

Payday Loans Unit

Prêts sur salaires

Consumer Protection Branch
5775 Yonge Street, Suite 1500
Toronto ON M7A 2E5
Tel.: 416 326-8802
Toll-free: 1 800 889-9768
Fax: 416 326-8810

Direction de la protection du consommateur
5775, rue Yonge, bureau 1500
Toronto ON M7A 2E5
Tél. : 416 326-6203
Sans frais : 1 800 889-9768
Télééc. : 416 326-8810

Registrar, Payday Loans Act, 2008

4 July 2011

Notice to Lenders and Brokers Licensed
Under the Payday Loans Act, 2008

On September 1, 2011, amendments to the General Regulation under the *Payday Loans Act, 2008* will come into effect. For ease of reference a copy of the regulation amending the General Regulation is attached. The General Regulation as amended will be able to be viewed at: http://www.e-laws.gov.on.ca/html/regs/english/elaws_regs_090098_e.htm later this month.

Please note that the amendments to the Regulation may necessitate changes in practices as well as to the form of agreement used by some licensees. Where such changes to the agreement are required, licensees are expected to have the amended agreements available and in use by September 1, 2011.



Brian Pitkin, CD
Registrar

ONTARIO REGULATION 316/11

made under the

PAYDAY LOANS ACT, 2008

Made: June 22, 2011

Filed: June 28, 2011

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Amending O. Reg. 98/09

(General)

Note: Ontario Regulation 98/09 has not previously been amended.

1. The definition of “device” in section 1 of Ontario Regulation 98/09 is amended by adding “or provide access to” after “deliver”.

2. The Regulation is amended by adding the following section:

Information to borrower

16.1 (1) Before the parties enter into a payday loan agreement, the lender shall ensure that the borrower is informed orally of all the means available for obtaining a payday loan from the lender.

(2) The lender shall ensure that the advance is provided to the borrower using the means that the borrower selects.

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

(4) If a lender contravenes 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.

3. (1) Paragraph 2 of section 17 of the Regulation is revoked and the following substituted:

2. Any other amount that is connected directly or indirectly to the payday loan agreement and,

i. that the borrower has paid upon entering into the agreement, or

ii. for which the borrower’s obligation to pay exists upon entering into the agreement.

(2) Section 17 of the Regulation is amended by adding the following subsection:

(2) Without limiting the generality of paragraph 2 of subsection (1), the amount described in that paragraph includes any amount in relation to a device.

4. (1) Paragraph 7 of subsection 18 (1) of the Regulation is amended by striking out the portion before subparagraph i and substituting the following:

7. If the lender delivers or provides access to all or part of the advance to the borrower by way of a device, the following information about the device:

(2) Subparagraph 7 iii of subsection 18 (1) of the Regulation is revoked and the following substituted:

iii. Instructions on how to use the device, if the device is not a cheque.

(3) Subparagraph 7 iv of subsection 18 (1) of the Regulation is revoked.

(4) Subparagraph 7 vi of subsection 18 (1) of the Regulation is amended by adding “or accessible by the device” after “on the device”.

(5) Subparagraph 7 vii of subsection 18 (1) of the Regulation is amended by adding “or accessible by the device” after “on the device”.

(6) Subparagraph 7 ix of subsection 18 (1) of the Regulation is amended by striking out “and if so, whether the borrower has to pay an amount to obtain, load or activate the device under the subsequent agreement” at the end.

5. (1) Section 22 of the Regulation is amended by adding the following subsection:

Convertibility of advance into cash

(0.1) Upon delivering or providing access to all or part of the advance under a payday loan agreement to the borrower by way of a device, the lender shall ensure that the borrower is informed orally of the borrower's rights under subsections (1), (2), (3) and (5).

(2) Subsection 22 (1) of the Regulation is revoked and the following substituted:

(1) If a lender under a payday loan agreement delivers or provides access to all or part of the advance to the borrower by way of a device and if the borrower makes a request to the applicable one of the following persons, the borrower is entitled to receive in cash the balance of the advance that is on the device or that is accessible by the device at the time of the request, whether that balance represents all or part of the advance:

1. The lender if no loan broker has assisted the borrower in obtaining the payday loan.
2. The loan broker who assisted the borrower in obtaining the payday loan.

(3) Subsection 22 (3) of the Regulation is revoked and the following substituted:

(3) When a borrower makes a request under subsection (1), the lender shall, immediately and at no charge to the borrower, provide in cash to the borrower the balance of the advance that is on the device or that is accessible by the device at the time of the request.

(4) Subsection 22 (4) of the Regulation is amended by striking out "subsection (3)" at the end and substituting "subsections (0.1) and (3)".

(5) Subsection 22 (5) of the Regulation is amended by striking out "subsection (3)" and substituting "subsection (0.1) or (3)".

6. (1) Subsection 27 (3) of the Regulation is revoked and the following substituted:

(3) A licensee, acting on the licensee's own behalf or on behalf of any other person, shall not offer to provide or provide any good or service in connection with a payday loan agreement, other than the payday loan, whether or not it is provided for consideration.

(2) Subsection 27 (4) of the Regulation is amended by striking out "subsection (1), (2) or (3)" at the end and substituting "subsection (1) or (2)".

(3) Subsection 27 (5) of the Regulation is revoked and the following substituted:

(5) If a lender contravenes subsection (1) or (2) or if a licensee contravenes subsection (3), the borrower is only required to repay the advance to the lender and is not liable to pay the cost of borrowing.

7. (1) Subsection 30 (1) of the Regulation is revoked and the following substituted:

Devices

(1) No licensee in respect of a payday loan agreement in which the licensee was involved shall refuse to disclose the balance on the device or accessible by the device to the borrower at the request of the borrower or shall charge the borrower a fee for disclosing that balance.

(2) The French version of subsection 30 (2) of the Regulation is amended by striking out "de lui rembourser l'avance" and substituting "de rembourser l'avance au prêteur".

(3) Subsection 30 (3) of the Regulation is amended by adding "in which the licensee was involved" after "agreement".

8. The Regulation is amended by adding the following section:

Time for payments

30.1 (1) A licensee shall not request or require the borrower under a payday loan agreement to do any of the following or suggest to the borrower that the borrower do any of the following:

1. Repay or pay the advance or any part of it to the lender or anyone else until the end of the term of the agreement.
2. Pay the cost of borrowing or any part of it to anyone until the end of the term of the agreement.

(2) A licensee shall not, directly or indirectly on behalf of any other person, request or require the borrower under a payday loan agreement to do any of the actions described in paragraph 1 or 2 of subsection (1) or suggest to the borrower that the borrower do any of those actions.

(3) If a licensee contravenes 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.

Commencement

9. This Regulation comes into force on the later of September 1, 2011 and the day it is filed.