

**Canadian Food Inspection System Implementation Group
Common Legislative Base for Food Safety and Inspection**

**Provincial Model Act for Food Safety and Inspection
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Provincial Model Food Safety and Inspection Act

Purpose

The purpose of this model Act is to contribute to food safety and to regulate food, agricultural or aquatic commodities and agricultural inputs. The common legislative base, the Provincial Model Food Safety and Inspection Act, was developed to harmonize with the proposed Federal legislation Bill C80. [Bill C80 s3.]

PRINCIPLES

The concept of precaution and a “**gate to plate**” approach were considered in the development of the Provincial Model Food Safety and Inspection Act.

Since all jurisdictions have different approaches to drafting legislation, the Provincial Model Food Safety and Inspection Act is only a technical reference document.

An Act respecting the intra-provincial trade, production, processing, preparation, storage, transportation, marketing, retailing, selling and inspection of food, agricultural or aquatic commodities and agricultural inputs. This does not include food prepared in a private dwelling for personal use.

INTERPRETATION

DEFINITIONS

1 In this Act,

- (a) “Act” includes the regulations made under this Act;
- (b) “administrative authority” means the person charged with the administration of the Act;
- (c) “advertise” means to make a representation by any means whatever for the purposes of promoting directly or indirectly the sale of a food, an agricultural or aquatic commodity or an agriculture input; [Bill C80, s 2.(1)(a)]
- (d) “agricultural inputs” means any pesticides, manure or other fertilizers, seeds, feeds, water, medication, supplement or other inputs defined in regulations; [Bill C80, 2.(1)c)]
- (e)** “agricultural or aquatic commodity” means
 - (1) (a) an animal, including its embryo, fertilized egg or ovum, or a plant, or an animal or plant product;
 - (b) a product, including food or drink, wholly or partly derived from an animal or a plant or microorganisms; and
 - (c) anything prescribed to be an agricultural or aquatic commodity; (Bill C80, 2.(1)d))
 - (2) For greater certainty, “agricultural or aquatic commodity” includes
 - (a) the following meat products
 - (i) a carcass of a mammal, bird or any prescribed animal,
 - (ii) the blood of an animal referred to in subparagraph (i) or a product or by-product of the animal’s carcass, and
 - (iii) a product containing anything described in subparagraph (ii).
 - (b) fish, including
 - (i) parts of fish,
 - (ii) shellfish, crustaceans, marine animals and parts of any of those things, and (iii) fish product or by-products; and
 - (iii) marine plants, including Irish moss, kelp and other salt-water plants and any of their products or by products.
 - (c) microorganism [Bill C80, 2.(2)]
- (f) “analyst” means a person designated as an analyst pursuant to section 14; [Bill C80, 70.c)]

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- (g) "animal" means any specimen, whether living or dead, of any species of animal, including fish and includes any egg, sperm, tissue culture or embryo of any such animal; [Bill C80, 70.d)]
- (h) "contaminate" means
- a) the introduction of any foreign matter, including filth, a poisonous substance or a pest,
 - b) the introduction or multiplication of disease-causing microorganisms or parasites,
 - c) the introduction or production of toxins, **or**
 - d) the introduction of any physical, biological or chemical hazard;
- (i) "container" means any type of receptacle, baggage, package or cage and includes a wrapper or confining band; [Bill C80, 2.(1)e)]
- (j) "conveyance" means any vessel, aircraft, train, motor vehicle, cargo container, trailer or thing used to move persons, food, agricultural or aquatic commodity, agricultural inputs or other things; [Bill C80, 70.f)]
- (k) "dispose" includes destroy; [Bill C80, 70.g)]
- (l) "establishment" means any place, including a conveyance, where food or an agricultural or aquatic commodity or agricultural input is processed, prepared, sold or distributed free of charge, but does not include a private dwelling unless the food is prepared for commercial purposes; [Bill C80, 2.(1)g)]
- (m) "feed" means any substance or mixture of substances that is manufactured, sold or represented for use
- a) for consumption by an animal which may be used for food;
 - b) for providing the nutritional requirements of an animal; or
 - c) for preventing or correcting nutritional disorders of an animal. [Bill C80, 2.(1)h)]
- (n) "food" would mean any product including an agricultural or aquatic commodity, whether, processed, semi-processed or raw, which when used according to instructions or under such conditions as are customary or usual, is ingested by humans in order to provide nourishment, nutrition or hydration, or to satisfy hunger or thirst or a desire for taste, texture or flavour.
Including:
- drink;
 - chewing gum;
 - any ingredient, food additive, or other substance that is added to or used in the composition or preparation of food;
 - a product specially processed or formulated to meet the dietary requirements of a person in whom a physical or physiological condition exists as a result of a disease, disorder or injury or for whom a particular effect is to be obtained by a controlled intake of food;
 - any product designated as a food by the administrative authority.
- Excluding:
- drugs;
 - tobacco; and
 - any product declared not to be a food in a regulations.
- (o) "grade name" means a prescribed name, mark or designation of an agricultural or aquatic commodity or an agricultural input; [Bill C80, 2.(1)l)]
- (p) "grader" means a person designated as a grader under section 14; [Bill C80, 70.j)]
- (q) "inspection certificate" means a certificate issued under subsection 29(4)(j) certifying that a product meets the requirements of this Act; [Bill C80, 70.k)]
- (r) "inspection mark" means a prescribed mark, identifier, stamp, seal, product legend, word or design or any combination of those things; [Bill C80, 2.(1)m)]

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- (s) "inspector" means an inspector designated or appointed under section 14; [Bill C80, 70.m]]
- (t) "label" includes a product legend, word, mark, design, imprint, stamp, brand, ticket or tag or any combination of those things that is or is to be applied or attached to or included in, or that accompanies or is to accompany, any food, agricultural or aquatic commodity or agricultural input or its container; [Bill C80, 2.(1)n]]
- (u) "licence" includes a licence, registration, permit or certificate issued by an administrative authority pursuant to this Act;
- (v) "licensee" means a person, establishment, production operation or other thing to whom a licence is issued under section 3
- (w) "official" means a person designated as an official under section 14; [Bill C80, 70.n]]
- (x) "packaging" means the process of packing food, agricultural or aquatic commodities or agricultural inputs in a container; [Bill C80, 2.(1)q]]
- (y) "person" includes an individual, a corporation, a cooperative, an association, an organization, a government or government agency, a partnership or an unincorporated association of persons; [Bill C80, 2.(1)r]]
- (z) "pesticides" includes herbicides, insecticides, rodenticides, fungicides, fumigants and any other thing used to control animal and plant pests;
- (aa) "plant" includes a part of a botanical plant; [Bill C80, 70.r]]
- (bb) "prescribed" means prescribed by regulations; [Bill C80, 70.s]]
- (cc) "processing" includes preparing, preserving, storing, inspecting, grading, assembling, packaging, marking, coding and labelling;
- (dd) "production" means the use of agricultural inputs and the growing, raising, harvesting or any other activity related to the derivation of food, agricultural or aquatic commodities or agricultural inputs;
- (ee) "production operation" means an enterprise involved in production;
- (ff) "sell" means to distribute or dispose of, or agree to distribute or dispose of, to a person in any manner for with or without consideration, and includes
 - (a) agree to sell
 - (b) offer, advertise, keep, expose, possess, send, convey or deliver for sale or to display in such manner as to lead to a reasonable belief that the thing so displayed is intended for sale or distribution;
 - (c) to sell by consignment;
 - (d) loaning, bartering, leasing, contracting or depositing with another for the performance of a service;
 - (e) distribute free of charge; and
 - (f) to exchange or agree to exchange; [Bill C80, 2.(1)w]]

ADMINISTRATION

FEES

2(1) In accordance with the regulations, the administrative authority may establish fees and charges for inspection, service, or any other thing requested or required under the Act and may recover any cost incurred in providing the inspection, service or other thing.

