



Province of Alberta

## CONSUMER PROTECTION ACT

# **AUTOMOTIVE BUSINESS REGULATION**

### **Alberta Regulation 192/1999**

With amendments up to and including Alberta Regulation 133/2018

Current as of October 31, 2018

### Office Consolidation

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(Consolidated up to 133/2018)

**ALBERTA REGULATION 192/99**

**Consumer Protection Act**

**AUTOMOTIVE BUSINESS REGULATION**

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#### **Definitions**

**1(1)** In this Regulation,

- (a) “Act” means the *Consumer Protection Act*;
- (b) “automotive business” means the business designated as the automotive business under the *Designation of Trades and Businesses Regulation*;
- (c) “business operator” means a person who is engaged in the automotive business;
- (d) “compensation fund” means the fund established by the Council under section 137(1) of the Act;
- (e) “consignment agreement” means a consignment agreement to which section 55 of the Act applies by virtue of section 32 of this Regulation;
- (e.1) “consumer” means
  - (i) an individual who receives or has the right to receive goods or services for personal use from an automotive business as a result of a purchase, lease, gift, contest or other arrangement, but does not include an individual who intends to sell the goods after receiving them, or

- (ii) a business with a commercial fleet of 5 or fewer vehicles that receives or has the right to receive goods or services for business use from an automotive business as a result of a purchase, lease, gift, contest or other arrangement, but does not include a business that intends to sell the goods after receiving them;
- (f) “Council” means the Alberta Motor Vehicle Industry Council referred to in section 24;
- (g) “licence” means a class of automotive business licence established by this Regulation;
- (h) “lien” means, in respect of a vehicle or other personal property, any lien, mortgage, charge or encumbrance to which the vehicle or other property is subject;
- (i) “recycler and dismantler” means a person who carries on the activities of purchasing and dismantling or disassembling wrecked, abandoned or damaged vehicles and selling
  - (i) the usable parts,
  - (ii) the vehicle as a unit at wholesale, or
  - (iii) the hulk of the vehicle after the usable parts have been removed;
- (j) “salesperson” means a person who is authorized by an automotive sales licensee, automotive leasing licensee or automotive consignment licensee to solicit, negotiate or conclude on the licensee’s behalf an agreement to buy, sell, lease, exchange or consign a vehicle;
- (k) “vehicle” means
  - (i) a motor vehicle as defined in the *Traffic Safety Act*, but does not include a motor cycle or off-highway vehicle as defined in that Act, and
  - (ii) a recreational vehicle intended to be towed that combines transportation and temporary living accommodations for the purpose of travel or camping;
- (l) “wholesaler” means an automotive business that buys vehicles from, sells or consigns vehicles to or exchanges vehicles with other automotive businesses exclusively, and includes an automotive business that buys vehicles

from members of the public for sale to other automotive businesses but not to consumers.

**(2)** The definition of “consumer” in section 1(1)(b) of the Act does not apply to this Regulation.

AR 192/99 s1;221/2004;1/2006;112/2006;133/2018

## **Part 1 Licensing, Standards and Registration**

### **Licensing**

**2** Repealed AR 1/2006 s3.

#### **No assessment**

**2.1** The Council shall not levy an assessment under the Act on the holder of a general automotive business licence referred to in section 2(4) until that licence has expired as set out in section 2(4).

AR 137/2000 s2

#### **New classes of licence**

**3(1)** The following classes of automotive business licence are established:

- (a) automotive sales licence;
- (b) automotive leasing licence;
- (c) automotive consignment licence;
- (d) automotive repair licence.

**(2)** A person who holds an automotive sales licence is authorized to carry on a class or classes of the activity of buying or selling vehicles as specified by the Director, including, but not limited to, selling vehicles as

- (a) a retailer,
- (b) a wholesaler, or
- (c) an agent or broker,

but not including selling vehicles on consignment.

- (3) A person who holds an automotive leasing licence is authorized to carry on a class or classes of the activity of leasing vehicles as specified by the Director.
- (4) A person who holds an automotive consignment licence is authorized to carry on a class or classes of the activity of selling vehicles on consignment as specified by the Director.
- (5) A person who holds an automotive repair licence is authorized to carry on the activities of
- (a) repairing vehicles,
  - (b) servicing vehicles,
  - (c) recycling and dismantling vehicles, or
  - (d) installing parts or equipment in vehicles
- as specified by the Director on the licence.
- (6) For the purposes of subsection (5), “installing” includes but is not limited to the installation of anti-theft systems, stereo, audio-visual and remote start systems and modification kits.
- (7) A person who holds an automotive business licence is not authorized to carry on any class or classes of activities that are not specified on the licence.

AR 192/99 s3;1/2006

### 3.1 Repealed AR 1/2006 s5.

#### Complying with laws

- 4(1)** The Director may refuse to issue or to renew a licence to an applicant if
- (a) the applicant is unable to satisfy the Director that the applicant is complying with the laws, including municipal bylaws, that apply to the automotive business to be operated under the licence,
  - (b) in the Director’s opinion, the applicant has contravened the codes of conduct that apply to the automotive business to be operated under the licence, or
  - (c) a claim has been paid from the compensation fund in respect of the applicant and the applicant has not reimbursed the compensation fund for the amount of the payment.



(2) The Director may require an applicant for a class of automotive business licence to furnish a security in a form and amount approved by the Director.

AR 192/99 s4;1/2006

#### **Term of licence**

**5(1)** An automotive business licence has a term of one year and may be renewed for additional one-year terms.

(2) In a case where, in the opinion of the Director, it is in the public interest to issue or renew a licence referred to in section 3 for a term of less than one year, the Director may do so.

