered by the lien.
- Discharge of lien (6) Within 10 days after the Director has knowledge of the payment in full of the charge covered by the lien, the Director shall
- (a) discharge the registration of any financing statement registered under clause (2)(c); and
 - (b) register a discharge of a charge created on registration of a lien under subsection (3).

PART VI GENERAL

- Confidentiality **60.** (1) A person who obtains information in the course of exercising a power or carrying out a duty related to the administration of this Act or the regulations shall preserve secrecy with respect to the information and shall not communicate the information to any person except
- (a) as may be required in connection with a proceeding under this Act or in connection with the administration of this Act or the regulations;

- (b) to a department or agency of a government engaged in the administration of legislation similar to this Act or legislation that protects consumers or to any other entity to which the administration of legislation similar to this Act or legislation that protects consumers has been assigned;
- (c) to a prescribed entity or organization, if the purpose of the communication is consumer protection;
- (d) to a law enforcement agency;
- (e) to the person's counsel; or
- (f) with the consent of the person to whom the information relates.

(2) Except in a proceeding under this Act, no person shall be required to give testimony in a civil proceeding with regard to information obtained in the course of exercising a power or carrying out a duty related to the administration of this Act or the regulations. Testimony

(3) As required by regulation, the Registrar shall make available to the public, in the prescribed form and manner, the names of licensees and other information about licensees that is prescribed. Information about licensees

61. (1) Any notice, order or request of the Director or the Registrar is sufficiently given or served if it is delivered personally or sent by registered mail or by another manner if the sender can prove receipt of the notice, order or request. Service

(2) If service is made by registered mail, the service is deemed to be made on the third day after the day of mailing unless the person on whom service is being made establishes that the person did not, acting in good faith, through absence, accident, illness or other cause beyond the person's control, receive the notice, order or request until a later date. Deemed service

(3) Despite subsections (1) and (2), the Director may order any other method of service he or she considers appropriate in the circumstances. Exception

62. (1) For all purposes in any proceeding, a statement purporting to be certified by the Director is, without proof of the office or signature of the Director, admissible in evidence as proof in the absence of evidence to the contrary, of the facts stated in it in relation to Certificate as evidence

- (a) the licence or non-licensing of any person or entity;
- (b) the filing or non-filing of any document or material required or permitted to be filed with the Registrar;
- (c) the time when the facts upon which the proceedings are based first came to the knowledge of the Director; or
- (d) any other matter pertaining to the licensing or non-licensing of persons or entities or to the filing or non-filing of information.

Proof of document

(2) Any document made under this Act that purports to be signed by the Director or a certified copy of the document is admissible in evidence in any proceeding as proof, in the absence of evidence to the contrary, that the document is signed by the Director without proof of the office or signature of the Director.

PART VIII REGULATIONS

Lieutenant
Governor in
Council regulations

- 63.** The Lieutenant Governor in Council may make regulations
- (a) to establish and require the payment of fees that an applicant for a licence or the renewal of a licence or a licensee is required to pay in respect of the licence or other administrative matters;
 - (b) specifying that an applicant for a licence or a licensee required to pay fees under clause (a) pay a separate fee for the main office and for each branch office that the licence authorizes the applicant or the licensee to operate;
 - (c) governing any matter or thing that this Act describes as being prescribed, done in accordance with the regulations or provided for in the regulations;
 - (d) specifying payday loan agreements and classes of payday loan agreements to which this Act applies or does not apply;
 - (e) exempting any person, entity or payday loan or class of persons, entities or payday loans from any provision of this Act or the regulations and attaching conditions to an exemption;
 - (f) governing the form and content of any notice or document required under this Act;
 - (g) specifying rules relating to addresses for service under this Act;
 - (h) authorizing the Director to conduct quality assurance programs in relation to the administration of this Act or the regulations and to use information collected under this Act for the purposes of those programs;
 - (i) providing for any transitional matter necessary for the effective implementation of this Act or the regulations;
 - (j) defining, for the purposes of this Act and the regulations, any word or expression that is used in this Act but not defined in this Act;
 - (k) governing applications for a licence or renewal of a licence;
 - (l) requiring licensees to provide information to the Registrar concerning persons or entities, other than the licensees, in order to assist in determining whether the persons or entities are or may be interested persons or entities for the purposes of section 10;
 - (m) requiring that any information that licensees are required to provide under this Act be in a form approved by the Director, the Registrar or the Minister, as specified in the regulation;

