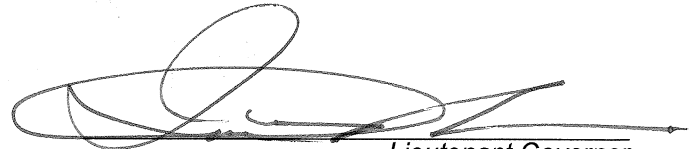


PROVINCE OF BRITISH COLUMBIA

ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL

Order in Council No. 298, Approved and Ordered **MAR 17 2005**


Lieutenant Governor

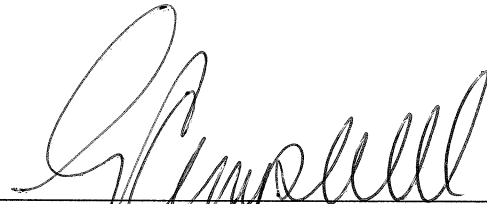
Executive Council Chambers, Victoria

On the recommendation of the undersigned, the Lieutenant Governor, by and with the advice and consent of the Executive Council, orders that, effective October 1, 2005,

- (a) the definition of “**telemarketer**” in section 142 and section 143 (d) are brought into force,
- (b) the Telemarketer Licensing Regulation set out in Schedule 1 is made, and
- (c) the Business Practices and Consumer Protection Regulation, B.C. Reg. 294/2004, is amended as set out in Schedule 2.



Minister of Public Safety and Solicitor General



Presiding Member of the Executive Council

(This part is for administrative purposes only and is not part of the Order.)

Authority under which Order is made:

Act and section:- Business Practices and Consumer Protection Act, S.B.C. 2004, c. 2, ss. 143, 164, 194, 199 and 238

Other (specify):- oic 656/2004

March 2, 2005

resub 290/2005/12

SCHEDULE 1

TELEMARKETER LICENSING REGULATION

Definitions

1 In this regulation:

“**Act**” means the *Business Practices and Consumer Protection Act*;

“**licence**” means a licence, as defined in section 1 of the Act, to act or hold out as a telemarketer.

Exemptions from licensing requirement

2 A supplier is exempt from the requirement to be licensed if the supplier is initiating contact with a consumer for the purpose of conducting a consumer transaction other than

- (a) a consumer transaction conducted under a distance sales contract, or
- (b) for the purpose of soliciting a consumer, on behalf or for the benefit of another supplier, for a contribution of money or other property by the consumer.

Term of licence

3 The director may issue a licence for a term not exceeding 3 years.

Licence for each location

- 4
- (1) A telemarketer must have a licence for each location from which the telemarketer conducts business in British Columbia.
 - (2) A licensee must immediately notify the director of any change of address for the location from which the licensee conducts business in British Columbia.

Display of licence

5 A licensee must display the licensee’s licence in a conspicuous location in the place of business.

Reporting to director

- 6
- (1) In this section, “**employee**” means an employee who is a licensee.
 - (2) A licensee must immediately report to the director all of the following:
 - (a) the name and address of every new employee hired by the licensee;
 - (b) any change of address of an employee;
 - (c) the name of any employee who ceases to be employed by the licensee;
 - (d) if the licensee is a corporation,
 - (i) a change in the senior officers, as defined in the *Business Corporations Act*, of the licensee, or
 - (ii) a material change in the beneficial ownership of the shares of the licensee.

Records

- 7
- (1) A licensee must collect and maintain a record of the following information in respect of each distance sales contract entered into by telephone or facsimile:
 - (a) the consumer's name, address, telephone number and, if available, facsimile number;
 - (b) the date on which the contract is entered into;
 - (c) the information required to be disclosed under section 46 of the Act.
 - (2) A licensee must collect and maintain a record of the following information in respect of each consumer who agrees by telephone or facsimile to contribute money or other property as a result of the licensee soliciting the consumer:
 - (a) the name of the organization on whose behalf or for whose benefit the licensee initiated contact with the consumer, the organization's business address, telephone number and, if available, facsimile number and electronic mail address;
 - (b) a detailed description of the purpose for which the contribution of money or other property was solicited;
 - (c) the consumer's name, address, telephone number and, if available, facsimile number;
 - (d) the date on which the consumer agreed to contribute money or other property;
 - (e) the amount of money the consumer agreed to contribute or the value or a detailed description of the property the consumer committed to contribute.
 - (3) A licensee must retain the record in respect of a consumer transaction referred to in this section for 2 years from the date the contract was entered into or the commitment was made by the consumer.

Regulated and prohibited acts or practices

- 8
- (1) In this section, "**statutory holiday**" means a holiday, except Sunday, unless the holiday falls on a Sunday.
 - (2) A licensee must not communicate or attempt to communicate with a consumer by telephone or facsimile
 - (a) on a statutory holiday,
 - (b) subject to paragraph (a), on a Saturday or Sunday, except between the hours of 10 a.m. and 6 p.m. local time for the consumer contacted, or
 - (c) on any other day, except between the hours of 9 a.m. and 9:30 p.m. local time for the consumer contacted.
 - (3) Except on the request of the consumer contacted, a licensee must not communicate with a consumer by telephone or facsimile more than once in a 30 day period in respect of the same proposed consumer transaction.
 - (4) A licensee must not block the display to the consumer of the number from which the licensee is originating the telephone call or facsimile.

- (5) If a licensee is initiating contact with a consumer by telephone or facsimile for a purpose referred to in section 2 (a) or (b), on behalf or for the benefit of another supplier, the licensee must disclose, in a clear and comprehensible manner, the following information to the consumer before the consumer enters into the contract or commits to contributing money or other property:
- (a) the name of the supplier on whose behalf or for whose benefit the licensee initiated contact with the consumer and the supplier's business address and telephone number;
 - (b) if the consumer is contacted for the purpose of soliciting a contribution of money or other property, a detailed description of the purpose for which the contribution of money or other property was solicited.

Offence

- 9** A person who contravenes section 8 (5) commits an offence.

SCHEDULE 2

- 1** ***The Business Practices and Consumer Protection Regulation, B.C. Reg. 294/2004 , is amended by adding the following section:***

Prescribed provisions of the Telemarketer Licensing Regulation

- 7.1** For the purposes of section 164 (1) (a) and (5) (a) *[administrative penalties]* of the Act, the following provisions of the Telemarketer Licensing Regulation are prescribed:

- (a) section 4 (1) *[licence for each location];*
- (b) section 4 (2) *[notification of change of address];*
- (c) section 5 *[display of licence];*
- (d) section 6 (2) *[reporting to director];*
- (e) section 7 (1) *[records – distance sales contract];*
- (f) section 7 (2) *[records – contribution of money or other property];*
- (g) section 7 (3) *[records – retention];*
- (h) section 8 (2) *[when communication prohibited];*
- (i) section 8 (3) *[communication within 30 day period];*
- (j) section 8 (4) *[display of number];*
- (k) section 8 (5) *[disclosure to consumer].*