

## Food Safety and Quality Act, 2001

### S.O. 2001, CHAPTER 20

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## **PART I** **PURPOSES, DEFINITIONS AND ADMINISTRATION**

### **Purposes**

**1** The purposes of this Act are to provide for,

- (a) the quality and safety of food, agricultural or aquatic commodities and agricultural inputs;
- (b) the management of food safety risks; and
- (c) the control and regulation of regulatable activities. 2001, c. 20, s. 1.

### **Definitions**

**2** In this Act,

“agricultural or aquatic commodity” includes,

- (a) commodities that are plants, plant products, animals, animal products, micro-organisms and microbiological products and any parts or by-products of them that are intended for use as food, that may be used as food or from which food is or may be derived,
- (b) deadstock, offal and fallen animals, and
- (c) plants, plant products, animals, animal products and other agri-food products that, subject to a determination made in accordance with the regulations if applicable, are unfit for human consumption, pose a risk to or otherwise affect food quality or safety, directly or indirectly; (“denrée agricole ou aquatique”)

“agricultural input” means a substance or an organism that may be used in the production of commodities, the growing of a plant or an organism or the raising of an animal and includes feed, fertilizers, seeds, pesticides, manure and other biosolids, water, soil conditioners, drugs, supplements, additives, treatments, growth promotants and other substances and organisms specified in the regulations; (“facteur de production agricole”)

“certificate” means a certificate described in clause 12 (g), (i), (l) or (y); (“certificat”)

“conveyance” means a vehicle, aircraft, train, vessel or other thing used to transport food, agricultural or aquatic commodities, agricultural inputs or other things to which this Act applies; (“moyen de transport”)

“deadstock” means an animal that is specified in the regulations and that has died from a cause, other than slaughter; (“animaux morts”)

“director” means a director appointed under section 3 or 49; (“directeur”)

“fish” includes,

- (a) parts of fish,
- (b) shellfish, crustaceans, fresh water and marine animals and any parts of shellfish, crustaceans and those animals, and
- (c) the eggs, sperm, spawn, larvae, spat and juvenile stages of fish, shellfish, crustaceans, fresh water and marine animals; (“poissons”)

“food” means food or drink intended for human consumption and includes an ingredient of food or drink intended for human consumption and any product that is designated as food in the regulations, but does not include,

- (a) milk and milk products as defined in section 1 of the *Milk Act*, except as ingredients of food or except in the circumstances and for the purposes specified in the regulations,
- (b) liquor as defined in subsection 1 (1) of the *Liquor Licence and Control Act, 2019*,
- (c) any product that the regulations specify is not included in this definition; (“aliment”)

“food safety risk” means,

- (a) a food or an agricultural or aquatic commodity, if the food or commodity is designated in the regulations and has or may have an adverse effect on the health or safety of a person who consumes it, or
- (b) a food, an agricultural or aquatic commodity, an agricultural input, any other substance or thing, an environmental condition or a condition of a premises or conveyance, if it,
  - (i) has or may have an adverse effect on the health or safety of a person who consumes a food or agricultural or aquatic commodity that is designated in the regulations and that is or may be produced using it, by any means, in whole or in part, or
  - (ii) may, by any means, directly or indirectly, in whole or in part, affect the safety for human consumption of the food or agricultural or aquatic commodity that is designated in the regulations; (“risque relatif à la salubrité des aliments”)

“inspector” means an inspector appointed under section 14; (“inspecteur”)

“justice” means a provincial judge or a justice of the peace; (“juge”)

“licence” means a licence issued under section 5 of this Act; (“permis”)

“licensed activity” means a regulatable activity, to which the regulations specify that section 4 applies; (“activité autorisée”)

“licensee” means the holder of a licence; (“titulaire de permis”)

“Minister” means the Minister of Agriculture, Food and Rural Affairs or whatever other member of the Executive Council to whom the administration of this Act is assigned under the *Executive Council Act*; (“ministre”)

“Ministry” means the Ministry of the Minister; (“ministère”)

“permit” means a permit described in clause 12 (m); (“autorisation”)

“plant” means a botanical plant or part of it and includes fresh water and marine plants; (“plante”)

“prescribed” means prescribed in the regulations; (“prescrit”)

“regulatable activity” means any of the following activities:

1. The production, processing, manufacturing or other preparation for consumption of food.
2. The growing, harvesting or other preparation for consumption of plants and micro-organisms that may be used as food.
3. The raising, slaughter or other preparation for consumption of animals that may be used as food.
4. The collection, buying, receiving, possessing, possessing for prescribed purposes, identification, branding, handling, storage, moving, transportation, processing, preparation for use, grading, packing, packaging, marking, labelling, advertising, marketing, displaying, giving, selling by any means including on consignment, offering for sale, distribution, disposal or destruction of food, agricultural or aquatic commodities or agricultural inputs.

