

The Collection Agents Act

I. Instructions on Applying for Collection Agent Licence

1. To apply for a licence as a collection agent you will need:

- (a) [a registered name](#);
- (b) [a bond](#);
- (c) To complete an application through our Registration and Licensing System (RLS) and to invite collectors to join your organization (as necessary)
- (d) To upload a blank client agreement
- (e) To upload collection letters to be used by your organization; and,
- (f) To pay the appropriate licensing fee or the agency and its agents.

2. Name registration:

All corporations and operating (business) names must be registered with the Corporate Registry of the Information Services Corporation (ISC). You may contact the Corporate Registry via their website www.isc.ca or by mail at 1301 - 1st Avenue, Regina, SK., S4R 8H2 Phone: 1-866-275-4721, Fax: (306) 787-8999 or email corporateregistry@isc.ca.

3. Bonding requirements:

Unless otherwise required, the usual bond amount is \$25,000. NOTE: Bonding amounts are subject to the Registrar's discretion and depends upon the assessed risk to the public.

To obtain a bond, apply to your insurance agent or to any bonding company licensed under *The Saskatchewan Insurance Act*.

See required penal bond wording - the exact wording is required.

Upload a copy of the bond to your RLS application, thereafter the original is to be mailed to our Office.

4. Application - see:

- **The RLS Licensing Application Information for Collection Agencies**
- **RLS Licensing Application Information for Collectors**

5. Agency Agreements with Creditors

All collection agencies must enter into written collection agreements with their clients (the creditors). Copies of the blank agreement forms between the parties must be provided to, and be accepted for use by, the Registrar of Collections, the Consumer Protection Division before they can be used.

As a minimum, the agreement must include: legal names and addresses of the parties, a start and end date, plus governing terms and conditions. Thereafter re-filing of this agreement is not required unless a change to the agency agreement has occurred.

When filing an application, and thereafter when changes occur, the applicant is to upload a copy of each form of the agreement that the agency uses or proposes to use when entering into agreement with creditors.

6. Forms to be filed by the Agency before attempting to collect debts

Every collection agent shall file with the registrar:

- One copy of each written communication form that the agency uses or proposes to use in making demands for the collection of debts.
- Each form **must**:
 - identify and list the name of the collection agency,
 - include space for the name of a licensed collector,
 - have its own unique alpha-numeric identifier,
 - **not** indicate that charges will be levied **unless** such is modified by the phrase “as awarded by the courts”; and,
 - not provide for a higher interest rate (if interest is to be charged) than the rate agreed to between the debtor and the original creditor.

No collection agent shall use a form of agreement or other form or form letter unless a copy of the form has been returned to him bearing an endorsement by the registrar to the effect that the form has been accepted for filing.

The registrar may refuse to accept for filing any form that he finds to be objectionable.

7. Licence fees are as follows:

Collection Agency Licence: \$1,500 CAD (includes one authorized official/collector)
 Collector Licence: \$ 300 CAD (other than the designated official)

Licences are valid for five years from date of issue unless otherwise suspended or cancelled.

8. [FCAA Licensing Registry](#):

Once licensed, the names of the agency and the licensed collectors will appear on the webpage [FCAA411](#). The public will be cautioned not to deal with any agency or collector that is not licensed.

II. General Information

1. [The Collection Agents Act](#)

Before applying, every applicant for a licence should become familiar with the Act and Regulations.

A complete copy of *The Collection Agents Act* is available [here](#) or for a nominal fee request a print copy from the [Publications Centre](#) at: (306) 787- 6894; toll free in SK at 1 (800) 226 - 7302; by fax at 1(306) 798 - 0835; or by email at publications@gov.sk.ca.

2. Definitions (s. 2 of [The Collection Agents Act](#))

Authorized Official means a person who is authorized to act as the representative of a collection agent and is named in the licence of the collection agent. That person may act without an additional licence as a collector on behalf of the corporation.

Collection agent (agent is to be understood as meaning the agency) means a person other than a collector who:

- (i) collects debts for others;
- (ii) offers or undertakes to collect debts for others;
- (iii) solicits accounts for collection;
- (iv) collects debts owed to him under a name which differs from that under which he is the creditor;
- (v) mails to debtors or offers or undertakes to mail to debtors, on behalf of a creditor collection letters;

- (vi) for a fee or other consideration or hope or promise thereof, enters into an arrangement under the terms of which he agrees or undertakes to pay to a vendor any amount in respect of goods or services sold or supplied by the vendor to a person other than the collection agent;
- (vii) offers or undertakes to act for a debtor in arrangements or negotiations with his creditors;
- (viii) or receives money periodically from a debtor for distribution to his creditors;
- (ix) and includes a person who takes an assignment of a debt or debts due at the date of assignment from a specified debtor or debtors.

