

Rewards points to become more rewarding for Ontario consumers

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On December 8, 2016, legislation to prohibit the expiration of rewards points received Royal Assent in Ontario. While not yet proclaimed into force, Bill 47, the *Protecting Rewards Points Act (Consumer Protection Amendment), 2016* (the Act) will amend the *Consumer Protection Act, 2002* (Ontario) (the CPA) to prohibit the expiry of consumer rewards points based on the passage of time alone.

The Act will also amend the definition of “consumer agreement” under the CPA to include agreements under which rewards points are provided. The definition of “supplier” will also be amended to include a person whose business includes the supply of rewards points. The Act will have broad application to rewards points programs, including retailer-specific rewards programs, multi-retailer programs and rewards programs associated with credit cards. The Act will have a retroactive effect, requiring any rewards points which expired on or after October 1, 2016, to be credited back to the consumer.

It is worth noting that the Act will permit the expiry of rewards points (1) on termination of the consumer agreement, provided the consumer receives notice and the terms of the consumer agreement contemplate termination and the expiry of rewards points on termination or (2) where the expiry of rewards points is due to reasons other than the passage of time alone. However, both of these permissions may be subject to limitations imposed by amendments to be made to the general regulation under the CPA.

The Act gives the Lieutenant Governor in Council broad rights to make regulations governing the (1) transfer of rewards points among consumers, including upon death; (2) inactivity of consumer agreements under which rewards points are provided and of the rewards points themselves; (3) termination of consumer agreements under which rewards points are provided and of the rewards points themselves; and (4) application of section 47.1 (no expiry of rewards points) of the CPA and providing for and prescribing anything that section 47.1 refers to as being prescribed or provided for in the regulations.

On March 10, 2017, the Ontario government released proposed amendments to the general regulation under the CPA to assist in implementing the Act and sought public consultation on such amendments. The proposed amendments are aimed at (1) clarifying the definition of rewards points; (2) clarifying the meaning of what constitutes time-alone expiry; (3) preventing suppliers from using contract termination and renewal simply as a disguised means to expire rewards points; and (4) addressing any issues that may arise during transition to the new rules. Public comments on the proposed amendments are due by April 28, 2017.

If you have questions on how this Act may affect your business, contact [Andraya Frith](#) or [Christine Jackson](#).