2(2) Where an agency or accredited third party provides on behalf of the administrative authority an inspection, service or other thing, the agent or accredited third party may charge the fee established or

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recover the cost incurred in providing the inspection, service or other thing.

LICENSING

3(1) The administrative authority may issue licences in accordance with the regulations and may impose conditions on the licences in addition to the conditions imposed by the regulations. [Bill C80, 7.] & [Bill C80, 10.1]

3(2) A person whose application for a licence is refused or who objects to a condition imposed by the administrative authority on the licence may appeal the refusal or conditions in accordance with section 6. [Bill C80, 12.(1)]

4(1) If, in the opinion of the administrative authority, a licensee has failed to comply with this Act, the regulations or the conditions imposed on the licence, has provided false or misleading information on the application for a licence or owes fees under this Act, the administrative authority may, by giving written notice to the licensee, suspend or cancel the licence.

4(2) A written notice under subsection (1) must include the reason for the suspension or cancellation.

4(3) A person whose licence is suspended or cancelled may appeal the decision in accordance with section 6. [Bill C80, 12.(1)]

PERFORMANCE BOND

5(1) The administrative authority may require an applicant or licensee to post a performance bond or provide other security to the administrative authority that is satisfactory to the administrative authority as a guarantee that the person will comply with this Act, the regulations and the terms and conditions of the licence.

5(2) Where a person fails to comply with this Act, the regulations or the licence, the administrative authority may enforce the terms of the performance bond, and any security referred to in subsection (1) is forfeited to the administrative authority.

APPEAL MECHANISM

Appeal

6(1) A person whose application for a licence is refused or whose licence is suspended or cancelled may appeal the refusal, suspension or cancellation by filing a notice of appeal with the administrative authority within 30 days after the person is notified of the refusal, suspension or cancellation.

6(2) When a matter is appealed to the appeal board, the decision of the administrative authority remains in effect until the decision of the appeal board is rendered unless the administrative authority otherwise directs.

Appeal board

6(3) The administrative authority shall appoint an appeal board pursuant to the regulations.

Decision

6(4) On concluding the appeal, the appeal board may

- (a) confirm the refusal to issue or the suspension or cancellation of a licence; or
- (b) direct that the application for a licence be approved or reinstate a suspended or cancelled licence, subject to any terms and conditions that the appeal board considers appropriate.

Notice

6(5) The appeal board shall promptly notify, in writing, the administrative authority and the appellant of its decision.

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6(6) A decision of the appeal board shall be final and binding.

RECALL

7(1) If the administrative authority believes on reasonable grounds that a food, agricultural or aquatic commodity or agricultural input regulated under this Act poses a risk to public, animal or plant health, the administrative authority may, by notice served on any person processing or selling the food, agricultural or aquatic commodity or agricultural input, order the food, agricultural or aquatic commodity or agricultural input to be recalled or sent to a place designated by the administrative authority. [Bill C80, s78 (s19. (1) of CFIA Act)]

7(2) The administrative authority may recover the cost associated with the recall.

INTELLECTUAL PROPERTY

Provincial trademark

8 No person shall use an inspection mark or grade name except accordance with this Act. [Bill C80, s13.]

Use of similar mark or grade name

9 No person shall

- (a) use anything that resembles an inspection mark or a grade name; or
- (b) possess or sell a food, an agricultural or aquatic commodity or an agricultural input in connection with which there is used anything that resembles an inspection mark or a grade name. [Bill C80, s14.]

Intellectual property

10 The administrative authority may license, sell or otherwise make available any patent, copyright, industrial design, trademark or other similar property right that is vested in [province] under this Act. [Bill C80, s77 (s17 of CFIA Act)]

Injunctions

11 The administrative authority may apply to a judge of a court of competent jurisdiction for an injunction, interim or permanent, enjoining any person from contravening this Act, whether or not a prosecution has been instituted in respect of that contravention. [Bill C80, s77 (s18 of CFIA Act)]

Registry

12 The administrative authority may establish a registry of all contracts, memoranda of understanding, agreements and arrangements it enters into under section 27 and of every other document it considers appropriate for public information and shall provide the public with reasonable access to the content of the registry, subject to the freedom of information legislation. [Bill C80, s77(s18.1 CFIA Act)]

Inspection point

13 The administrative authority may, by order, designate any place as an inspection point. [Bill C80, s77 (s18.2 CFIA Act)]

DESIGNATION AND ACCREDITATION

Designation of Inspectors, Analysts or Other Officials

14 The administrative authority may appoint or designate individuals or classes of individuals as inspectors, analysts, graders or other officials necessary for the administration and enforcement of this Act and the regulations. [Bill C80, s74 (s13. (3) of CFIA Act)]

15 The administrative authority may, on such terms and conditions as the administrative authority may specify, limit the duties performed by inspectors, analysts, graders or other officials by attaching conditions to their designation. [Bill C80, s74 (s13.(4) of CFIA Act)]

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16 Inspectors or other officials are to be provided with certificates in a form established by the administrative authority, certifying their appointment or designation and, where requested upon enter any establishment or production operation presents the certificate issued by the administrative authority.

17 The administrative authority may designate the methods and equipment to be used by inspectors, analysts, grader or other officials in carrying out their duties and functions for carrying out the purposes of this Act or regulations. [Bill C80, s75 (s13.1 of CFIA Act)]

Appointment of inspectors

18(1) The administrative authority may declare that inspectors appointed under the *Canadian Food Inspection Agency Act* are inspectors, by virtue of their office, under this Act.

18(2) The administrative authority may declare that inspectors are public officers as defined in the *Criminal Code* for the purpose of carrying firearms.

Third Party Accreditation

19(1) In accordance with the regulations, the administrative authority may accredit a person or a program.

19(2) The administrative authority may engage the services of an accredited person to:

- a) accredit any person or any private or government laboratory or any other person or place for use in grading, testing, analyses or conducting experiments in science for the purpose of carrying out the Act;
- b) accredit any person or any private or government organization for use in accrediting, validating or auditing for the purpose of carrying out the Act,
- c) administer an accredited program.

Delegation

20 The administrative authority may delegate to any person any power, duty or function conferred on the administrative authority under this Act, except the power to make regulations and the power to delegate under this section.

LIABILITY

21(1) No proceedings for compensation or damages shall be instituted against an administrative authority, inspector, official or any person engaged in the administration of this Act for any act done in good faith in the performance or intended performance of a duty or in the exercise or intended exercise of a power under this Act, or for any neglect or default in the performance or exercise in good faith of the duty or power.

21(2) The administrative authority is not liable for any costs, loss or damage resulting from a person being required to do anything to comply with this Act or the regulations. [Bill C80, s79 (62 of CFIA Act)]

21(3) Despite any other Act of the Legislature, no civil or criminal proceedings lie against the administrative authority or any person acting on behalf or under the direction of the administrative authority for the disclosure in good faith of any information or for any consequences that flow from that disclosure. [Bill C80, s79 (63 of the CFIA Act)]

INFORMATION/COMMUNICATION

22 In determining whether any food, agricultural or aquatic commodity or agricultural input, production operation or establishment meets the requirements of this Act and the regulations, administrative authority may rely on the results of inspections of any food, agricultural or aquatic commodity or agricultural input, production operation or establishment conducted by an another government or its recognized agent.