5. The using of agricultural inputs.

6. Any other operation of a similar nature to those described in paragraphs 1 to 4 and that is specified in the regulations; (“activité susceptible d’être réglementée”)

“regulated activity” means a licensed activity or an activity that is subject to the regulations made under section 12; (“activité réglementée”)

“regulations” means the regulations made under this Act, unless the context requires otherwise; (“règlements”)

“Tribunal” means the Agriculture, Food and Rural Affairs Appeal Tribunal. (“Tribunal”) 2001, c. 20, s. 2; 2019, c. 15, Sched. 22, s. 93.

#### **Section Amendments with date in force (d/m/y)**

2019, c. 15, Sched. 22, s. 93 - 29/11/2021

#### **Directors**

**3** (1) The Minister shall appoint one or more directors for the purposes of the provisions of this Act and the regulations for which the administration and enforcement are not delegated to a delegate under section 49. 2001, c. 20, s. 3 (1).

#### **Areas of responsibility**

(2) If the Minister appoints more than one director, the Minister shall specify the area of responsibility of a director in the appointment. 2001, c. 20, s. 3 (2).

#### **Powers**

(3) A director appointed by the Minister shall have those powers of an inspector that are specified in the appointment, but not the duties of an inspector. 2001, c. 20, s. 3 (3).

## **PART II LICENSING**

#### **Requirement for licence**

**4** (1) No person shall carry on a licensed activity or operate a premises where a licensed activity is carried on unless the person holds a licence for the activity issued under this Act. 2001, c. 20, s. 4 (1).

#### **Compliance with licence**

(2) No person shall carry on a licensed activity or operate a premises where a licensed activity is carried on if the person is in contravention of the licence issued for it as described in subsection (1). 2001, c. 20, s. 4 (2).

#### **Issuance of licence**

**5** (1) A director shall issue a licence to a person who makes application for it in accordance with this Act and the regulations and who pays the fee prescribed by the Minister unless the director is of opinion that,

- (a) the past conduct of the applicant or, if the applicant is a corporation, of its officers, its directors or any of the persons specified in the regulations, affords reasonable grounds to believe that the applicant will not carry on, in accordance with law, the activity for which the applicant is applying for the licence;
- (b) the applicant does not meet the requirements specified by the regulations; or
- (c) the applicant is not in a position to comply with this Act and the regulations. 2001, c. 20, s. 5 (1).

#### **Right to hearing**

(2) A director shall not refuse to issue a licence to an applicant unless,

- (a) before refusing to issue the licence, the director serves a written notice on the applicant stating that the applicant may request a hearing by the director within the prescribed time; and
- (b) the director has held the hearing if the applicant requests one within the prescribed time. 2001, c. 20, s. 5 (2).

#### **Renewal**

(3) Subject to section 6, a director shall renew the licence of a licensee who applies for the renewal in accordance with this Act and the regulations and who pays the fee prescribed by the Minister. 2001, c. 20, s. 5 (3).

**Conditions**

(4) A licence with respect to an activity is subject to whatever conditions the regulations prescribe or a director imposes in accordance with the regulations and a director may impose those conditions. 2001, c. 20, s. 5 (4).

**No licence**

**6** (1) A director may refuse to renew a licence with respect to an activity or may suspend or revoke a licence with respect to an activity if the director is of opinion that,

- (a) the licensee does not meet the requirements of this Act and the regulations;
- (b) the licensee or, if the licensee is a corporation, an officer, director or employee of the licensee, has contravened or has permitted any person under the licensee's control or direction in connection with the activity to contravene this Act, the regulations, any other Act, the regulations under it or any law applying to the carrying on of the activity or the conditions for licensing and the contravention is such that it would be in the public interest to refuse to renew the licence or to suspend or revoke the licence; or
- (c) there exists any other ground specified in the regulations for refusing to renew the licence or for suspending or revoking the licence. 2001, c. 20, s. 6 (1).

