



**Canadian Association of Movers**  
**Association canadienne des déménageurs**  
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August 11, 2005 (Amended August 23, 2005)

To: **Ministry of Government Services (formerly Consumer and Business Services)**

- Chris Ferguson – Marketplace Standards and Services Branch
- Vishnu Kangalee – Consumer Services Bureau and Compliance

**Moving industry**

- Darren Bull – Tippet-Richardson
- Sheila Clifford – Hudson Movers
- Dan Lawrence – United Van Lines
- Garnet Pettipas – AMJ Campbell Van Lines
- John Rausch – Allied Van Lines
- John Skinner – North American Van Lines
- Rick Taylor – Taylor Moving & Storage

From: John Levi – Canadian Association of Movers

Subject: **Moving industry concerns about the Consumer Protection Act  
11:00am to 2:00pm, Wednesday, August 10, 2005**

The objective of the meeting was to help movers better understand the new regulations of the Consumer Protection Act that came into effect on July 30, 2005 so they can continue to do business in an ethical, professional and legal manner. The underlined sections were added to these notes on August 23, 2005 after conversations with Vishnu Kangalee. They provide additional clarity to some areas of the Act.

Chris Ferguson of the Ministry provided some opening remarks that:

- The prime purpose of the Act was to protect consumer rights
- The regulations were developed over a three year period and became effective on July 30, 2005.
- The regulations reflect worst-case scenarios where consumers need protection

Over the course of the meeting several general principles about the new regulations were established:

- The Act applies to transactions between suppliers and consumers.
- The Act does NOT apply to transactions between businesses.
- The Act applies to moving transactions when either of the contracting parties is located in Ontario when the transaction takes place – that is when the contracting carrier (i.e. booking agent) is domiciled in Ontario, or the consumer moves within Ontario, to Ontario from another province, or from Ontario to another province.
- An estimate is an estimate no matter what form it takes – over the phone, written, internet, or verbal.

- The Act does not give the consumer the right to expect free services beyond the terms of an estimate.
- The 10% rule applies only to the services as described on the original estimate.
- Under Ontario's Truck Transportation Act, the consumer's goods may be held for payment only as defined by the terms of the original estimate and any changes demanded by the consumer.
- The consumer's goods cannot be held in order to re-negotiate the terms of the estimate.
- When the consumer changes his/her requirements, a mover should document the changes to protect himself and obtain the consumer's agreement to any additional charges.
- Unforeseen circumstances that are beyond the control of the consumer cannot be charged for. A few examples are:
  - Traffic delays
  - Snow on city streets
  - Breakdown of mover's vehicle
- Unforeseen circumstances that are within the control of the consumer can be charged for. It may be useful to include a few examples in your estimate or contract:
  - Consumer not ready or packed when movers arrive
  - Keys not yet available to new premises
  - Elevator or parking area not available
  - Requirement for long carry or shuttle at destination
  - Requirement to remove snow and ice from the consumer's premises
  - Conditions at origin or destination not as described by the customer in the estimate
- The moving contract/estimate should state that "extras cost extra" and that the estimate is only valid for the services as originally ordered.
- Complete documentation of all changes and communications is extremely important.

#### **General comments about the Act:**

- The Estimates section (10) of the Act is intended to ensure that a low-ball estimate is not used to gain business.
- A 10-day cooling-off period is generally accepted by all provinces and territories.
- There are some conflicts between the Consumer Protection Act and the Conditions of Carriage and the Truck Transportation Act in regards to how the 10% rule applies.
- The Ministry recognizes a need to educate the consumer as to his/her rights. It may post some advice to consumers about their rights and obligations under the Act on the internet:
  - how the 10% rule applies
  - what constitutes a chargeable change to an estimate
  - and other issues.
- Some estimates are Future Performance Agreements (Section 21 of Act) and must be in writing, delivered to the customer and conform to the Act's requirements.
- For the rules governing information to be disclosed on various types of agreements, see the Regulations as follows:
  - Sections 23 to 25 detail the requirements for Future Performance Agreements (FPAs)
  - Sections 31 to 33 – Internet Agreements – detail the requirements for FPAs made over the internet

- Sections 34 to 35 – Direct Agreements – detail the requirements for FPAs made directly with the consumer and details the consumer’s rights under the CPA including the 10-day cancellation/cooling-off period.
- Sections 36 to 39 – Remote Agreements – detail the requirements for FPAs made remotely and what must be disclosed to the consumer prior to entering into an agreement.
- Section 4 of the Act indicates that where a moving contract falls under the provisions of more than one type of agreement (Internet, Direct, Remote, FPAs, Estimates), the provisions of the Act and Regulations apply to each type of agreement except where it is excluded by the Regulations.