- (n) requiring licensees to provide, on request and in the prescribed circumstances, proof of their licence and prescribing the nature of the proof and the manner in which it is to be provided;
- (o) requiring licensees to notify the Registrar in writing of any change in the information that they were required to include in the application for their licence or the renewal of their licence, as applicable, and specifying the time and other conditions for providing the notice;
- (p) requiring licensees to provide information to the Registrar that is relevant to the administration of this Act and requiring that the information be verified by affidavit;
- (q) authorizing the Registrar to require licensees to provide information to the Registrar about their business, including financial information, within the time and in the manner that the Registrar specifies;
- (r) specifying the responsibilities of licensees and governing their activities;
- (s) governing the requirements that parties are required to satisfy in order to make a payday loan agreement;
- (t) specifying what constitutes and what does not constitute delivery of the advance to the borrower at the time that the parties enter into a payday loan agreement;
- (u) prohibiting lenders from entering into a payday loan agreement with a borrower if the amount of the payday loan exceeds the prescribed amounts or the amounts calculated according to the prescribed manner;
- (v) governing the rights and obligations of parties to a payday loan agreement that contravenes the regulations made under subsection (u), including remedies available to them and procedures for exercising those remedies;
- (w) governing information, text or terms that a lender is required to include in a payday loan agreement, including requiring that a payday loan agreement contain a form that constitutes the notice of cancellation required by subsection 30(2) when the borrower fills it out;
- (x) governing the form that a lender is required to use for the information, text or terms mentioned in subsection (w);
- (y) specifying limits for the purposes of section 32 or specifying a method of setting limits for the purposes of that section;
- (z) specifying what constitutes sufficient proof for the purposes of clauses 35(1)(b) and 35(3)(b) or authorizing the Registrar to specify what constitutes sufficient proof for the purposes of those clauses in the circumstances that the Registrar specifies with respect to the particular borrower involved;

- (aa) defining what constitutes an extension of a payday loan agreement for the purposes of section 36;
- (bb) governing the rights and obligations of parties to a payday loan agreement that is extended in contravention of subsection 36(1), including remedies available to them and procedures for exercising those remedies;
- (cc) governing information and statements that a licensee is required to provide to a borrower with respect to a payday loan or a payday loan agreement and governing the form that the licensee is required to use for the information and statements;
- (dd) requiring that a prescribed person or entity who receives a notice from a borrower under this Act forward the notice to another prescribed person or entity within the prescribed time period and in the prescribed manner;
- (ee) requiring that licensees maintain business premises that comply with the prescribed requirements;
- (ff) governing the offices, including the main office and branch offices, that a licence authorizes a licensee to operate;
- (gg) governing names under which a licensee is authorized to carry on business;
- (hh) requiring that a licensee display prescribed things at its place of business and governing those things, including specifying the content and manner for displaying the things;
- (ii) prohibiting licensees from engaging in practices specified in the regulation, in addition to practices in which this Act prohibits them from engaging, and specifying the consequences from engaging in those additional practices;
- (jj) respecting financial security requirements for licensees, including requiring them to be insured or to have collateral security;
- (kk) governing the documents, records and bank accounts that licensees are required to keep, including the manner and location in which they are to be kept and the time periods for retaining them and authorizing the Registrar to specify the location at which they are to be kept;
- (ll) governing procedures and other matters related to complaints under section 46;
- (mm) governing inspections and investigations under this Act; and
- (nn) varying the manner in which a notice under subsection 52(10) or a lien under subsection 59(3) is registered as a result of technological or electronic changes in the filing of documents in the land registry office.

General or specific
application of
regulations

64. (1) A regulation made under this Act may be of general application or specific to any person, entity, place or thing or any class of persons, entities, places or things in its application.

(2) A class described in the regulations made under this Act may be described according to any characteristic or combination of characteristics and may be described to include or exclude any specified member, whether or not with the same characteristics.

Classes

(3) Subject to the approval of the Lieutenant Governor in Council, the Director may enter into an agreement with any other government, regulatory authority, law enforcement agency, investigative body or person inside or outside Canada

Agreements with
other jurisdictions

- (a) for the purpose of administering or enforcing this Act or any Act or law of the other jurisdiction that is similar to this Act, including an agreement authorizing the Director or the Registrar to perform responsibilities and exercise powers on behalf of the other government, regulatory authority, law enforcement agency, investigative body or person and authorizing the other government, regulatory authority, law enforcement agency, investigative body or person to perform responsibilities and exercise powers on behalf of the Registrar; or
- (b) for any other purpose that the Director believes is in the public interest.

PART X COMMENCEMENT

65. This Act comes into force on a date that may be fixed by proclamation of the Lieutenant Governor in Council.

Commencement