Release of information

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23 The administrative authority may obtain information from any person, release or require the release of information

- (a) where it is necessary, in the administrative authority's opinion, to help protect public health and safety, consumers or the regulation of [province} food supply; or
- (b) is relevant to the administration or enforcement of this Act and regulations. [Bill C80, s76(s14.1 of CFIA Act]

Share information

24 For the purpose of administration or enforcement, of this Act and regulations, the administrative authority may share information with other provincial and federal governments.

25(1) Despite the freedom of information act, if the administrative authority believes on reasonable grounds that a hazardous condition or situation exists or could exist, the administrative authority may share relevant information with any government or person necessary to control, eliminate or minimise the effect of the hazardous condition or situation.

25(2) When the administrative authority believes on reasonable grounds that sharing information will promote the safety and integrity of an agricultural or aquatic commodity or food, the administrative authority may share information about an audit, examination, observation, inspection, analysis, evaluation, study or verification of an establishment or production operation, designated validator, program delivery organization or accredited program with one or more of the following:

- (a) another department or agency of the government;
- (b) another government, including a municipality;
- (c) an agency of another government;
- (d) a program delivery organization;
- (e) an organization that represents the interests of producers;
- (f) a person, organization or entity.

Electronic Documents

26 The administrative authority may communicate, receive or transmit information under this Act in electronic form, and the signature of documents in electronic form has the same effect as a written signature.

GENERIC AGREEMENTS/ARRANGEMENTS

27 The administrative authority may enter into contracts, memoranda of understanding and other agreements with a department or agency of a government, municipal governments or with any person or organization. [CFIA Act s14. (1)]

28 The administrative authority may establish a corporation or acquire shares or participate in any corporation jointly with one or more governments, a municipal government, or with any person in its own name.

COMPLIANCE AND ENFORCEMENT

INSPECTORS POWERS

29(1) For the purpose of carrying out his/her duties under the Act an inspector may:

- (a) at any reasonable time, enter any place that the inspector has reason to believe there is food, an agricultural or aquatic commodity, agricultural input or other thing in respect of which this Act applies and inspect the place and inspect the food, agricultural or aquatic commodity, agricultural input or other thing in respect of which this Act applies; and

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- (b) enter and inspect a private dwelling only with the consent of the occupant or under the authority of a warrant.

29(2) For the purpose of carrying out his or her duties under the Act and an inspector may;

- (a) stop a conveyance that an inspector has reason to believe is carrying food, agricultural or aquatic commodity, agricultural input or other thing in respect of which this Act applies and inspect the conveyance and any food, agricultural or aquatic commodity, agricultural input or other thing therein in respect of which this Act applies
- (b) if he has reason to believe an inspection is necessary, direct that the conveyance be moved to a place where an inspection may be carried out; and [Bill C80, s79 (s36.(1) of CFIA Act)]
- (c) in carrying out an inspection pursuant to subclause (b), enter and inspect the conveyance and place and any food, agricultural or aquatic commodity, agricultural input or other thing therein in respect of which this Act applies. [Bill C80, s79 (s34.(1)(a) of CFIA Act)]

29(3) For the purpose of subsection (2), an inspector may inspect any food, agricultural or aquatic commodity, agricultural input or other thing to see whether it conforms with this Act.

29(4) In the course of exercising the powers under this section an inspector may do any or all of the following

- (a) stop any operation in order to carry out an inspection; [Bill C80, s79 (s36.(2) of CFIA Act)]
- (b) inspect, conduct any tests or analyses and take samples for inspection, free of charge, of any food, agricultural or aquatic commodity, agricultural input, ingredient, label or container in respect of which this Act applies; [Bill C80, s79 (s34.(1)(e) of CFIA Act)] & [Bill C80, s79 (s34.(1)(g) of CFIA Act)]
- (c) open any container or other thing that the inspector believes on reasonable grounds contains any food, agricultural or aquatic commodity, agricultural input, or other thing in respect of which this Act applies; [Bill C80, s79 (s34.(1)(b) of CFIA Act)]
- (d) require any person to produce for inspection or copying, in whole or in part, any record or other document that the inspector believes on reasonable grounds contains any information relevant to the administration of the Act; [Bill C80, s79 (s34.(1)(f) of CFIA Act)]
- (e) require any person to produce for inspection any books, records, personal identification, electronic data or documents that the inspector believes contains any information that is relevant to the administration of this Act; [Bill C80, s79 (s34.(1)(c) of CFIA Act)] and [Bill C80, s79 (s34.(1)(g) of CFIA Act)]
- (f) use any computer or data processing system to examine any data contained in or available to the data processing system; [Bill C80, s79 (s34.(2)(a) of CFIA Act)]
- (g) reproduce any record from the data in the format of a printout or other output and take the printout or other output for examination or copying; [Bill C80, s79 (s34.(2)(b) of CFIA Act)]
- (h) remove any records or documents that he or she is entitled to examine or copy or otherwise reproduce but shall give a receipt to the person from whom they were taken and promptly return them on completion of the examination;
- (i) use any copying equipment at the place to make copies of any books, records, electronic data or documents; [Bill C80, s79 (s34.(2)(c) of CFIA Act)]
- (j) issue an inspection certificate in a form satisfactory to the administrative authority certifying that the any food, agricultural or aquatic commodity, agricultural input, or other thing meets the requirements of this Act and the regulations; [Bill C80, s79 (s40.(a) of CFIA Act)]
- (k) take photographs, electronic images or videotapes of the place, any equipment or any other thing located in the place;
- (l) issue common offence notice;
- (m) restrict the movement of the food, agricultural or aquatic commodity, agricultural input or other thing until the inspector is satisfied that it meets the requirements of this Act and the regulations;
- (n) require any person to produce for inspection any food, agricultural or aquatic commodity, agricultural input, or other thing that for this purpose of enforcement of this Act. [Bill C80, s79 (s34.(1)(c) of CFIA Act)] [Bill C80, s79 (s34.(1)(c) of CFIA Act)]

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- (o) direct the owner or person in possession to take any food, agricultural or aquatic commodity, agricultural input, or other thing to any place for inspection;
- (p) compel the owner of a food, agricultural or aquatic commodity or agricultural input, at his or her own cost, to sample as specified and to conduct or have conducted tests or analyses as specified by the inspector, at an accredited laboratory;
- (q) do any of the following for the purpose of an inspection or examination:
 - i. use machinery, equipment, or other thing located at premises;
 - ii. bring onto the premises or into the vehicle any equipment or materials;
 - iii. require that any thing to be operated, used or dismantled under specified conditions
 - iv. or do any other thing that needs to be done;
- (r) direct the owner or person in possession to take any food, agricultural or aquatic commodity, agricultural input, or other thing to an establishment or any other place for processing;
- (s) seize and detain any food, agricultural or aquatic commodity, agricultural input, documents or other thing:
 - i. by means of or in relation to which the inspector believes on reasonable grounds the contravention occurred; or
 - ii. that the inspector believes on reasonable grounds will afford evidence in respect of a contravention of this Act; and
- (t) for the purpose of inspecting any food, agricultural or aquatic commodity, agricultural input, or other thing detain or seize at the risk or expense of the owner.