### **General comments about moving operations**

- a. See Section 83 of the Regulations for rules governing cancellation within the 10-day cooling-off period. If the move is scheduled to be performed within the 10-day cooling-off period as requested by the consumer, the mover is entitled to reasonable compensation (the deposit) if the consumer cancels the move.
- b. Your contract with the consumer should govern the terms of cancellation of the move after the 10-day cooling-off period.
- Estimates should detail what items are included and what items are excluded in a partial pack of a consumer's goods.
- An estimate should clearly show that additional services requested by the consumer will cost extra.
- It is extremely important to do an on-site estimate and document it fully.
- Where a telephone estimate is done, a written copy of the estimate must be sent to the consumer detailing what the mover understands the move to be, including items to be moved and conditions at origin and destination.
- Where the consumer has added items or required services to a move and does not agree to the terms of the amended estimate, a mover can (and possibly should) walk away from the move.
- Contingency costs due to unforeseen circumstances should be built into the pricing.
- The movers’ staff on-site (or at least the lead hand) should understand the company’s process for dealing with changes to estimates and getting the consumer’s agreement.

### **Where do we go from here?**

- The Ministry will explore a communications strategy to clarify estimate rules for consumers.
- The Ministry’s communication strategy may include information that movers can download for their consumer-communications tools (possibly a brochure on estimates).
- CAM will prepare some frequently asked questions (FAQ) for movers and consumers.
- When complete, CAM will circulate this document to the industry.

## Questions as received from members:

1. What about unforeseen travel time i.e. Road closures, accidents etc. on local estimates that have been seen by salespeople?
  - Where the delay is not within the consumer's control, the costs of this type should be absorbed by the mover.
2. What about access problems at destination i.e. shuttle required that throws the quote over the 10% and questions was asked at time of estimate about access at destination? (This includes – keys not available, snow on the consumer's property, elevator access, parking access – items with the consumer's control.)
  - Costs relating to problems of this sort are legitimately chargeable to the consumer. The mover must make the consumer aware of the changes to the estimate and get the consumer's agreement.
3. Is pricing given over the phone deemed an estimate, can we avoid the estimate problem if we only give price over the phone and do not put the pricing in writing?
  - A price (\$125 per hour or \$1.00 per pound) is not an estimate. Telling the consumer that your move will take four hours and cost \$125 per hour is an estimate. You should detail this in written form to the consumer stating your understanding of what the consumer has asked for and thereby establishing the terms and limits of the estimate. The consumer must know what payment is due at the end of the move.
4. If we send out a written estimate, can disclaimers be used so we are able to add to price if required i.e. customer added more goods, had us pack more, were not prepared (incase of a local move)?
  - Yes. This is good practice and required to protect the mover. The estimate should state that it is only valid for the conditions as described.
5. Are all telephone and internet estimates bound by the new act?
  - Yes. See the regulations (sections 31 to 33 and 36 to 39) for Future Performance Agreements.
6. Should we remove the word "estimate" when pricing is done over the phone or on the internet?
  - It does not matter. It is still an estimate.
7. The consumer moves to or from the USA but has booked their move with an Ontario agent, is the consumer protected by the new Act?
  - You should treat this as being covered by the Act but another jurisdiction's consumer protection regulations may take precedence based on where the service provider and/or the consumer are located.
8. Shipper moves anywhere in Canada but not necessarily into or out of Ontario but move is booked with Ontario agent, is shipper protected by the new Act?
  - As for question #7.
9. If the overflow portion of shipment is late past the 30 days original "promised" delivery are they covered by the goods promised date clause?
  - The situation is covered under the conditions of carriage.
10. Clause that reads that is unfair practice for person to use his, her or its custody or control of consumer's goods to pressure the consumer into renegotiating the terms of a consumer transaction. Is this statement relevant when we advise customer that if their COD is not paid then we cannot deliver the goods?
  - You cannot withhold the goods to re-negotiate the estimate. You can withhold the goods in order to get payment for the estimated price and any additional legitimate costs.

11. What is considered relevant information when providing customer an agreement for what the Act denotes as remote transactions?
  - See sections 36 and 37 of the regulations for the information required. In summary, the information includes:
    - The name, address and phone number of the supplier
    - A description of the goods and services to be provided
    - The prices for those goods and services as well as a total
    - Possible additional charges
    - Location(s) where goods and services are to be delivered/performed
    - Name and address of the person for whom the services are to be provided
12. When the lawyer doesn't close the deal on time and my crew is sitting for 3 hours, who pays for that if all I can collect is +10% by law?
  - This is a legitimate additional charge as it is within the control of the consumer. The consumer must be made aware of this.
13. When the people are not packed and ready to move, so we have to either help them pack or wait for them to do it, adding additional time, who pays for that if all I can collect is + 10% by law?
  - This also is a legitimate additional charge as for question #12.
14. The estimate is for a partial move, but when the truck arrives everything has to be moved either because some items were not sold or given to others as planned by the customer.
  - See answer to question #13.
15. New construction sites may have a delay if we cannot approach the building or there are workers doing a sidewalks/driveway, etc.
  - This is a grey area. Is the delay within the consumer's control? Did the consumer set a delivery date/time on which he/she should have been aware that access would be limited? OR was the sidewalk/driveway work a municipal activity that the consumer could not know about?