AR 192/99 s5;96/2000;137/2000;1/2006

#### **Death of business operator**

**6** If a business operator dies during the term of the licence, the licence is deemed to be held by

- (a) the business operator's executor,
- (b) the administrator of the business operator's estate, or
- (c) the business operator's next of kin where letters of administration have not been granted.

AR 192/99 s6;1/2006

#### **Partnership**

**7(1)** The term of a licence issued to a partnership expires when there is a change in the partners.

(2) When there is a change in the partners, the remaining partners of the partnership must notify the Director and return the licence to the Director.

#### **Transfer of licence**

**8** A licence does not confer any property right and no business operator may sell, transfer, assign, lease or otherwise dispose of or deal in a licence.

AR 192/99 s8;1/2006

#### **Records**

**9** In addition to the requirement to create and maintain financial records in accordance with section 132(1) of the Act, every business operator and former business operator must maintain all records and documents created or received while carrying on the

activities authorized by the licence for at least 3 years after the records were created or received.

AR 192/99 s9;1/2006

#### **Duty to produce licence**

**10** Every business operator must produce the business operator's licence for inspection or provide details about the licence that make it possible to determine if the person has been issued a licence when requested to do so

- (a) by a customer or potential customer of the business operator,
- (b) by an inspector or the Director, or
- (c) by a peace officer as defined in the *Provincial Offences Procedure Act*.

AR 192/99 s10;1/2006

### **Codes of Conduct**

#### **Advertising**

**11(1)** Every business operator must ensure that the business operator's advertising indicates in a conspicuous manner

- (a) the name of the business operator as set out in the licence or the trade name of the business operator as set out in the licence, and
- (b) in the case of print and television advertising, that the business operator holds an automotive business licence under the Act.

**(2)** A business operator must ensure that every advertisement for an automotive business that promotes the use or purchase of goods or services

- (a) states whether the vehicle pictured in the advertisement is or is not the specific vehicle that is for sale,
- (b) identifies vehicles that have been used as taxi cabs, police cars or emergency vehicles or that have been recertified when the previous use or condition of the vehicles is known to the business operator,
- (c) does not misrepresent, through statements or omissions, a vehicle's mechanical or structural condition,
- (d) uses descriptions and makes promises only in accordance with actual conditions, situations and circumstances,

- (e) does not use a font that due to its size or other visual characteristics is likely to materially impair the legibility or clarity of the advertisement and, without limiting the generality of the foregoing, in no case uses a font size smaller than 8 points,
- (f) does not use the words, or words similar to, “demonstrator vehicle” or “demo vehicle” unless the vehicle in question was purchased new by the business operator and used solely for the normal business of the business operator,
- (g) does not use the words, or words similar to, “savings”, “discount”, “percentage off the purchase price”, “free”, “invoice price”, “below invoice”, “dealer’s cost”, “at cost” or a price that is a specified amount above or below invoice or cost unless the claims represented by the words can be substantiated,
- (h) does not use the words, or words similar to, “wholesale”, “take over payments” or “repossession” unless the claims represented by the words are objectively and demonstrably true,
- (i) does not imply a warranty exists with respect to a vehicle or a repair or service unless such a warranty with respect to the vehicle, repair or service exists and is available at the price advertised,
- (j) does not make comparisons or claims of superiority unless the results of the comparisons or the claims can be substantiated,
- (k) does not offer a guaranteed trade-in allowance for any vehicle regardless of make, year or condition,
- (l) includes in the advertised price for any vehicle the total cost of the vehicle, including, but not limited to, all fees and charges such as the cost of accessories, optional equipment physically attached to the vehicle, transportation charges and any applicable taxes or administration fees, but not including GST or costs and charges associated with financing,
- (m) includes the stock number of the specific vehicle that is advertised as being available for sale at the time the advertisement is placed,
- (n) does not use false, misleading or deceptive statements, and

- (o) does not advertise a specific vehicle for sale if more than 14 days have elapsed since the vehicle was sold.

AR 192/99 s11;1/2006;133/2018

### **General codes of conduct**

**12** Every business operator must comply with section 6 of the Act and in addition must

- (a) not make any representations, statements or claims that are not true or are likely to mislead a consumer,
- (b) use only timely, accurate, verifiable and truthful comparisons that can be supported with established and reliable data,
- (c) not abuse the trust of a consumer or exploit any fear or lack of experience or knowledge of a consumer,
- (d) not use undue, excessive or unreasonable pressure on a consumer to complete a transaction,
- (e) not make any verbal representations regarding contracts, rights or obligations that are not contained in written contracts,
- (f) not make any representation that savings, price benefits or advantages exist if they do not exist or if there is no evidence to substantiate the representation,
- (g) not use threatening, intimidating, abusive or coercive language in discussions with a consumer,
- (h) not charge a price for goods or services that is more than 10%, to a maximum of \$100, higher than the estimate given for those goods or services unless
  - (i) the consumer has expressly consented to the higher price before the goods or services are supplied, or
  - (ii) if the consumer requires additional goods or services, the consumer and the supplier agree to amend the estimate in a consumer agreement,
- (i) not make any representation to a consumer that the business has the ability to install equipment or to perform a particular repair or service unless the business has the equipment, tools and expertise necessary to complete the installation, repair or service,
- (j) not subcontract repair work without the knowledge and prior consent of the consumer,

- (k) when rebuilding or restoring a vehicle, do so in such a manner that it conforms to or exceeds the original manufacturer's established standards or specifications and allowable tolerances for the particular model and year unless the consumer has consented in writing to a specific different standard before the rebuilding or restoration is done,
- (l) not substitute used, rebuilt, salvaged or straightened parts for new replacement parts without the consumer's knowledge and prior consent,
- (m) provide the consumer in writing with information regarding the parts installed, including whether they are original equipment manufacturer's parts or from another source, and whether they are new, used or reconditioned,
- (n) offer to return all parts removed from the vehicle in the course of work or repairs to the consumer, and return them unless advised by the consumer that the consumer does not require the parts to be returned, and
- (o) comply with any legislation that may apply to the selling, leasing, consigning, repairing, installing, recycling or dismantling of vehicles.