30 Where an inspector is required or empowered to do or direct the doing of anything, the inspector may take such steps as necessary and employ such assistance as is necessary to accomplish what is required and to call for the assistance of any individual deemed necessary and any peace officer and that peace officer shall be compelled to render such assistance. [Bill C80, s79. (64 of CFIA Act)]

31 The administrative authority on reasonable grounds may by order establish a control area or region or control the movement of food, agricultural or aquatic commodity or agricultural input or other things and may

- (a) prohibit the movement into or out of the control area or region of any food, agricultural or aquatic commodity or agricultural input or other thing; or
- (b) direct the owner or person in possession to take any food, agricultural or aquatic commodity, agricultural input, or other thing to an inspection point; or
- (c) direct the owner or person in possession to take any food, agricultural or aquatic commodity, agricultural input, or other thing to any other place for processing or destruction.

32 When an inspector or official has seized or detained any food, agricultural or aquatic commodity, agricultural input, or other thing an inspector shall notify the owner or person in possession that the inspector or official has take the action of seizure or detention;

33 An inspector or official may, on receipt of notification of the transportation of any food, agricultural or aquatic commodity, agricultural input, or other thing

- (a) direct the owner or person in possession to take any food, agricultural or aquatic commodity, agricultural input, or other thing to an inspection point; or
- (b) direct the operator to take any food, agricultural or aquatic commodity, agricultural input, or other thing to a licensed establishment or any other place for processing.

34 An inspector or official acting in the course of duty who believes on reasonable grounds that this Act has been contravened in respect of food, agricultural or aquatic commodity or agricultural input or that the food, agricultural or aquatic commodity or agricultural input is unsafe may, whether confirmed or not, whether or not any food, agricultural or aquatic commodity or agricultural input has been seized, by written order, require the owner or person in possession of the product

- (a) not to remove it from the place in which it is contained until the expiration of such time as may be necessary, or the performance of such remedial action as may be necessary, to make the product comply with this Act, and the person to whom the order is given shall comply with the order; or

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(b) to destroy it, and the person to whom the order is given shall comply with the order.

35 Where the delay necessary to put an order under section 34 in writing will or is likely to increase substantially the hazard to the health or any person, the order may be made orally and the order must be complied with immediately.

36(1) If the inspector or official is satisfied that an establishment is not being operated in compliance with this Act and that there is an immediate threat to food safety, the inspector or official may order the cessation of operations in the establishment or production operation, or to limit them as the inspector or official determines.

36(2) An order made under subsection (1) takes effect on the day the operator receives written notice of it and in effect until there is a satisfactory inspection or it is otherwise revoked.

36(3) Despite subsection (2), where the delay necessary to put an order under this section in writing will or is likely to increase substantially the hazard to the health or any person, the order may be made orally and the order must be complied with immediately.

36(4) When the inspector or official is satisfied that the establishment or the production operation is in compliance with the Act and regulations, he shall forthwith deliver to the owner or the operator a notice in writing authorizing the owner or operator, as the case may be, to resume operations.

37 Any person who is dissatisfied with the decision of an inspector or official under this Act may request an appeal inspection in accordance with the regulations. [Bill C80, s79 (s41.of CFIA Act)]

Private Dwelling Warrant

38 On an *ex parte* application, a provincial court judge or a justice of the peace may issue a warrant to the administrative authority, subject to any conditions specified in it, authorizing an inspector, an individual deemed necessary or peace officer named in the warrant to enter a private dwelling, if the judge or justice is satisfied by information on oath

- (a) that the conditions for entry described in section 29(1)(a) exist in relation to the private dwelling;
- (b) that entry to the private dwelling is necessary for any purpose relating to the administration or enforcement of this Act; and
- (c) that there are reasonable grounds for believing that entry will be refused or that entry has been refused. [Bill C80, s79 (s35. (2) of CFIA Act)]

Telewarrant

39 If an inspector or a peace officer believes that the conditions for entry described in paragraph 29(1)(a) in relation to any place and that it would be impracticable to appear personally before a provincial court judge or a justice of the peace to make application for a warrant under sections 38 or 40(1), a warrant may be issued under this section by telephone or other means of telecommunication on a request submitted by telephone or other means of telecommunication.

Searches & Seizures

40(1) Where on *ex parte* application a provincial court judge or a justice of the peace is satisfied by information on oath that there are reasonable grounds to believe that there is in any place any food, agricultural or aquatic commodity, agricultural input or other thing referred to in paragraph 29(1)(a), the judge or justice may issue a warrant to the administrative authority authorizing the inspector, an individual deemed necessary or peace officer to enter and inspect and search the place for the food, agricultural or aquatic commodity, agricultural input or other thing, subject to any conditions in the warrant. [Bill C80, s79 (s46(2) of CFIA Act)]

40(2) An inspector, official or a peace officer with a warrant issued under this section may enter and inspect and search any place, including any conveyance, in which the inspector, official or peace officer believes on reasonable grounds there is any food, agricultural or aquatic commodity, agricultural input or

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other thing by means of or in relation to which this Act or the regulations have been contravened or that will afford evidence of such a contravention. [Bill C80, s79 (s46. (1) of CFIA Act)]

40(3) An inspector, official or peace officer may exercise the powers referred to in subsection (2) without a warrant if the conditions for obtaining the warrant exist but by reason of exigent circumstances it would not be practical to obtain it. [Bill C80, s79 (s46.(5) of CFIA Act)]

40(4) In carrying out a search of a place under this section or under a warrant issued under section 38, an inspector may exercise any power mentioned in section 29.

41(1) An inspector or any person designated by an inspector may store any food, agricultural or aquatic commodity, agricultural input or other thing seized under this Act in the place where it was seized or may remove it or direct that it be removed to another place for storage.

41(2) The owner or the person who was in possession of food, agricultural or aquatic commodity, agricultural input or other thing at the time of its seizure shall pay the costs of its storage, transportation, removal and handling.

42 A court in which proceedings are or may be brought for a contravention of this Act may order the return of a thing seized under this Act or of the net proceeds from its disposition to the person from whom it was seized, if the person provides security satisfactory to the court.

43(1) Subject to subsection (3), food, agricultural or aquatic commodity, agricultural input or other thing seized under this Act may not be detained after an inspector determines that food, agricultural or aquatic commodity, agricultural input or other thing meets the requirements of this Act and the regulations.

43(2) Net proceeds from the disposition of seized food, agricultural or aquatic commodity, agricultural input or other thing may not be detained after the expiration of one hundred eighty days after the day of disposition.

43(3) Where proceedings are instituted in relation to food, agricultural or aquatic commodity agricultural input or other thing seized, it or the net proceeds from its disposition may be detained until the proceedings are concluded.

43(4) Where proceedings are instituted in relation to a thing seized, other than food which is believed to be contaminated or unfit for human consumption, the owner of the thing or the person in possession of it at the time of its seizure may apply to the court before which the proceedings are being held for an order that the thing be returned.

43(5) Where the court is satisfied that sufficient evidence exists or may reasonably be obtained without further detaining the thing seized, the court may order it to be returned, subject to any conditions necessary to ensure its preservation for any purpose for which it may subsequently be required.

Forfeiture

44(1) Any food, agricultural or aquatic commodity, agricultural input or other thing that an inspector detains or seizes is forfeited to the administrative authority if the owner or person entitled to possession of it does not claim it within a reasonable time after the date of its detention or seizure.

44(2) Where the owner of any food, agricultural or aquatic commodity, agricultural input or other thing seized under this Act or the person in possession of it at the time of its seizure consents to its forfeiture, it is forfeited to the administrative authority and may be disposed of by the administrative authority.

44(3) An inspector who takes any food, agricultural or aquatic commodity, agricultural input or other thing, as forfeit under subsection (1) and (2) must provide the person whom was in possession of it with a forfeiture certificate.

45(1) A thing that is forfeited under this Act may be disposed of in the manner that the administrative authority considers appropriate, at the expense of the person from whom it was seized.