**Right to hearing**

(2) A director shall not refuse to renew a licence or suspend or revoke a licence under subsection (1) unless,

- (a) before doing so, the director serves a written notice on the licensee stating that the licensee may request a hearing by the director within the prescribed time; and
- (b) the director has held the hearing if the licensee requests one within the prescribed time. 2001, c. 20, s. 6 (2).

**Immediate suspension**

(3) Despite subsection (2), a director may, by notice to the licensee and without a hearing, provisionally suspend the licensee's licence if,

- (a) in the director's opinion, it is necessary to do so for the immediate protection of the safety or health of any person or animal or the public; and
- (b) the director so states in the notice and gives reasons for the opinion. 2001, c. 20, s. 6 (3).

**Right to hearing**

(4) Upon provisionally suspending a licence, a director shall serve a written notice on the licensee stating that the applicant may request a hearing by the director within the prescribed time to determine whether to further suspend or revoke the licence or to refuse to renew the licence. 2001, c. 20, s. 6 (4).

**If there is a hearing**

(5) A director shall not further suspend or revoke the licence or refuse to renew the licence unless the director has held the hearing if the licensee requests one within the prescribed time. 2001, c. 20, s. 6 (5).

**Deemed continuation of licence**

(6) Subject to a director's determination made under subsection (4), if, within the prescribed time or, if no time is prescribed, before a licence expires, the licensee applies for renewal of the licence, pays the fee prescribed by the Minister and has complied with this Act and the regulations, the licence shall be deemed to continue until the licensee has received the decision of the director on the application for renewal. 2001, c. 20, s. 6 (6).

**Notice of hearing**

**7** (1) The notice of a hearing by a director under section 5 or 6 shall allow the applicant or licensee a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the issue, renewal or retention of the licence, as the case may be. 2001, c. 20, s. 7 (1).

**Examination of documentary evidence**

(2) An applicant or licensee who is a party to proceedings in which a director holds a hearing shall be allowed an opportunity to examine before the hearing any written or documentary evidence that the director will cause to be produced at the hearing and any report the contents of which the director will cause to be given in evidence at the hearing. 2001, c. 20, s. 7 (2).

**Director's decision**

**8** (1) If, after a hearing, a director refuses to issue or renew a licence or suspends or revokes a licence, the director shall give the applicant or licensee written notice of the decision and reasons for it. 2001, c. 20, s. 8 (1).

**Variation of decision**

(2) A director may, on his or her own motion or on the application of the person who was the applicant or licensee, vary or rescind the decision, but a director shall not vary or rescind the decision adversely to the interest of any person affected without,

- (a) serving a written notice on the person stating that the person may request a rehearing by the director within the prescribed time; and
- (b) holding the rehearing, to which the person is a party, if the person requests one within the prescribed time. 2001, c. 20, s. 8 (2).

**No stay**

(3) If a person requests a rehearing under subsection (2), the director's decision under subsection (1) is effective until the director renders a decision after the rehearing. 2001, c. 20, s. 8 (3).

**Powers of director**

(4) On a rehearing under subsection (2), the director may make whatever decision that the director considers proper under this Act and the regulations. 2001, c. 20, s. 8 (4).

**Variation of conditions**

**9** (1) A director may, without a hearing and in accordance with the regulations, add, delete or vary conditions that the director has imposed on a licence under subsection 5 (4). 2001, c. 20, s. 9 (1).

**Request for changes**

(2) If the licensee requests the director to change conditions that the director has imposed under subsection 5 (4) or added, deleted or varied under subsection (1), the director shall make the requested changes or deliver a written notice of refusal to the licensee. 2001, c. 20, s. 9 (2).

**Right to hearing**

(3) Within the prescribed time after receiving the notice of refusal, the licensee may request a hearing by the director by delivering a written notice to the director. 2001, c. 20, s. 9 (3).