AR 192/99 s12;1/2006

**13 to 15** Repealed AR 1/2006 s14.

### **Registration of Salespersons**

#### **Registration**

**16(1)** A salesperson of an automotive sales business operator must be registered for automotive sales before acting on behalf of the business operator.

**(2)** A salesperson of an automotive leasing business operator must be registered for automotive leasing before acting on behalf of the business operator.

**(3)** A salesperson of an automotive consignment business operator must be registered for consignment sales before acting on behalf of the business operator.

**(4)** Repealed AR 1/2006 s15.

**(5)** A salesperson who acts on behalf of more than one business operator within the same class of automotive business licence must be registered separately in respect of each such business operator but is required to pay only one registration fee annually.

- (6) A salesperson who acts on behalf of more than one business operator shall forthwith identify to the Director each business operator on whose behalf the salesperson acts.
- (7) Where a salesperson ceases to act on behalf of a business operator the salesperson shall forthwith return to the Director the certificate issued in respect of the salesperson's acting for that business operator.
- (8) The registration of a salesperson is automatically cancelled where the salesperson is no longer authorized to act on behalf of any business operator.

AR 192/99 s16;137/2000;1/2006

#### **Application for registration**

- 17(1)** A person who wishes to be registered or to have a registration renewed under this Regulation must submit to the Director
- (a) an application on a form established by or acceptable to the Director,
  - (b) any additional information that is requested by the Director, and
  - (c) proof satisfactory to the Director that the applicant has met the education requirements established by the Director.
- (2) The application and other information submitted under subsection (1) must, on the request of the Director, be verified by affidavit or in another manner that is satisfactory to the Director.

#### **Deemed effective date of registration of salesperson**

- 17.1(1)** Where a person applies not later than October 1, 2000 for registration as a salesperson, the registration is deemed to be effective on July 1, 2000.
- (2) Subsection (1) does not preclude the Director from refusing to register a person as a salesperson if, in the opinion of the Director, there has been insufficient information provided by the applicant to justify the registration.

AR 96/2000 s5;137/2000

#### **Adoption of provisions**

- 18** Sections 125, 127 and 128 of the Act apply, with the necessary changes, to the registration of salespersons.

**Education requirements**

**19** The Director may establish education requirements to be met by applicants for registration.

**Term of registration**

**20** The term of registration of a salesperson is one year and the registration may be renewed for additional one-year periods.

AR 192/99 s20;96/2000;137/2000

**Acting on behalf of business operator**

**20.1** No business operator may allow a salesperson to act on the business operator's behalf unless

- (a) the salesperson is registered for the class of licence held by the business operator, and
- (b) the business operator authorizes the salesperson to act on its behalf.

AR 96/2000 s6;137/2000;1/2006

**Salesperson ceases to be authorized**

**21(1)** When an automotive sales business operator, automotive leasing business operator or automotive consignment business operator ceases to authorize a salesperson to act on its behalf, the business operator must send to the Director written notification of

- (a) the name of the salesperson, and
- (b) the date that the salesperson ceases to be authorized to act on its behalf.

**(2)** The business operator must notify the Director either before the salesperson ceases to be authorized or within 15 days after the salesperson ceases to be authorized.

AR 192/99 s21;1/2006

**Appeal**

**22(1)** A person

- (a) whose application for registration or renewal of registration has been refused,
- (b) whose registration is made subject to terms and conditions, or
- (c) whose registration has been cancelled or suspended under section 127 of the Act

may appeal in accordance with the process established by the Director.

(2) The Director may establish an appeal process for the purposes of subsection (1), including forming or designating an appeal body.

#### **Duty to produce certificate of registration**

**23** Every registrant must produce the registrant's certificate of registration for inspection or provide details about the registration that make it possible to determine if the person is registered when requested to do so

- (a) by a customer or potential customer of the registrant,
- (b) by an inspector or the Director, or
- (c) by a peace officer as defined in the *Provincial Offences Procedure Act*.

## **Part 2**

### **Alberta Motor Vehicle Industry Council and the Compensation Fund**

#### **Regulatory board**

**24** The Council, a corporation continued under section 137.8 of the Act,

- (a) is established as a regulatory board to exercise the powers, duties and functions delegated to it under section 136(5) of the Act, and
- (b) protects the public interest through its exercise of the delegated powers, duties and functions.

AR 192/99 s24;133/2018

#### **Not a Crown agent**

**24.01** The Council is not an agent of the Crown.

AR 133/2018 s5

#### **Natural person powers**

**24.02(1)** The Council has the capacity and the rights, powers and privileges of a natural person.

(2) The Council has the capacity to exercise the powers of a natural person in any jurisdiction outside Alberta to the extent and in the manner that the laws of the other jurisdiction permit.