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45(2) Where the court does not order the forfeiture of the thing that was seized, the thing or the net proceeds from its disposition or any security given for it must be given to the person from whom it was seized.

45(3) Where the person from whom a thing was seized is convicted of an offence under this Act, the thing, the net proceeds from its disposition or any security given for it may be retained until the fine is paid, or the thing may be sold in satisfaction of the fine or the net proceeds or the security or any part of it may be applied in payment of the fine.

46(1) The owner and any person entitled to possession of any thing seized, restricted or forfeited under this Act are jointly and severally liable for all the costs of seizure, restriction, removal, transportation, handling, storage, forfeiture, recalls or disposal incurred by the administrative authority in excess of the net proceeds of disposition.

46(2) The costs referred to in subsection (1) are debts due to the administrative authority and may be recovered in a court of competent jurisdiction.

Samples

47 (1) A sample taken under this Act may be disposed of in any manner that the administrative authority considers appropriate. [Bill C80, s79 (60. (1) of CFIA Act)]

47(2) The administrative authority is not liable for any costs, loss or damage resulting from the taking or disposition of a sample under this Act [Bill C80, s79 (60.(2) of CFIA Act)]

PROHIBITIONS

FOOD, AGRICULTURAL OR AQUATIC COMMODITY OR AGRICULTURE INPUT SAFETY

48(1) Subject to subsection (2) and the regulation(s), no person shall sell any food, agricultural or aquatic commodity or agricultural input that is contaminated or adulterated. [Bill C80, s24.]

48(2) No person shall sell any food that has on it or in it any poisonous or harmful substance that is injurious to human health, or the safety of the food is uncertain.

49 No person shall produce, process, transport or sell any food, agricultural or aquatic commodity or agricultural input that does not comply with the Act.

50 Subject to the regulation(s), no person shall produce, process, transport or sell any food, agricultural or aquatic commodity or agricultural input without adequate facilities, equipment, procedures and controls to prevent the food, agricultural or aquatic commodity or agricultural input from being contaminated, adulterated or injurious to health. [Bill C80, s16]

TAMPERING

51(1) No person shall tamper with any food, agricultural or aquatic commodity or agricultural input or the label or container of a food or agricultural input to

- (a) render the food injurious to health or cause any person to believe that it is injurious to health;
- (b) render the agricultural or aquatic commodity less useful, reduced in market value, injurious to animal or human health or harmful to plants or the environment or
- (c) render the agricultural input less useful, reduced in market value, injurious to animal or human health or harmful to plants or the environment.[Bill C80, s17.(1)]

51(2) No person shall sell any food, agricultural or aquatic commodity or agricultural input, any food that the person knows or suspects has been tampered with so as to

- (a) render the food injurious to health;
- (b) render the agricultural or aquatic commodity less useful, reduced in market value, injurious to animal or human health or harmful to plants or the environment or

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- (c) render the input less useful, reduced in market value, injurious to animal or human health or harmful to plants or the environment. [Bill C80, s17.(2)]

51(3) No person shall threaten to

- (a) render a food injurious to health;
- (b) render a agricultural or aquatic commodity less useful, reduced in market value, injurious to animal or human health or harmful to plants or the environment; or
- (c) render the input less useful, reduced in market value, injurious to animal or human health or harmful to plants or the environment. [Bill C80, s17.(3)]

Claims of tampering with food or inputs

52(1) No person shall intentionally cause any person to believe that a food, agricultural or aquatic commodity or an agricultural input has been tampered with so as to

- (a) render the food injurious to health;
- (b) render the agriculture or aquatic commodity less useful, reduced in market value, injurious to animal or human health or harmful to plants or the environment or
- (c) render the input less useful, reduced in market value, injurious to animal or human health or harmful to plants or the environment. [Bill C80, s18.(1)]

52(2) No person commits an offence under subsection (1) if the claim is made in good faith for the purpose of warning another person. [Bill C80, s18. (2)]

DECEPTIVE PRACTICES

53(1) No person shall identify, label, package, treat, produce, process or sell any food, agricultural or aquatic commodity or agricultural input, or distribute any food free of charge, in a manner that is false, misleading or deceptive or that is likely to create an erroneous impression. [Bill C80, s19. (1)]

53(2) Any food, agricultural or aquatic commodity or agricultural input that is labelled or packaged contrary to the regulations is deemed to be labelled or packaged in a manner that contravenes subsection (1). [Bill C80, s17. (2)]

54(1) No person shall advertise any food to the general public as a treatment, preventative or cure for any of the diseases, disorders or abnormal physical states referred to in the *Food and Drugs Act* or its successor.

54(2) No person shall sell any food

- (a) that is represented by label, or
- (b) that the person advertises to the general public

as a treatment, preventative or cure for any of the diseases, disorders or abnormal physical states referred to in the *Food and Drugs Act* or its successor.

Trade in Food, Agricultural or Aquatic Commodities and Agricultural Inputs

55(1) No person shall produce, process, transport or sell any food, agricultural or aquatic commodity or agricultural input unless

- (a) the person does so in accordance with this Act; and
- (b) the food, agricultural and aquatic commodity or agricultural input meets the requirements of this Act. [Bill C80, s21.(1)]

55(2) No person shall possess for producing, processing, transporting or selling any food, agricultural or aquatic commodity or agricultural input that has been prepared in contravention of subsection (1). [Bill C80, s21. (3)]

55(3) Subsection 2 would not apply to any individual producing a food on their own premise and preparing that food for use and consumption in their own private dwelling.

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OFFENCES AND PUNISHMENT

Obstruction or hindrance

56 No person shall obstruct, threaten, hinder, or make false or misleading statements to an inspector or other official who is carrying out his or her duties or functions under this Act. [Bill C80, s79 (70 of the CFIA Act)]

Refusal to provide information

57 No person shall refuse to provide information to an inspector or other official who is carrying out his or her duties or functions under this Act.

Arrest without warrant

58(1) An inspector may arrest without warrant a person that he or she believes on reasonable grounds is committing, has committed or is preparing to commit an offence under this Act.

Necessary force

58(2) An inspector may use as much force as is necessary to make an arrest under subsection (1).

Release

58(3) If an inspector arrests a person under subsection (1), he or she shall, as soon as practicable, release the person from custody, unless the inspector has reasonable grounds to believe that,

- (a) it is necessary in the public interest for the person arrested to be detained, having regard to all the circumstances, including the need to,
 - (i) establish the identity of the person,
 - (ii) secure or preserve evidence of or relating to the offence, or
 - (iii) prevent the continuation or repetition of the offence or the commission of another offence; or
- (b) the person arrested, if released, will not respond to the summons or common offence notice or will not appear in court.

Person in custody to be brought before justice

59(1) Where a defendant is not released from custody, the inspector shall, as soon as is practicable but in any event within twenty-four hours, bring the defendant before a justice and the justice shall, unless a plea of guilty is taken, order that the defendant be released upon giving his or her undertaking to appear unless the inspector having been given an opportunity to do so shows cause why the detention of the defendant is justified to ensure his or her appearance in court or why an order under subsection (2) is justified for the same purpose.