**No stay**

(4) If the licensee requests a hearing, unless the director otherwise directs, the conditions that are the subject of the request are effective until the director renders a decision after the hearing. 2001, c. 20, s. 9 (4).

**Director's grounds**

(5) When deciding whether to direct otherwise under subsection (4), the director shall consider the effect that so directing would have on the health or safety of the public. 2001, c. 20, s. 9 (5).

**Hearing**

(6) At the hearing, the licensee shall have a reasonable opportunity to make submissions to the director in support of the licensee's request for changes to the conditions of the licence. 2001, c. 20, s. 9 (6).

**Director's response**

(7) After the hearing, the director shall,

- (a) make the changes to the conditions of the licence that the licensee requested and deliver a written notice of them to the licensee;
- (b) deliver a written notice of refusal to the licensee; or
- (c) add, delete or vary conditions of the licence as the director considers appropriate and deliver a written notice of them to the licensee. 2001, c. 20, s. 9 (7).

**Appeal to Tribunal**

**10** (1) If a director refuses to issue or renew a licence or suspends or revokes a licence or delivers a notice of refusal to a licensee under clause 9 (7) (b) or adds, deletes or varies conditions of a licence under clause 9 (7) (c), the applicant or

licensee may appeal the director's decision to the Tribunal by delivering a written notice to the director and filing the notice with the Tribunal within the prescribed time after receiving notice of the decision. 2001, c. 20, s. 10 (1).

#### **Extension of time for appeal**

(2) The Tribunal may extend the time for the applicant or licensee to give the notice of appeal, either before or after the expiry of that time, if it is satisfied that there are apparent grounds for appeal and that there are reasonable grounds for applying for the extension. 2001, c. 20, s. 10 (2).

#### **No stay**

(3) If an applicant or licensee appeals a director's decision to the Tribunal under this section, unless the director otherwise directs, the decision is effective until the appeal is disposed of. 2001, c. 20, s. 10 (3).

#### **Director's grounds**

(4) When deciding whether to direct otherwise under subsection (3), the director shall consider the effect that so directing would have on the health or safety of the public. 2001, c. 20, s. 10 (4).

#### **Powers of Tribunal**

(5) The Tribunal shall hear the appeal by way of a new hearing to determine whether to issue, renew, suspend or revoke the licence or to add, delete or vary conditions of the licence and may, by order after the hearing, confirm or alter the decision of the director or direct the director to do any act that the director is authorized to do under this Part and that the Tribunal considers proper. 2001, c. 20, s. 10 (5).

#### **Same**

(6) For the purpose of making an order, the Tribunal may substitute its opinion for that of the director and may attach whatever conditions to the order that it considers proper. 2001, c. 20, s. 10 (6).

#### **Conduct of appeal**

**11** (1) The director who receives the notice of appeal under subsection 10 (1), the appellant and the other persons that the Tribunal specifies are parties to the proceedings before the Tribunal under this Act. 2001, c. 20, s. 11 (1).

#### **Members of Tribunal**

(2) Members of the Tribunal assigned to render a decision after a hearing shall not have taken part, before the hearing, in any investigation or consideration of the subject-matter of the hearing and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or a party's representative except upon notice to and opportunity for all parties to participate. 2001, c. 20, s. 11 (2).

#### **Legal advice**

(3) Members of the Tribunal may seek legal advice on a matter under subsection (2) from an adviser independent from the parties but the members shall make the nature of the advice known to the parties in order that they may make submissions as to the law. 2001, c. 20, s. 11 (3).

#### **Findings of fact**

(4) The findings of fact of the Tribunal pursuant to a hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of the *Statutory Powers Procedure Act*. 2001, c. 20, s. 11 (4).

#### **Members participating in decision**

(5) No member of the Tribunal shall participate in a decision of the Tribunal pursuant to a hearing unless the member was present throughout the hearing and heard the evidence and argument of the parties and, except with the consent of the parties, the Tribunal shall not give any decision unless all members so present participate in the decision. 2001, c. 20, s. 11 (5).