AR 133/2018 s5



**Definitions**

**24.1** In sections 24.2 to 24.92,

- (a) “board” means the board of directors of the Alberta Motor Vehicle Industry Council;
- (b) “public director” means a director appointed under section 24.2(1)(a);
- (c) “industry association” means an association set out in section 24.2(1)(b) to (f);
- (d) “industry director” means a director appointed under section 24.2(1)(b) to (f) or (9);
- (e) “industry director-at-large” means a director-at-large appointed under section 24.2(1)(g) or (10).

AR 133/2018 s5

**Board membership, vacancies**

**24.2(1)** Subject to subsections (9) and (10), the board of the Council consists of the following directors:

- (a) 7 directors, representing the general public, appointed by the Minister by order;
- (b) one director appointed by the Motor Dealers’ Association of Alberta;
- (c) one director appointed by the Recreation Vehicle Dealers Association of Alberta;
- (d) one director appointed by the Canadian Independent Automotive Association — Alberta Chapter;
- (e) one director appointed by the Auctioneers’ Association of Alberta;
- (f) one director appointed by the Alberta Automotive Recyclers and Dismantlers Association;
- (g) one director-at-large, representing industry, appointed by a majority vote of industry directors.

**(2)** The Minister must designate one of the public directors as the chair.

**(3)** An industry organization appointing an industry director must submit notice in writing of the name of the director to the chair.

- (4) An appointment of an industry director becomes effective 10 days after the notice is received by the chair or at the time specified in the notice, whichever is later.
- (5) A director may be appointed for a term of not more than 3 years and may be reappointed for one or more additional terms of not more than 3 years, but must not be appointed for more than 6 consecutive years.
- (6) The term of appointment of an industry director-at-large appointed under subsection (1)(g) or (10) must be set by a majority vote of the industry directors.
- (7) Despite subsection (5), an individual appointed as a public director continues to hold office after the expiry of the individual's term of office until the individual is reappointed or the individual's successor is appointed.
- (8) An industry organization must, within 90 days of a vacancy arising in the industry director position appointed by that organization, appoint an industry director for the remainder of the term of the vacated director position.
- (9) If an industry organization fails to comply with subsection (8), an individual who is eligible under section 24.3 may be appointed as an industry director by a majority vote of the industry directors.
- (10) The dissolution of an industry organization results in the automatic termination, as of the date of dissolution, of the appointment of the director appointed by the organization and an industry director-at-large must instead be appointed by a majority vote of the remaining industry directors held within 90 days after the dissolution.
- (11) Copies and notices of an appointment must be given in accordance with the bylaws of the Council by the person or group making the appointment.
- (12) The Council may make bylaws respecting procedures relating to votes under this section.
- (13) When there is a vacancy on the board, the remaining directors may exercise the powers and performs all duties of the board so long as there is a quorum of the board.

AR 133/2018 s5

**Eligibility as director**

- 24.3(1)** An individual is eligible to be or remain a public director only if

- (a) the individual is a resident of Alberta, and
  - (b) neither the individual nor any member of the individual's immediate family
    - (i) has an interest in an automotive business, or
    - (ii) is a director, owner, agent, representative or employee of an automotive business.
- (2)** An individual is eligible to be or remain an industry director or industry director-at-large only if
- (a) the individual is a resident of Alberta,
  - (b) the individual
    - (i) is actively engaged in the automotive business on a day-to-day basis at an operational level, in a business for which an automotive business licence is held, and
    - (ii) has been actively engaged, for at least 3 consecutive years immediately before the date of appointment, in the automotive business in a business for which an automotive business licence is held.
  - (c) the individual has no convictions, within the past 5 years, under the *Consumer Protection Act* or the *Fair Trading Act* (RSA 2000 cF-2), and
  - (d) the individual has not, within the past 5 years, been the subject of an administrative penalty, licence suspension or licence cancellation under the *Consumer Protection Act* or the *Fair Trading Act* (RSA 2000 cF-2).
- (3)** The following individuals are disqualified from being or remaining a director of the board:
- (a) an individual who is less than 18 years of age;
  - (b) an individual who
    - (i) is a represented adult as defined in the *Adult Guardianship and Trusteeship Act*,
    - (ii) is the subject of a certificate of incapacity that is in effect under the *Public Trustee Act*, is a formal patient as defined in the *Mental Health Act*, or
    - (iii) has been found to be of unsound mind by a court elsewhere than in Alberta;

- (c) an individual who has the status of an undischarged bankrupt;
- (d) an individual who has been convicted within the past 5 years of an indictable or of a similar offence in another jurisdiction;
- (e) an individual who has been convicted within the past 5 years of any offence under the *Bank Act (Canada)*, *Loan and Trust Corporations Act*, *Credit Union Act*, *Insurance Act*, *Securities Act* or similar legislation in another jurisdiction.

(4) An individual who is appointed as a director for the maximum time period permitted under section 24.2(5), is not eligible to be appointed again as a director until 2 years have elapsed from the last day that the director held office.

(5) An act of the board or a committee of the board is valid notwithstanding an irregularity in the appointment of a director, a defect in the director's eligibility or a disqualification of the director.

AR 133/2018 s5

#### **Resignation of directors, chair**

**24.31(1)** A public director, other than the chair, may resign at any time by providing notice in writing of the resignation to the chair and the Minister.

(2) An industry director or an industry director-at-large, other than the chair, may resign at any time by providing notice in writing of the resignation to the chair.