Collector means an individual who does anything referred to in the definition of collection agent or sells or offers for sale any of the services of a collection agent.

3. Prohibited Practices

The Act controls the methods used to collect debts. A collection agent cannot:

- collect or try to collect more than is owed or add additional fees or expenses to the debt;
- demand payment without giving the name of the creditor, the balance owed and the identity and authority of the person making the demand;
- harass the debtor, his or her family and household;
- call before 8 a.m. or after 9 p.m. or on Sundays or holidays (Holiday means Sunday, New Year's Day, Family Day, Good Friday, Victoria Day, Canada Day, Saskatchewan Day, Labour Day, Thanksgiving Day, Remembrance Day, Christmas Day and Boxing Day, and when one of those dates, other than Remembrance Day or Boxing Day, falls on a Sunday, it includes the following day);
- make a call by a method for which the debtor would incur costs; give any person false or misleading information that may be detrimental to a debtor or a debtor's family;
- contact a debtor's employer, except to verify the debtor's employment or in respect of payments under a wage assignment or a court order; or
- send the debtor documents that appear to be court documents.

4. Contracts with an unlicensed agent are prohibited – ss 35(1) of [The Collection Agents Act](#):

“Every person who knowingly employs an unlicensed collection agent or causes or procures letters or notices to be sent or verbal demands to be made upon debtors by an unlicensed collection agent is guilty of an offence”.

Clients who engage an unlicensed collection agent along with the unlicensed collection agency are subject to prosecution.

III. Annual Filing Requirements Pursuant to The Collection Agents Act

Annual Reports, [The Collection Agents Act](#).

s. 27 of The Act states:

Every licensed collection agent shall in each year cause to be prepared at the close of his fiscal year, a report on the affairs of the business of the collection agent for the preceding fiscal year, and a balance sheet of the business of the collection agent and a statement of profit and loss during the period covered by the report; and the report, balance sheet and statement of profit and loss shall be signed by the collection agent, certified by the auditor or auditors and forwarded to the registrar not later than three months after the close of the fiscal year to which they relate.

Registrar's position. Unless otherwise stated, each collection agency is required to file the following annual statements:

- a balance sheet (current year plus previous year amounts),
- an income statement (current year plus previous year amounts),
- relevant accompanying notes including a note outlining how income is recognized¹,
- the Accountant's Report² – Trust Accounts (see the example of an Accountant's Report – Trust Account)
- a statement of cash flow changes is preferred but optional.

The Registrar will accept the annual statements completed and signed by a Chartered Professional Accountant (CPA, CA, CMA, or CGA) or where the agent's head office is in a non-Canadian jurisdiction by an equivalently qualified individual suitable to the Registrar not later than three months after the close of the fiscal year unless an extension by the Registrar is granted.

¹Two examples of a note outlining how income is recognized are:

"Collection revenue is recognized as services are performed, generally upon collection of funds by or on behalf of the client and when the amount is determinable based on the contractual terms with the client."

or

"Collection revenue is recognized when persuasive evidence of an arrangement exists, services have been rendered, the price is fixed or determinable and collectability of the fee is reasonable assured"

²While financial statements are always required, the "Accountants Report – Trust Account" is only required where the Collection Agency accepts monies on behalf of a creditor. You will need to indicate that monies are not accepted when filing your annual returns should you not file such a report.

IV. Records Requirements Pursuant to *The Collection Agents Act*

1. Records and accounts - [The Collection Agents Act](#)

25 (1) Every holder of a collection agents licence shall:

- (a) keep proper records and books of account showing moneys received and moneys paid out, including a receipt book, cash book, clients' ledger, debtors' ledger, and journal or equivalent machine accounting records satisfactory to the registrar; and
- (b) maintain a trust account in a chartered bank, credit union or trust company, and shall deposit all moneys received on behalf of a client in the trust account.

(2) no money may be drawn from a trust account, except:

- (a) money paid to or on behalf of a client from funds which have been deposited in a trust account to the client's credit;
- (b) money required for payment to the collection agent of his charges pursuant to an agreement to collect debts or disbursements made on behalf of a client from money belonging to the client; or
- (c) money paid in to the trust account by mistake.

2. Auditors

- 26 (1) every licensed collection agent shall appoint one or more auditors, satisfactory to the registrar.
- (2) The auditor or auditors shall have a right of access at all times to all books, documents, accounts, and vouchers of the collection agent, and are entitled to receive from the collection agent and from the employees of the collection agent any information or explanation necessary for the performance of their duties as auditors, and each of those employees shall at all reasonable times provide such information or explanations to the auditor or auditors.
- (3) The auditor or auditors shall make a report to the collection agent on the accounts examined by them and on the balance sheet of the business of the collection agent, and the report shall state:
- (a) whether or not they have obtained all the information and explanations they requested;
 - (b) whether in their opinion the balance sheet referred to in the report is properly drawn up so as to exhibit truly and correctly the state of the affairs of the business of the collection agent according to the best of their information and the explanations given to them and as shown by the books of the business of the collection agent;
 - (c) in what respect they find the books, documents, accounts, or vouchers incorrect, or not in accordance with law;
 - (d) the appropriateness or otherwise of the several forms of account kept by the collection agent; and
 - (e) the gross amount of the moneys collected for the preceding twelve months.
- (4) The auditor or auditors shall forward to the registrar a copy of every report made by him or them.