### **PART III QUALITY AND SAFETY STANDARDS**

#### **Standards**

**12** The Lieutenant Governor in Council may make regulations for the purposes of this Act,

- (a) establishing standards with respect to food, agricultural or aquatic commodities or agricultural inputs and requiring persons to comply with the standards;
- (b) establishing standards with respect to any regulatable activity and requiring persons to comply with the standards;
- (c) governing any regulatable activity;

- (d) prohibiting any person or class of persons from carrying on a regulatable activity in any manner or in any manner except the prescribed manner;
- (e) prohibiting any person or class of persons from carrying on a regulatable activity or from constructing or altering premises, facilities, equipment or conveyances to carry on the activity unless, before doing so, the person or class of persons has given a notice to a director within the prescribed time period that sets out the information specified in the regulations;
- (f) prohibiting any person or class of persons from carrying on a regulatable activity or any other activity in respect of any commodity, including food, agricultural or aquatic commodities or agricultural inputs, where the commodity does not comply with the regulations or the activity is not carried out in accordance with the regulations;
- (g) respecting the qualifications, education, training and certification necessary in order to carry out prescribed regulatable activities and prohibiting persons other than those with the prescribed qualifications, education, training or certification from performing the prescribed regulatable activities;
- (h) requiring or respecting the examining, analysing, testing or grading of any food, agricultural or aquatic commodity, agricultural input or thing related to carrying on a regulatable activity;
- (i) respecting the qualifications, education, training and certification necessary in order to carry out the examining, analysing, testing or grading described in clause (h) and prohibiting persons or facilities other than those with the prescribed qualifications, education, training or certification from performing that examining, analysing, testing or grading;
- (j) requiring or respecting the taking, supplying, examining, testing and analysing of samples of food, agricultural or aquatic commodities, agricultural inputs or any thing related to carrying on a regulatable activity and prohibiting persons or facilities other than those that the Minister or a director has appointed, certified, designated or approved from performing that taking, supplying, examining, testing and analysing;
- (k) requiring that any food, agricultural or aquatic commodity or agricultural input or any thing related to the carrying on of a regulatable activity be inspected and prescribing the terms and conditions under which the inspection may take place;
- (l) respecting the qualifications, education, training and certification that an inspector is required to have in order to exercise powers or carry out duties under this Act;
- (m) prohibiting persons from constructing, altering or using premises, facilities, equipment or conveyances to carry out any prescribed regulatable activities unless a permit has been issued for the premises, facilities, equipment or conveyances in accordance with the regulations;
- (n) governing the location, design, construction, alteration, operation including hours of operation, and maintenance of premises, facilities, equipment and conveyances used in any regulatable activity;
- (o) governing the issuance of certificates or permits, including their expiry, renewal, suspension and revocation and conditions attached to them and appeals from decisions made by authorized persons with respect to the issuance of certificates and permits;
- (p) allowing the persons or classes of persons who are authorized to issue certificates or permits to attach conditions to them in the prescribed manner;
- (q) authorizing the Minister or a person authorized by the Minister in writing to make orders,
  - (i) establishing control areas where there is a food safety risk that constitutes a significant risk to public health or safety, and
  - (ii) prohibiting or restricting persons or classes of persons from having, storing, transporting or distributing food, agricultural or aquatic commodities or agricultural inputs within, from or to the control areas in the circumstances and for the purposes specified in the regulation, if any;
- (r) allowing the Minister or a person authorized by the Minister in writing to make whatever orders that relate to the control areas described in clause (q) and that the person making the orders considers necessary to protect the health and welfare of the public in the circumstances and for the purposes specified in the regulation, if any;
- (s) establishing and governing systems to ascertain all places of origin or destination of food, agricultural or aquatic commodities, agricultural inputs, or any thing used in or related to a regulatable activity including requiring persons who come into contact with the food, agricultural or aquatic commodities, agricultural inputs or things to identify and



track them in the prescribed manner and at the prescribed times and to maintain records and other documents with respect to them in the prescribed manner and at the prescribed times;