(3) The chair may resign the designation as chair or the appointment as director at any time by notice in writing of the resignation to the Minister.

(4) A resignation of a director becomes effective when the notice of resignation is received by the chair, or at the time, if any, specified in the notice, whichever is later.

(5) A resignation of the chair becomes effective at the time the notice of resignation is received by the Minister, or at the time specified in the notice, whichever is later.

(6) The chair must send a copy of the notice of resignation of an industry director forthwith to the industry association that had appointed the director.

AR 133/2018 s5

**Ceasing to hold office**

**24.32** A director ceases to hold office when

- (a) the director resigns,
- (b) the director becomes ineligible under section 24.3,
- (c) the director's appointment expires, in the case of an industry director or industry director-at-large,
- (d) the director's successor is appointed, in the case of a public director, or
- (e) the director's appointment is terminated or revoked under section 24.4.

AR 133/2018 s5

**Suspension, termination or revocation of appointment of director**

**24.4(1)** The board may, by resolution,

- (a) recommend the suspension, termination or revocation of the appointment of a public director for cause, or
- (b) suspend, terminate or revoke the appointment of an industry director or an industry director-at-large for cause.

**(2)** The board must, by bylaw, establish the processes for taking action under subsection (1).

**(3)** The board may, by bylaw, establish permissible grounds for suspension, termination or revocation of an appointment for cause or a recommendation for suspension, termination or revocation of an appointment for cause.

**(4)** A recommendation for suspension, termination or revocation under subsection (1)(a) must be directed to the Minister in the case of a public director.

**(5)** The Minister may, at any time, on the Minister's own initiative, or pursuant to a recommendation of the board, suspend, terminate or revoke the appointment of a public director.

AR 133/2018 s5

**Responsibility of directors**

**24.5** Every director, in exercising powers and discharging duties,

- (a) must act honestly and in good faith and with a view to the best interests of the Council, and

- (b) must exercise the care, diligence and skill that a reasonable and prudent person would exercise in comparable circumstances.

AR 133/2018 s5

**Responsibilities of the board****24.6(1)** The board must

- (a) manage and supervise the affairs of the Council,
- (b) ensure that the Council fulfils its mandate and conducts its activities in a manner that is generally consistent with the current business and financial plan of the Council referred to in section 24.8 and its Mandate and Roles Document under the *Alberta Public Agencies Governance Act*, and
- (c) supervise the Chief Executive Officer.

**(2)** The board may make general or specific resolutions relating to any matter or thing that pertains to the operation or business of the Council.

**(3)** Subject to subsection (4), the board may delegate its powers, duties and functions, on terms and conditions it considers advisable, to

- (a) a director,
- (b) a committee of the board,
- (c) an officer or employee of the Council, or
- (d) any other person.

**(4)** The board is not permitted to delegate any the following powers:

- (a) the power to appoint the Chief Executive Officer;
- (b) the power to make bylaws;
- (c) the power to fill an industry director or industry director-at-large vacancy on the board;
- (d) the power to approve business and financial plans, budgets, annual reports and financial statements.

AR 133/2018 s5

**Quorum**

**24.7** The quorum for a meeting of the board is a majority of the number of appointed directors.

AR 133/2018 s5

**Indemnification**

**24.71(1)** The Council may, if authorized by a resolution of the board, indemnify

- (a) a present or former director or officer of the Council,
- (b) an employee or former employee of the Council, and
- (c) the heirs and legal representatives of a person referred to in clause (a) or (b),

against costs, charges and expenses, including any amount paid to settle an action or satisfy a judgment, reasonably incurred by that person with respect to a civil, criminal or administrative action or proceeding to which that person is made a party by reason of holding such a position if that person acted honestly, in good faith and with a view to the best interests of the Council, and in the case of a criminal or administrative action or proceeding that is enforced by a monetary penalty, if that person had reasonable grounds for believing that the conduct was lawful.

**(2)** An indemnity must be in writing.

**(3)** If the Council advances funds to a person in order to defray the costs of an action or proceeding, the person shall repay the funds advanced unless

- (a) with respect to a civil, criminal or administrative action or proceeding, the person acted honestly, in good faith and with a view to the best interests of the Council, and
- (b) in the case of a criminal or administrative action or proceeding that is enforced by a monetary penalty, the person had reasonable grounds for believing that the conduct was lawful.

AR 133/2018 s5

**Council duties re business and financial plan, statements**

**24.8(1)** The fiscal year of the Council is April 1 to the following March 31.

**(2)** The Council must, on an annual basis,

- (a) prepare a business and financial plan for the next 3 fiscal years, and
- (b) within 60 days before the end of the current fiscal year, provide a copy of the business and financial plan to the Minister.

**(3)** A business and financial plan must include the following information:

- (a) goals;
- (b) annual performance objectives;
- (c) strategies for achieving the goals and performance objectives;
- (d) the performance measures that will be used to evaluate whether the goals and performance objectives are being met.

**(3)** The Council must obtain approval from the Minister before implementing a business and financial plan that forecasts a deficit for a fiscal year included in the plan.

**(4)** The Council must fulfil its mandate and conduct its activities in a manner that is generally consistent with the current business and financial plan.

AR 133/2018 s5

#### **Year-end financial reporting**

**24.9** Within 6 months after the end of a fiscal year, the Council must provide the Minister with an annual report and the audited financial statements respecting the fiscal year.

AR 133/2018 s5

#### **Other reports, information**

**24.91** The Council must, at a time determined by the Minister, submit to the Minister any reports or other information required by the Minister, including any information required for the purposes of a review of the Council, financial reporting or business and financial planning.