Accounting for any payment of money collected

- 28 (1) every collection agent shall, without notice or demand, account for all moneys collected within thirty days after the end of the calendar month in which they are collected, and pay them, less his proper charges, to the person entitled thereto; but where the moneys collected are less than ten dollars, payment shall be made within sixty days after the end of the calendar month in which they are collected.

Accountant's Report – Trust Accounts

Accountant's Report for {insert collection agents name}

herein after the Collection Agent

For the period ending {insert fiscal year-end date}

hereinafter the fiscal year end

To the Consumer Protection Division, Financial & Consumer Affairs Authority, Saskatchewan. Pursuant to Section 26 of *The Collection Agents Act* (The Act) we report that:

- (a) I/We have examined the Collections Agent's trust records for the fiscal year and confirm that the Collection Agent has maintained proper records and accounts of its trust collections in accordance with s. 25(1) of *The Act*;
- (b) I/We have examined the balances due to clients in trust as at the Collection Agent's fiscal year-end and find them consistent with records of the Collection Agent.
- (c) The monies held in trust for clients have been verified by investigations or by certificates obtained from the bank, treasury branch, trust company or credit union with which the trust accounts are maintained;
- (d) I/We have reviewed a sample of numbered trust account transactions of the Collection Agent for the fiscal year to satisfy ourselves that any monies withdrawn from the trust account have been used only for the purposes under s. 25(2) of *The Act*;
- (e) Trust monies are maintained in a separate trust account and are sufficient to retire undischarged trust obligations as at {insert fiscal year-end date} ;
- (f) The amount due to clients in trust at {insert fiscal year-end date} , as reflected by the records of the Collection Agent accounted to \$ _____ ;
- (g) The gross amount of monies collected by the Collection Agent in the twelve months preceding [insert fiscal year end date] amounted to \$ _____ ;
- (h) Pursuant to s. 27 of The Act, a balance sheet and income statement have been prepared;
- (i) The Collection Agent has accounted for payment of money collected as required by s. 28 of *The Act*; and
- (j) I/We have the following additional matters to report or comment on {see attached or none} .

This report is solely for the use of the "collection agent" for the purposes of the licensing requirements in the Province of Saskatchewan.

Note to reader - these procedures **do not** constitute an audit with the objective of expressing an opinion on the agent's overall financial statements, accordingly, this report does not express an opinion on that information.

CPA

Date

Penal Bond Wording

The Collection Agents Act

Bond No. _____

KNOW ALL MEN BY THESE PRESENTS,

that _____ as Principal
(hereinafter called the Principal))

and, _____ as Surety
(hereinafter called the Surety)

are held and firmly bound unto Her Majesty the Queen in right of Saskatchewan (hereinafter called the Obligee) in the penal sum of _____ dollars of lawful money of Canada, to be paid unto the Obligee, her successors and assigns, for which payment well and truly to be made, we jointly and severally bind ourselves, our executors, administrators, successors and assigns firmly by these presents.

SEALED with the respective seals of the Principal and of the Surety and dated the _____ day of _____, _____.

NOW THE CONDITION of the obligation is such that if the said obligation does not by reason of any act, matter or thing at any time hereafter become or to be forfeit under *The Collection Agents Act*, then the said obligation shall be void but otherwise shall be and remain in full force and effect and shall be subject to forfeiture as provided by the said Act.

PROVIDED that if the Principal or Surety at any time gives notice in writing to the Registrar of *The Collection Agents Act* of intention to terminate the obligation hereby undertaken then this obligation shall cease and determine in respect only of any act, matter or thing taking place, arising or done subsequent to twenty-seven calendar months after receipt by the Registrar of such notice.

PROVIDED FURTHER that if such notice has been given, any claim hereunder shall be made on the Surety before the expiration of the aforesaid twenty-seven months.

AND PROVIDED FURTHER that no proceeds of this bond shall be paid to any person in respect of a contract entered three calendar months or more after receipt by the Registrar of any such notice.

SIGNED, SEALED AND DELIVERED)

in the presence of)

_____)

_____)

_____)

_____)

_____)

_____)

SIGNED, SEALED AND DELIVERED)

_____)

Principal(s)
(sole proprietor, all partners,
or Director of the Corporation)

Surety (Seal)