- (t) prohibiting persons from using, storing or handling prescribed agricultural inputs in any manner or in any manner except in the prescribed manner;
- (u) respecting physical, chemical and biological standards of quality and safety for food, agricultural or aquatic commodities or agricultural inputs;
- (v) respecting physical, chemical and biological standards of quality and safety for the premises, facilities and equipment used in any regulatable activity;
- (w) requiring a licensee or other persons specified in the regulations to prepare records or documents in relation to a regulatable activity and governing the form, contents, retention and disposition of the records or documents;
- (x) requiring a licensee or other persons specified in the regulations to prepare and submit reports, returns or other information specified in the regulations in relation to a regulatable activity and governing the form and contents of the reports, returns or information;
- (y) establishing requirements for and governing food safety, quality control and other similar programs, including recognizing other established programs as the programs, providing for the administration of the programs, specifying who is authorized or required to administer any part of the programs, specifying who is authorized to participate in the programs, certifying persons who successfully complete the programs and providing for means of auditing the effectiveness of the programs;
- (z) providing that a person who is in possession of any food, agricultural or aquatic commodity or agricultural input is deemed to possess it for the purpose specified in the regulations;
- (z.1) authorizing directors to designate or approve persons, organizations or facilities to exercise those powers and carry out those duties that are related to any thing described in a regulation made under this section and that are specified in the regulations made under this clause. 2001, c. 20, s. 12.

#### **Duty to report**

**13** A director shall report to the medical officer of health in the locality where the risk occurs or to the Chief Medical Officer of Health under the *Health Protection and Promotion Act* every matter of which the director becomes aware and that, in his or her opinion, is or may be a food safety risk that constitutes a significant risk to public health. 2009, c. 31, s. 70 (1).

#### **Section Amendments with date in force (d/m/y)**

2009, c. 31, s. 70 (1) - 21/01/2010

## **PART IV INSPECTIONS AND ORDERS**

### **INSPECTIONS**

#### **Inspectors**

**14** (1) A director or a person authorized in writing by a director may appoint any person or class of persons to be inspectors and may limit the powers of the inspectors in the document making the appointment. 2001, c. 20, s. 14 (1).

#### **Certificate of appointment**

(2) Upon appointing an inspector, a director or a person authorized in writing by a director shall issue to the inspector a certificate of appointment bearing the director's signature or a facsimile of it. 2001, c. 20, s. 14 (2).

#### **Proof of appointment**

(3) Every inspector who exercises powers under this Act shall, upon request, produce the certificate of appointment as an inspector. 2001, c. 20, s. 14 (3).

#### **Search without warrant, food safety risk**

**15** (1) An inspector may, without warrant or court order, stop any conveyance or enter and inspect any premises or conveyance in accordance with this section if,

- (a) the inspector has reasonable grounds to believe that the premises or conveyance contains any thing that is or may be a food safety risk that constitutes a significant risk to public health or safety or that may be relevant to the existence of a food safety risk that constitutes a significant risk to public health or safety;

- (b) there are exigent circumstances that make it impractical to obtain a search warrant under section 17; and
- (c) the inspector is conducting the inspection for the purpose of determining whether the food safety risk would or may authorize the inspector to issue an order under this Act, whether or not the order would be directed to the person in control of the premises or conveyance that the inspector enters. 2001, c. 20, s. 15 (1).

**Same, no exigent circumstances**

(2) An inspector may, with or without warrant or court order, stop any conveyance or enter and inspect any premise or conveyance in accordance with this section if,

- (a) the inspector has reasonable grounds to believe that the premises or the conveyance is being used for the purposes of carrying on any of the following regulatable activities that are being carried on as a business:
  - (i) the production, processing, manufacturing or other preparation for consumption of food,
  - (ii) the growing, harvesting, or other preparation for consumption of plants and micro-organisms that may be used as food,
  - (iii) the raising, slaughter or other preparation for consumption of animals that may be used as food,
  - (iv) the storage, transportation, processing, preparation for use, packing, packaging, selling by any means, including on consignment, offering for sale or distribution of food and agricultural or aquatic commodities,
  - (v) the buying, handling, storage, preparation for use, use, selling by any means, including on consignment, or offering for sale of agricultural inputs,
  - (vi) the collection, receiving or identification of deadstock;
- (b) the inspector has reasonable grounds to believe that the premises or conveyance contains any thing that is or may be a food safety risk that constitutes a significant risk to public health or safety or that may be relevant to the existence of a food safety risk that constitutes a significant risk to public health or safety; and
- (c) the inspector is conducting the inspection for the purpose of determining whether the food safety risk would or may authorize the inspector to issue an order under this Act, whether or not the order would be directed to the person in control of the premises or conveyance that the inspector enters. 2001, c. 20, s. 15 (2).