AR 133/2018 s5

#### **Transitional**

**24.92(1)** The delegation to the Council under section 136(5) of the Act in effect immediately before the coming into force of this section continues in effect until the delegation is amended or



revoked, and the delegation has the same force as a delegation by the Minister under section 136(5) of the Act.

**(2)** The term of appointment of an individual who, immediately before the coming into force of this section, held an appointment as an industry director-at-large, expires on the coming into force of this section, despite the term provided for in the appointment.

**(3)** The board continues to operate and, subject to subsections (2) and (4), an individual who, immediately before the coming into force of this section, held an appointment as a director, continues as a director until the term stated in the director's appointment expires or the appointment is terminated or revoked and the continuing director is subject to the provisions of the regulation respecting directors.

**(4)** The term of appointment of an industry director whose appointment is continued under subsection (3) expires on March 31 of the year of expiry of the appointment in effect immediately before the coming into force of this section.

**(5)** Despite section 24.2(2) and (5), the individual who, immediately before the coming into force of this section held the designation as chair of the board, continues as chair until a chair is designated by the Minister.

**(6)** An action by the Council, including an investigation, inspection or proceeding commenced but not completed before the coming into force of this section is continued by the Council.

**(7)** An application to the Council commenced but not completed before the coming into force of this section is continued.

**(8)** An appeal panel or registration appeal panel established but not concluded before the coming into force of this section continues to have authority and will conduct the appeal for which it was established.

**(9)** A decision of the Council, a delegate of the Council or an employee of the Council that is made before the coming into force of this section may be enforced by the Council, the delegate or the employee, as the case may be.

**(10)** A decision, ruling, order or judgment made in favour of or against the Council, a delegate of the Council or an employee of the Council before the coming into force of this section may be enforced by or against the Council, the delegate or the employee, as the case may be.

**Designated agents**

**25** Every automotive sales business operator, automotive leasing business operator and automotive consignment business operator must appoint their salespersons as designated agents for the purposes of section 136(8) of the Act.

AR 192/99 s25;96/2000;1/2006

**Investments**

**26** Subject to section 28, the Council may invest the money in the compensation fund only in securities or classes of securities in which trustees are permitted to invest trust funds under the *Trustee Act*.

AR 192/99 s26;1/2006

**Insurance**

**27(1)** The Council may, in a manner and on terms and conditions it considers advisable, enter into contracts with insurers by which the compensation fund may be protected in whole or in part against any claim or loss to the fund.

**(2)** The Council has an insurable interest in the compensation fund and in the payment of claims from the fund.

**Additional purposes of compensation fund**

**28** When the compensation fund exceeds \$1 500 000, the portion of the fund exceeding \$1 500 000 may, with the prior permission of the Director, be used by the Council for the purpose of

- (a) providing information relating to the automotive business to consumers and persons engaged in the automotive business, and
- (b) paying the costs of investigations for which the Council is responsible.

**Claims against compensation fund**

**29(1)** The Council may make by-laws respecting the payment of claims from the compensation fund, including

- (a) identifying the claims that may be paid from the compensation fund and who is eligible to make those claims;
- (b) setting out the conditions to be met before a claim is paid from the compensation fund;

- (c) respecting the maximum amount that may be paid from the compensation fund to a claimant or group of claimants.

(2) Section 136(3) and (4) of the Act apply to a by-law made under subsection (1).

#### **Reimbursement to compensation fund**

**30** If the Council pays an amount to a claimant from the compensation fund in respect of an automotive business, the business operator of that business is liable to the Council for the amount of the payment and the Council may collect the amount by civil action for debt in a court of competent jurisdiction.

#### **Annual statement**

**31(1)** The Council must ensure that an audited financial statement on the compensation fund containing the information required by the Minister is prepared for each fiscal year of the Council.

(2) The Council must submit an audited financial statement prepared in accordance with subsection (1) to the Minister within 60 days after the end of the fiscal year for which it is prepared.

## **Part 2.1 Automotive Sales and Repairs**

#### **Vehicle history information**

**31.1(1)** A business operator engaged in automotive sales must disclose the following information in accordance with subsection (2), on the basis of information the business operator knew or ought to have known:

- (a) whether the vehicle has been bought back by the manufacturer under the Canadian Motor Vehicle Arbitration Plan;
- (b) whether the vehicle has sustained damage caused by fire;
- (c) whether the vehicle has sustained damage caused by immersion in liquid to at least the level of the interior floorboards;
- (d) whether the vehicle has been used as a police car or an emergency vehicle;
- (e) whether the vehicle has been used as a taxi cab or a limousine;

- (f) whether the vehicle has been previously owned by a rental vehicle business or used as a rental vehicle on a daily or other short-term basis;
  - (g) whether the vehicle has, at any time, been assigned a status in one of the following categories under the *Vehicle Inspection Regulation* (AR 211/2006) or an equivalent status under the laws of another jurisdiction:
    - (i) salvage motor vehicle;
    - (ii) non-repairable motor vehicle;
    - (iii) unsafe motor vehicle;
  - (h) whether the vehicle has been damaged in an incident or collision where the total cost of repairs fixing the damage exceeded \$3000 and, if the repairs were carried out by the business operator, the total cost of the repairs;
  - (i) whether the vehicle was registered in any jurisdiction other than Alberta immediately before it was acquired by the business operator and, if so,
    - (i) the name of the jurisdiction in which the vehicle was previously registered,
    - (ii) whether the vehicle was required to be inspected prior to registration in Alberta, and
    - (iii) whether the vehicle passed or failed any required inspections.
- (2) The business operator must disclose the information required under subsection (1) in a clear and legible manner
- (a) in any online advertisement for the vehicle,
  - (b) on any sales tag affixed to the vehicle, and
  - (c) in writing to the consumer before purchase.