Order for conditional release

59(2) Subject to subsection (1), the justice may order the release of the defendant,

- (a) upon the defendant entering into a recognizance to appear with such conditions as are appropriate to ensure his or her appearance in court;
- (b) where the offence is one punishable by imprisonment for twelve months or more, conditional upon the defendant entering into a recognizance before a justice with sureties in such amount and with such conditions, if any, as are appropriate to ensure his or her appearance in court or, with the consent of the inspector, upon the defendant depositing with the justice such sum of money or other valuable security as the order directs in an amount not exceeding,
 - (i) where the proceeding is commenced by common offence notice, the amount of the set fine for the offence or, if none, \$300, or
 - (ii) where the proceeding is commenced by information under a summons, \$1,000; or
- (c) if the defendant is not ordinarily resident in the province, upon the defendant entering into a recognizance before a justice, with or without sureties, in such amount and with such conditions, if any, as are appropriate to ensure his or her appearance in court, and depositing with the justice such sum of money or other valuable security as the order directs in an amount not exceeding,

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- (i) where the proceeding is commenced by common offence notice, the amount of the set fine for the offence or, if none, \$300, or
- (ii) where the proceeding is commenced by information under a summons, \$1,000.

Idem

59(3) The justice shall not make an order under clause (2) (b) or (c) unless the inspector shows cause why an order under the immediately preceding clause should not be made.

Order for detention

59(4) Where the inspector shows cause why the detention of the defendant in custody is justified to ensure his or her appearance in court, the justice shall order the defendant to be detained in custody until he or she is dealt with according to law.

Reasons

59(5) The justice shall include in the record a statement of the reasons for his or her decision under subsection (1), (2) or (4).

Evidence at hearing

59(6) Where a person is brought before a justice under subsection (1), the justice may receive and base his or her decision upon information the justice considers credible or trustworthy in the circumstances of each case except that the defendant shall not be examined or cross-examined in respect of the offence with which he or she is charged.

Adjournments

59(7) Where a person is brought before a justice under subsection (1), the matter shall not be adjourned for more than three days without the consent of the defendant.

False records

60 No person shall produce for examination or copying by any person who is exercising any powers or carrying out any functions or duties under this Act or by any person acting under the authority of such a person, any record, book of account or other document, or any electronic data, that the person knows contains false or misleading information. [Bill C80, s79 (72 of the CFIA Act)]

Interference

61 Except as authorized by an inspector or other official, no person shall remove, alter or interfere in any way with any thing seized and detained under this Act or the movement of which is restricted or prohibited under this Act. [Bill C80, s79 (73 of the CFIA Act)]

Forging, etc., of inspection certificates

62 No person shall forge, alter or tamper with an inspection certificate or any other certificate issued by an inspector or other official. [Bill C80, s79 (69 of the CFIA Act)]

Offences

63(1) Every person who contravenes any provision of this Act is guilty of an offence and liable on summary conviction, to a penalty not greater than provided for in the regulation.

63(2) Where a corporation commits an offence under this Act, any officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is a party to and guilty of the offence and is liable on conviction to the punishment provided for the offence, whether or not the corporation has been prosecuted. [Bill C80, s79 (76 of the CFIA Act)] or [Bill C80, s39]

63(3) In any prosecution for an offence under this Act, it is sufficient proof of the offence to establish that it was committed by an employee or agent of the accused, whether or not the employee or agent is identified or has been prosecuted for the offence, unless the accused establishes that the offence was

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committed without the knowledge or consent of the accused. [Bill C80, s79 (77 of the CFIA Act)] or [Bill C80, s40]

63(4) In any prosecution for an offence under this Act, it is sufficient proof of the offence to establish that it was committed by an employee, agent or mandatory of the accused, whether or not the employee, agent or mandatory is identified or has been prosecuted for the offence, unless the accused establishes that the accused exercised all due diligence to prevent the commission of the offence. [Bill C80, s79 (75 of the CFIA Act)] [Bill C80, s40]

64 Where any contravention of this Act or the regulations is committed or continued on more than one day, each day that the contravention is committed or continued constitutes a separate offence. [Bill C80, s 37]

65 A prosecution for a summary conviction offence under this Act may be instituted at any time within two years after the time the subject-matter of the prosecution became known to the administrative authority. [Bill C80, s79 (83 of the CFIA Act)]

Where offences deemed to have been committed

66 Every offence against this Act or the regulations and every contravention of any of the conditions of any licence issued under this Act or the regulations, for the purposes of any prosecution, shall be deemed to have been committed, and every cause of complaint under this Act or the regulations or any of the conditions of any licence issued under this Act or the regulations shall be deemed to have arisen in the place where the offence was actually committed or the place where it was first discovered by an inspector or the place where the defendant resides or is found.

COMMON OFFENCE NOTICE OFFENCES

67(1) In addition to the procedures set out in the *[appropriate provincial legislation]* for commencement of a proceeding, a proceeding may be commenced in respect of any offence under this Act by

- (a) completing a common offence notice that consists of a summons portion and an information portion;
- (b) delivering the summons portion of the common offence notice to the accused or sending it by registered mail to the accused at the accused's latest known address; and
- (c) filing the information portion of the common offence notice with a court of competent jurisdiction before or as soon as practicable after the summons portion has been delivered or mailed.

67(2) The summons and information portions of a common offence notice must

- (a) set out, in the prescribed manner, a description of the offence and the time and place of its alleged commission;
- (b) include a statement, signed by the inspector who completes the common offence notice, that the inspector has reasonable grounds to believe that the accused committed the offence;
- (c) set out the amount of the fine prescribed for the offence and the manner in which and period within which it may be paid;
- (d) include a statement that if the accused pays the fine within the period set out in the common offence notice, a conviction will be entered and recorded against the accused; and
- (e) include a statement that, if the accused wishes to plead not guilty or for any other reason fails to pay the fine within the period set out in the common offence notice, the accused must appear in the court and at the time set out in the ticket.

68 Where an accused to whom the summons portion of a common offence notice is delivered or mailed pays the prescribed fine within the period set out in the ticket,

- (a) the payment constitutes a plea of guilty to the offence described in the common offence notice and endorsement of payment on the common offence notice constitutes a conviction and the imposition of that amount;

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- (b) any food, agricultural or aquatic commodity, agricultural input or other thing seized from the accused under this Act relating to the offence described in the common offence notice or the net proceeds from its disposition, are forfeited to the administrative authority and may be disposed of by the administrative authority, if not brought into compliance.;
- (c) any food, agricultural or aquatic commodity, agricultural input or other thing seized from the accused under this Act relating to the offence described in the common offence notice or the net proceeds from its disposition, may be returned to the accused if brought into compliance, by the accused; and
- (d) no further order may be made or further action taken against the offender in relation to the offence.

69 The administrative authority shall establish the amount of the fine for a designated offence for the purposes of proceedings begun by issuing a common offence notice, maximum set in regulation.

Orders of court

70 Where a person who holds a licence is convicted of an offence under this Act, the court may, by order,

- (a) cancel the licence, or
- (b) suspend it for any period the court considers appropriate; or
- (c) prohibit the person from applying for a new licence under this Act during any period that the court considers appropriate. [Bill C80, s79 (56 of the CFIA Act)]

71 Where a person is convicted of an offence under this Act and the court is satisfied that as a result of committing the offence the person acquired monetary benefits, the court may, notwithstanding the maximum amount of any other fine imposed under this Act, order the person to pay an additional fine in an amount equal to the court's finding of the amount of those monetary benefits. [Bill C80, s42.]