**Powers of inspector**

(3) In an inspection under this section, an inspector may,

- (a) demand the production of,
  - (i) any food, agricultural or aquatic commodity, agricultural input or other thing that is or may be a food safety risk or that may be relevant to the existence of a food safety risk, if the thing is capable of being produced, or
  - (ii) any books, records or other documents related to the source, use or disposition of the thing mentioned in subclause (i) or copies of extracts from the books, records or other documents;
- (b) in accordance with the regulations and at the risk and expense of the owner, examine, test, analyse, take samples of or dispose of samples of any food, agricultural or aquatic commodity, agricultural input or other thing that is or may be a food safety risk or that may be relevant to the existence of a food safety risk;
- (c) in accordance with the regulations, delay, for the time necessary to complete the inspection, the transportation of any food, agricultural or aquatic commodity, agricultural input or other thing that is or may be a food safety risk or that may be relevant to the existence of a food safety risk;
- (d) in accordance with the regulations, seize or detain any food, agricultural or aquatic commodity, agricultural input or other thing that is or may be a food safety risk or that may be relevant to the existence of a food safety risk, if the thing is capable of being seized or detained;
- (e) subject to section 29 and orders if any made under it, require or authorize a person, who had custody of the food, agricultural or aquatic commodity, agricultural input or other things at the time that the inspector seized or detained them under clause (d), to remove them from the place of detention at the person's expense;
- (f) inquire into all information, records and other matters that,
  - (i) are relevant to the source, use or disposition of any food, agricultural or aquatic commodity, agricultural input or other thing that is or may be a food safety risk,
  - (ii) are relevant to any thing that is or may be a food safety risk, or

- (iii) may be relevant to the existence of a food safety risk;
- (g) demand the production for inspection of anything described in clause (f);
- (h) use any data storage, processing or retrieval device or system belonging to the persons being inspected in order to produce a record in readable form of the information, records and other matters described in subclause (f) (i), (ii) or (iii);
- (i) pass through or over any land, other than the curtilage surrounding a dwelling, without being liable to trespass or any other action in relation to that land, in order to gain access to the premises that are subject to inspection under this section, if,
  - (i) it is necessary to do so in order to gain the access or to gain the access in a timely manner, and
  - (ii) it is impractical to use any other means to gain the access. 2001, c. 20, s. 15 (3).

#### **Entry to dwellings**

(4) An inspector shall not, without the consent of the occupier, exercise a power to enter a place that is being used as a dwelling, except under the authority of a search warrant issued under section 158 of the *Provincial Offences Act* or a warrant issued under section 17. 2001, c. 20, s. 15 (4).

#### **No obstruction**

(5) No person shall obstruct an inspector who is exercising powers under this section or provide an inspector with false or misleading information. 2001, c. 20, s. 15 (5).

#### **Assistance**

- (6) An inspector who exercises powers under this section may,
- (a) call on any person for whatever assistance the inspector considers necessary to accomplish what the inspector is empowered to do;
  - (b) call for the assistance of any member of the Ontario Provincial Police or the municipal police force in the area where the assistance is required to preserve the peace. 2001, c. 20, s. 15 (6).

#### **Person assisting**

(7) A person assisting an inspector in exercising powers under this section has the powers of an inspector while acting under the direction of the inspector. 2001, c. 20, s. 15 (7).

#### **Police**

(8) It is the duty of every member of a police force called to render assistance under clause (6) (b) to render the assistance. 2001, c. 20, s. 15 (8).

#### **Obligation to assist**

(9) If an inspector makes a demand for any thing under subsection (3), the person having custody of the thing shall produce it to the inspector and, at the request of the inspector, shall provide whatever assistance is reasonably necessary, including using any data storage, processing or retrieval device or system to produce a record in readable form, if the demand is for a document. 2001, c. 20, s. 15 (9).

#### **Removal of documents**

(10) If a person produces books, records and other documents to an inspector, the inspector may, on issuing a written receipt, remove them and may,

- (a) review or copy any of them; or
- (b) bring them before a justice, in which case section 159 of the *Provincial Offences Act* applies. 2001, c. 20, s. 15 (10).