AR 133/2018 s6

**Bill of sale**

**31.2(1)** A business operator engaged in automotive sales must use a bill of sale that includes the following:

- (a) the name and address of the consumer;

- (b) the number of the government-issued identification that the business operator uses to confirm the identity of the consumer;
- (c) the name, business address and licence number of the business operator;
- (d) if a salesperson is acting on behalf of the business operator, the name and registration number of the salesperson;
- (e) the make, model and model year of the vehicle;
- (f) the colour and body type of the vehicle;
- (g) the vehicle identification number of the vehicle;
- (h) the date that the bill of sale is entered into;
- (i) the date that the vehicle is to be delivered to the consumer;
- (j) an itemized list of all applicable fees and charges the consumer is to pay, including, without limitation:
  - (i) charges for transportation of the vehicle;
  - (ii) fees for inspections;
  - (iii) fees for licensing;
  - (iv) charges for warranties;
  - (v) taxes or levies, including GST;
- (k) the timing for payment by the consumer of the fees and charges under clause (j);
- (l) an itemized list of the costs of all extra equipment and options sold to the consumer in connection with the vehicle or installed on the vehicle at the time of sale;
- (m) the total cost of the vehicle, which must include the fees, charges and costs listed under clauses (j) and (l);
- (n) the down payment or deposit paid by the consumer, if any, and the balance remaining to be paid;
- (o) if the consumer is trading in another vehicle to the business operator in connection with the purchase of the vehicle,

- (i) information about the vehicle being traded in, and
- (ii) the value of the trade-in allowance incorporated into the cost of purchase of the vehicle;
- (p) the balance of any outstanding loan that is incorporated into the cost of purchase of the vehicle;
- (q) if, in connection with the purchase of the vehicle, the business operator enters into a credit agreement with the consumer or arranges a credit agreement for the consumer, the disclosure statement required under Part 9 of the Act;
- (r) an itemized list of any items or inducements the business operator agrees to provide with the vehicle at no extra charge;
- (s) the odometer reading of the vehicle at the time the bill of sale is entered into, if the vehicle has an odometer and the odometer reading is available to the business operator;
- (t) the maximum odometer reading of the vehicle at the time of delivery to the consumer if the vehicle has an odometer and
  - (i) the odometer reading is not available to the business operator at the time the bill of sale is entered into, or
  - (ii) the vehicle is a new, specifically identified vehicle;
- (u) any mechanical fitness assessment that has been issued under the *Vehicle Inspection Regulation* (AR 211/2006);
- (v) any disclosure statement or documentation respecting a vehicle's previous use, history or condition, including disclosure statements or documentation required under the laws of another jurisdiction;
- (w) a declaration that the business operator has disclosed to the consumer the information required under section 31.1.

(2) The business operator must ensure that all restrictions, limitations and conditions imposed on the consumer under the bill of sale are stated in a clear and comprehensible manner.

AR 133/2018 s6

### Receipt of information

**31.3** A business operator engaged in automotive sales must not enter into a bill of sale with a consumer unless the business operator has obtained written confirmation from the consumer that

the consumer has received the information required under section 31.1.

AR 133/2018 s6

#### **Deposit agreement**

**31.4** If the Council sets the form and content of a deposit agreement, a business operator engaged in automotive sales shall use that deposit agreement.

AR 133/2018 s6

#### **Liens**

**31.5** If a business operator engaged in automotive sales knows that a vehicle is subject to a lien, the business operator must, within 7 days of the date that the business operator sells the vehicle, pay the amount owing under the lien to the lienholder.

AR 133/2018 s6

#### **Estimate**

**31.6(1)** A business operator engaged in automotive repairs must, on request from the consumer, provide an estimate for the installation of parts or equipment in or on a vehicle or the repair or service of a vehicle.

**(2)** An estimate under subsection (1) must be in writing and, subject to subsection (3), must contain the following information:

- (a) a description of the proposed work;
- (b) the estimated total cost of the proposed work, including labour and parts or equipment.

**(3)** If the information in subsection (2) cannot be provided because diagnostic work is required, the estimate must state the estimated maximum cost of the diagnostic work.

AR 133/2018 s6

#### **Authorization of work**

**31.7(1)** A business operator engaged in automotive repairs must not install parts or equipment in or on a vehicle or repair or service a vehicle unless the consumer has provided authorization.

**(2)** An authorization under subsection (1) must be provided in writing, subject to section 31.8.

**(3)** An authorization must contain the following information:

- (a) the name of the consumer, or the consumer's agent, giving authorization;

- (b) the date of authorization;
- (c) a description of the work that the consumer, or the consumer's agent, authorizes to be carried out;
- (d) the estimated total cost of the work described in clause (c) and confirmation that the consumer, or the consumer's agent, authorizes that cost.

AR 133/2018 s6

**Authorization not in writing**

**31.8** An authorization of work may be in a form other than in writing if the business operator records the following information in writing:

- (a) the information required under section 31.7(3);
- (b) the time at which authorization is given;
- (c) the method by which authorization is given.

AR 133/2018 s6

## **Part 3 Consignment Sales**

**Consignment agreements**

**32(1)** Section 55 of the Act applies to an agreement between a consumer and a business operator in which the operator agrees to sell on consignment a vehicle of the consumer.