72(1) Where a person is convicted of an offence under this Act, the court may, having regard to the nature of the offence and the circumstances surrounding its commission, make one or more of the following orders:

- (a) prohibiting the person from doing any act or engaging in any activity that may, in the opinion of the court, result in the continuation or repetition of the offence; [Bill C80, s44.(a)]
- (b) directing the person to publish, in any manner the court considers appropriate, the facts relating to the commission of the offence;
- (c) directing the person to compensate the administrative authority, in whole or in part, for the cost of any testing, investigative action, remedial or preventive action taken by or on behalf of the administrative authority as a result of the commission of the offence; [Bill C80, s44.(b)]
- (d) directing the person to perform community service in accordance with the conditions specified in the order; or [Bill C80, s44.(c)]
- (e) requiring the person to comply with any other conditions that the court considers appropriate. [Bill C80, s44.(d)]

72(2) Where a person fails to comply with an order made under paragraph (1)(b), the administrative authority may publish the facts relating to the commission of the offence. [Bill C80, s46.]

73 The following amounts constitute debts due to the administrative authority and may be recovered in a court of competent jurisdiction:

- (a) an amount that a person is directed to pay pursuant to an order made under section 72; and
- (b) costs incurred by the administrative authority under subsection 72(2) in publishing the facts relating to the commission of an offence.

74(1) Where a person is convicted of an offence under this Act and the court suspends the passing of sentence, the court may, in addition to any probation order made under that paragraph, make an order directing the person to comply with any prohibition, direction or requirement mentioned in subsection 72(1). [Bill C80, s45.(1)]

74(2) Where a person whose sentence has been suspended fails to comply with an order made under

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subsection (1) or is convicted, within three years after the day on which the order was made, of another offence under this Act, the court may, on the application of the administrative authority, impose any sentence that could have been imposed if the passing of sentence had not been suspended. [Bill C80, s45.(2)]

75(1) A court that has made an order under subsection 72(1) may, on application by the administrative authority or the person to whom the order applies, after hearing the person and the administrative authority, vary the order in any of the following ways that the court considers appropriate because of a change in the circumstances of the person since the order was made:

- (a) change the order or any prohibition, direction or requirement mentioned in the order;
- (b) relieve the person, either absolutely or partially and for any period that the court considers appropriate, of compliance with any prohibition, direction or requirement mentioned in the order;
- or
- (c) extend or decrease the period during which the order remains in force.

75(2) Where an application has been heard by a court under subsection (1), no other application may be made in respect of the same order except with leave of the court.

76 Where a person who is convicted of an offence under this Act does not pay a fine imposed as punishment when required, the administrative authority may, by filing the conviction, enter as a judgement the amount of the fine and costs, if any, in the superior court, and the judgement is enforceable against the person in the same manner as if it were a judgement obtained by the administrative authority against the person in that court in civil proceedings. [Bill C80, s49.]

77 A prosecution for an offence under this Act may be instituted, heard and determined

- (a) in the place where the offence was committed or the subject-matter of the prosecution arose;
- (b) where the accused is found or is carrying on business, or
- (c) where the accused resides. [Bill C80, s41]

EVIDENCE

78(1) In any prosecution for an offence under this Act, a certificate or report of an inspector, analyst or other official or an inspector, analyst or other official employed, designated or appointed by a provincial government or Government of Canada or other person with which the province has an inspection arrangement, under section 26, purporting to have been signed by the inspector, analyst or other official and stating the results of the relevant inspection is admissible in evidence without proof of the signature or official character of the person appearing to have signed it and, in the absence of evidence to the contrary, is proof of the matters asserted in it.

78(2) In any prosecution for an offence under this Act, a copy of or an extract from any book, record, electronic data or document, made by an inspector under this Act and appearing to have been certified under the inspector's signature as a true copy or extract is admissible in evidence without proof of the signature or official character of the person appearing to have signed the copy or extract and, in the absence of evidence to the contrary, has the same probative force as the original would have if it were proved in the ordinary way. [Bill C80, s52.(2)]

78(3) A document appearing to have been issued by the administrative authority, certifying the day on which the subject matter of any prosecution became known to the administrative authority, is admissible in evidence without proof of the signature or official character of the person appearing to have signed the document and, in the absence of evidence to the contrary, is proof of the matters asserted in it. [Bill C80, s79 (87.(1) of the CFIA Act)] or [Bill C80, s52(1)]

78(4) No information referred to in this section may be received in evidence unless the party intending to produce it has, before the trial, served on the party against whom it is intended to be produced reasonable notice of that intention together with a duplicate of the information. [Bill C80, s79 (87.(4) of the CFIA Act)]

Presumed date of issue

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79 A document referred to in subsections 78(1), (2) or (3) is, in the absence of evidence to the contrary, deemed to have been issued on the date that it bears. [Bill C80, s52.(3)]

80 In any prosecution for an offence under this Act, proof that any food, agricultural or aquatic commodity, agricultural input or other thing bears

- (a) a name and address purporting to be that of the person who produced, processed, traded or marketed the food, agricultural or aquatic commodity or agricultural input, or
- (b) the number of a licence issued under this Act or a registered brand mark or inspection mark purporting to be that of the establishment or production operation where the food, agricultural or aquatic commodity, agricultural input originated

is proof, in the absence of evidence to the contrary, that the food, agricultural or aquatic commodity, agricultural input was prepared or produced by the person or at the establishment or production operation, whose name, address, licence number, label, registered brand mark or inspection mark appeared on the food, agricultural or aquatic commodity or agricultural input or other thing. [Bill C80, s51.]

81 In any proceedings for a contravention of this Act, an accused found in possession of a food, agricultural or aquatic commodity or agricultural input is deemed, in the absence of evidence to the contrary, to have produced it or to have had possession of it in order to use it for production, process, transport or sell it. [Bill C80, s50.(1)]

REGULATION-MAKING AUTHORITY

82 The administrative authority may make regulations for carrying out the purposes and provisions of this Act and prescribing anything that is to be prescribed under this Act and, without limiting the generality of the foregoing, may make regulations

- (a) respecting any matter necessary or advisable to carry out the purpose of this Act;
- (b) respecting the definition of any word or expression used but not defined in this Act;
- (c) respecting the production of food, agricultural and aquatic commodity or agricultural input;
- (d) respecting the processing of food, agricultural and aquatic commodity or agricultural input;
- (e) respecting standards;
- (f) respecting the physical, chemical and biological standards, conditions or other thing under which food, agricultural and aquatic commodity and agricultural inputs may be produced, processed, transported or sold;
- (g) respecting safety and quality programs under which food, agricultural or aquatic commodity or agricultural input may be produced, processed, transported or sold and any matter respecting the development, evaluation, accreditation, implementation, auditing and any other requirement deemed necessary under these programs;
- (h) respecting the licensing of persons who operate an establishment or production operation and classification of establishments or production operations, including the information to be contained in and the fee and documentation required to accompany application for licences, the term of licences and grounds for suspension and cancellation; [Bill C80 s28.(1)(j)]
- (i) prescribing the information required from applicants for licences, including information about the size and construction of any establishment or production operation and its equipment and processing, refrigeration and storage capacities; [Bill C80 s28.(1)(j)]
- (j) governing the issuance, renewal, cancellation and suspension of licences;
- (k) governing the location, design, construction, hygiene, sanitation and maintenance of establishments or production operations and the equipment and facilities in them, the procedures to be followed and

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the standards to be maintained [Bill C80 s28.(1)(l)];

- (l) governing the licensing of persons who operate establishments or production operations including the procedures to be followed, processing methods to be used and the standards to be maintained;
- (m) prescribing the information to be maintained by persons who hold licences under this Act, including
 - i. information about the buildings, equipment, products and methods used and the number of persons employed, and
 - ii. the quantity, size, weight, species, product form, value or other particulars of any food, agricultural or aquatic commodity, agricultural input or other thing marketed;
- (n) respecting the approval, recognition or accreditation by the administrative authority of third-party laboratories and the methods for testing food, agricultural or aquatic commodity, agricultural input or other things and respecting the equipment, personnel, standards, procedures and verification of procedures for testing products in such laboratories;
- (o) respecting the powers, duties, qualifications, training and other requirements of inspectors, analysts, graders or other officials and appeal board members;
- (p) prescribing any fees or charges, and the manner of calculating any fees or charges, required for carrying out the purposes and provisions of this Act;
- (q) respecting the recovery of the cost of enforcement or corrective actions (seizures; detention; destruction; public warnings; etc.) from any person whose fault or negligence has caused or contributed to the circumstances requiring the measures;
- (r) respecting exempting or excluding any person, establishment, production operation, food, agricultural or aquatic commodity, agricultural input or any class of any of them from the application of all or any part of this Act providing the exemption or exclusion does not pose directly or indirectly a human health risk;
- (s)** respecting inspection methods and the delivery of such services; [Bill C80 s66.(e)]
- (t) respecting the manner of use, disposal or destruction of food, agricultural or aquatic commodity or agricultural input, or thing in a production operation or establishment, that may be injurious to health and prohibiting their use, disposal or destruction in any manner other than the manner prescribed;
- (u) respecting the humane treatment of animals including transportation and slaughter;
- (v) respecting the health, hygiene requirements, work practices and training of persons involved in the production, processing, transportation or selling of food, agricultural or aquatic commodity or agricultural input;
- (w) respecting the records to be kept or provided by operators of establishments, production operations or by other persons to whom this Act applies, and the manner in which they are to be kept and the reports, returns and information to be submitted to the administrative authority or other persons and respecting the evaluation of these records by the administrative authority or other persons;
- (x) respecting the safety and quality of ingredients, agricultural or aquatic commodity or agricultural input supplied to or received by an establishment or production operation, and prohibiting the supply or receipt of ingredients that are not handled, stored or transported in accordance with the regulations;
- (y) establishing procedures for the effective recall of food, agricultural or aquatic commodity or agricultural input that have been distributed;
- (z) respecting the class of products that may be produced in a production operation or processed in an establishment;
- (aa) prohibiting the production, processing, transportation or selling of any food, agricultural or aquatic

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- commodity or agricultural input;
- (bb) respecting the identification, registration, tracking or tracing of food, agricultural or aquatic commodity or agricultural input, including systems therefor;
 - (cc) respecting the health, genetic and other requirements for animals, plants and microorganisms, governing the manner of ensuring that those requirements are complied with;
 - (dd) respecting the sampling, testing and analyzing of food, agricultural or aquatic commodity or agricultural input;
 - (ee) respecting the handling, processing and storage of food by-products, agricultural or aquatic commodities or agricultural inputs not intended for human consumption;
 - (ff) respecting the marking, labelling and packaging of food, agricultural or aquatic commodities or agricultural inputs, including safety, quality or other standards for containers;
 - (gg) respecting inspection marks and grade names;
 - (hh) governing or prohibiting the transportation or sale of unprocessed food, agricultural or aquatic commodities;
 - (ii) respecting the addition to or removal from food, agricultural or aquatic commodity or agricultural input of any substance, matter or thing;
 - (jj) respecting the species or types of animals that may be kept in establishments or production operations;
 - (kk) respecting the disposal of dead stock, offal or inedibles; [Bill C80, s28.(1)(o)]
 - (ll) respecting feed preparation, feed sources, feed ingredients or other substances fed to animals;
 - (mm) respecting the transportation of food, agricultural or aquatic commodity or agricultural input including the design, construction and operation of conveyances used to transport food, agricultural or aquatic commodity or agricultural input;
 - (nn) respecting the storage and handling of food, agricultural or aquatic commodity or agricultural input including the design, construction and operation of establishments, production operations, receptacles, tanks and equipment used for storing and handling food, agricultural or aquatic commodity or agricultural input;
 - (oo) prohibiting the movement or transportation of food, agricultural or aquatic commodity or agricultural input that pose a danger to public health and safety.
 - (pp) requiring persons to keep and provide to the administrative authority, personal identification, information, records, books of account, electronic data or other documents in respect of food, agricultural or aquatic commodities or agricultural inputs and activities in respect of which this Act;
 - (qq) respecting the reporting of any information required by the administrative authority for assessing and preventing health risk;
 - (rr) respecting the reporting of any information required by the administrative authority for the administration of this Act;
 - (ss) establishing criteria and procedures for reinspection; [Bill C80, s79.(66) (j) of CFIA Act]
 - (tt) respecting the grading or classification of food, agricultural or aquatic commodities or agricultural inputs; [Bill C80, s28.(1)(m)] or [Bill C80, s79.(66) (k) of CFIA Act]
 - (uu) governing the collection of information and statistics and surveillance data and the publication of

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studies and the conduct of surveys on any matter related this Act;

- (w) governing the collection, use and disclosure of information under the Act;
- (ww) establishing a mechanism for dealing with complaints with respect to food, agricultural or aquatic commodities or agricultural inputs;
- (xx) respecting the implementation of sections 67 and 68, including the designation of offence that may be proceeded against by issuance of a ticket and the short-form description of the offence that may be used in the common offence notice;
- (yy) prescribing fines for offences;
- (zz) governing the use of firearms by inspectors declared as public officers as appointed in section 18(2) and the circumstances under which firearms may be used by inspectors including the authority, conditions and restrictions respecting to the use of firearms; and
- (aaa) prescribing anything that is to be prescribed under this Act. [Bill C80. s28.(1)(z)]

INCORPORATE BY REFERENCE

Incorporate by reference of externally produced material

83(1) A regulation may

- (a) incorporate by reference material produced by a person other than the administrative authority, including a government, municipal government or international body or [Bill C80, s29.(1)]
- (b) adopt by reference a regulation produced by another government.

Reproduced or translated material

83(2) A regulation may incorporate by reference material that the administrative authority reproduces or translates from material produced by another person, government, municipal government or international body

- (a) with any adaptations of form and reference that will facilitate the incorporation of the material in the regulation; or
- (b) in a form that sets out only the parts of the material that apply for the purposes of the regulation. [Bill C80, s29.(2)]

Jointly produced material

83(3) A regulation may incorporate by reference material the administrative authority produces jointly with another government or government agency for the purpose of harmonizing the regulation with other laws. [Bill C80, s29. (3)]

Internally produced standards

83(4) A regulation may incorporate by reference technical or explanatory material that the administrative authority produces such as

- (a) specifications, classifications, illustrations, graphs and other information of a technical nature; and
- (b) test methods, procedures, operational standards, safety standards and performance standards of a technical nature. [Bill C80, s29.(4)]

Incorporation as amended from time to time

83(5) A regulation may incorporate by reference material or regulations as amended from time to time. [Bill C80, s29. (5)]

EMERGENCY EXEMPTIONS

84 In order to provide relief from the effects of a natural disaster or public emergency, the administrative

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authority may, by order, exempt any person or class of persons from the application of any provision of this Act or the regulations for such period as is necessary if the administrative authority is of the opinion that the exemption does not pose a risk to human, animal or plant health.

ORDER NOT A STATUTORY INSTRUMENT

85 An order made under section 84 is exempt from the application of sections 3, 5 and 11 of the *Statutory Instruction Act* [applicable provincial act]), but it must be published within 23 days after it is made. [Bill C80, ss33]

COMING INTO FORCE

86 Legislation governing the inspection food, agricultural or aquatic commodity, agricultural input or other things, as it read immediately before the coming into force of this legislation, shall remain in force until repeal or until the day fixed by the proclamation of this Act, whichever first occurs. [Bill C80, s203]