**(2)** Despite subsection (1), section 55 of the Act does not apply in respect of a sale of a vehicle by public auction

- (a) by an auction sales business that holds an auction sales business licence under the Act, or
- (b) that is referred to in section 120(1) of the Act.

AR 192/99 s32;1/2006

**Requirements**

**33(1)** A consignment agreement must be in writing and be signed by the business operator and the consignor.

**(2)** A consignment agreement must

- (a) set out the name, business address and business phone number of the business operator;



- (b) set out the name, address and phone number of the consignor;
  - (c) set out a complete description of the vehicle being consigned, including
    - (i) its vehicle identification number,
    - (ii) the year, make, model number, colour, number of doors and options of the vehicle,
    - (iii) the odometer reading of the vehicle, and
    - (iv) the history of the vehicle within the consignor's knowledge, setting out any special uses of the vehicle, such as police or taxi use, whether it was recertified and any other information that a reasonable buyer would want to be aware of;
  - (d) describe the consignor's ownership interest in the vehicle and, if the consignor has knowledge that the vehicle is subject to one or more liens, list those liens;
  - (e) set out when the agreement ends and what happens to the vehicle if it has not been sold when the agreement ends;
  - (f) set out the disbursements, fees and commissions that the business operator may charge the consignor for services provided by the operator;
  - (g) set out the minimum amount that the consignor will receive from the business operator for the sale of the vehicle and whether the consignor will accept another vehicle or other personal property as part of the minimum amount;
  - (h) set out who is responsible for insuring the vehicle during the term of the agreement;
  - (i) set out any repairs or other work on the vehicle that the consignor authorizes the business operator to perform and who is responsible for paying for the repairs or other work;
  - (j) contain the terms referred to in subsection (3).
- (3)** The following terms are deemed to be contained in every consignment agreement:
- (a) the business operator agrees not to use the vehicle for the operator's personal use without the written consent of the consignor;

- (b) the business operator agrees to be the trustee of any money, vehicles or other personal property that the operator receives as consideration for the sale of the vehicle being consigned less an amount for the operator's disbursements, fees and commission;
  - (c) the business operator agrees to provide to the consignor, within 14 days of the date of sale of the vehicle, a copy of the bill of sale that sets out the purchase price for which the vehicle was sold.
- (4) A business operator who enters into a consignment agreement must give a copy of the agreement to the consignor.
- (5) The provisions in a consignment agreement that deal with the matters referred to in subsection (2)(a) to (i) may be amended with the consent of the parties to the agreement.

AR 192/99 s33;1/2006

**Paying out proceeds**

- 33.1(1)** A business operator who enters into a consignment agreement to sell a consignor's vehicle must, within 14 days of the date that the operator sells the vehicle,
- (a) if the business operator has knowledge that the vehicle is subject to a lien,
    - (i) issue a cheque for the amount owing under the lien payable to the lienholder and take reasonable steps to ensure that the lienholder receives the amount owing, and
    - (ii) provide to the consignor a cheque payable to the consignor for the consignor's share of the purchase price, being the purchase price less the amount payable to the lienholder and the business operator's disbursements, fees and commissions, and a statement of account that meets the requirements of subsection (2),
- and
- (b) in any other case, provide to the consignor a cheque payable to the consignor for the consignor's share of the purchase price, being the purchase price less the business operator's disbursements, fees and commissions, and a statement of account that meets the requirements of subsection (2).
- (2) The statement of account must set out

- (a) the amounts required to pay out any outstanding liens on the vehicle,
- (b) a description of any vehicle or other personal property received as consideration for the sale of the consignor's vehicle and the value assigned to the vehicle or other property, and
- (c) the amount payable to the consignor.

AR 1/2006 s22

**Other property received**

**33.2** A business operator who has entered into a consignment agreement to sell a consignor's vehicle and has received as consideration for the sale of the consignor's vehicle another vehicle or other personal property must, within 14 days of the date of the sale of the consignor's vehicle,

- (a) give the other vehicle or personal property to the consignor, or
- (b) deal with the vehicle or personal property in accordance with the written instructions of the consignor.

AR 1/2006 s22

**Compliance with deemed terms**

**33.3** A business operator who enters into a consignment agreement must comply with the terms that are, under section 33(3), deemed to be contained in the consignment agreement.

AR 1/2006 s22

## Part 4 Offences

**Offences**

**34(1)** A contravention of section 3(7), 9, 10, 11, 12, 31.5, 31.7, 33(4), 33.1 or 33.2 is, for the purposes of section 162 of the Act, an offence.

**(2)** A contravention of section 16, 20.1, 21 or 23 is, for the purposes of section 162 of the Act, an offence.

AR 192/99 s34;137/2000;1/2006;133/2018

## **Part 5 Transitional Provisions, Repeals, Expiry and Coming into Force**

### **Continuation of licences**

**35(1)** A licence under the *Automotive Business Licensing Regulation* (AR 188/78) is continued as a general automotive business licence under this Regulation.

**(2)** Repealed AR 137/2000 s10.

AR 192/99 s35;137/2000

### **Repeal**

**36** The *Automotive Business Licensing Regulation* (AR 188/78) is repealed.

**37** Repealed AR 133/2018 s8.

### **Coming into force**

**38(1)** Subject to subsection (2) and section 3(6), this Regulation comes into force on September 1, 1999.

**(2)** Sections 16 to 23, 25 and 34(2) come into force on July 1, 2000.









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