#### **Return of documents**

(11) The inspector shall carry out any reviewing or copying of things with reasonable dispatch, and shall forthwith after the reviewing or copying return the things to the person who produced them. 2001, c. 20, s. 15 (11).

#### **Admissibility of copies**

(12) A copy certified by an inspector as a copy made under clause (10) (a) is admissible in evidence to the same extent, and has the same evidentiary value, as the thing copied. 2001, c. 20, s. 15 (12).

**Note: On a day to be named by proclamation of the Lieutenant Governor, section 15 of the Act is amended by striking out “police force” wherever it appears and substituting in each case “police service”. (See: 2019, c. 1, Sched. 4, s. 20 (1))**

#### **Section Amendments with date in force (d/m/y)**

2018, c. 3, Sched. 5, s. 22 (1) - no effect - see 2019, c. 1, Sched. 3, s. 5 - 26/03/2019

2019, c. 1, Sched. 4, s. 20 (1) - not in force

#### **Minister’s order for inspection**

**16** (1) If the Minister is of the opinion that any food, agricultural or aquatic commodities or agricultural inputs that are being transported in a designated area are or may become a food safety risk that constitutes a significant risk to public health or safety and the Minister is of the opinion that it is necessary to do so, the Minister may, by order, require the persons in charge of the things being transported to proceed to a designated inspection point and to remain there until an inspector inspects the things. 2001, c. 20, s. 16 (1).

#### **Inspection points**

(2) The Minister may designate areas and inspection points for the purpose of inspections mentioned in subsection (1) as the Minister considers necessary. 2001, c. 20, s. 16 (2).

#### **Inspection**

(3) An inspector may carry out the inspection mentioned in subsection (1) and subsections 15 (3) and (5) to (12) and sections 29 and 30 apply to the inspection. 2001, c. 20, s. 16 (3).

#### **Search with warrant, food safety risk**

**17** (1) A justice may issue a warrant authorizing an inspector named in the warrant to stop any conveyance, enter and inspect any premises or conveyance or exercise any of the powers mentioned in subsection 15 (3) with respect to a place named in the warrant, if the justice is satisfied on information under oath that there are reasonable grounds to believe that,

- (a) the premises or conveyance contains any thing that is or may be a food safety risk or that may be relevant to the existence of a food safety risk; and
- (b) it is necessary for the inspector to exercise the powers authorized in the warrant in order to protect the health or safety of the public or any person from a food safety risk. 2001, c. 20, s. 17 (1).

#### **Expiry of warrant**

(2) A warrant issued under this section shall name a date on which it expires, which date shall not be later than 30 days after its issue. 2001, c. 20, s. 17 (2).

#### **Extension of time**

(3) A justice may extend the date on which a warrant expires for an additional period of no more than 30 days upon application without notice by the inspector named in the warrant. 2001, c. 20, s. 17 (3).

#### **Police assistance**

(4) A warrant issued under this section authorizes the inspector named in the warrant to call upon police officers as necessary to execute the warrant. 2001, c. 20, s. 17 (4).

#### **Duty to assist**

(5) It is the duty of every member of a police force called to render assistance under subsection (4) to render the assistance. 2001, c. 20, s. 17 (5).

**Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 17 (5) of the Act is amended by striking out “police force” and substituting “police service”. (See: 2019, c. 1, Sched. 4, s. 20 (2))**

#### **Use of force**

(6) A justice who issues a warrant under this section may authorize the inspector named in the warrant to use as much force as is reasonably necessary to execute the warrant or to exercise any authority specified in the warrant. 2001, c. 20, s. 17 (6).

#### **Time of execution**

(7) Unless otherwise ordered, a warrant issued under this section shall be executed only during normal business hours for the place named in the warrant. 2001, c. 20, s. 17 (7).

### **Application of other provisions**

(8) Subsections 15 (5) to (12) apply with necessary modifications to an inspector executing a warrant issued under this section. 2001, c. 20, s. 17 (8).

### **Section Amendments with date in force (d/m/y)**

2018, c. 3, Sched. 5, s. 22 (2) - no effect - see 2019, c. 1, Sched. 3, s. 5 - 26/03/2019

2019, c. 1, Sched. 4, s. 20 (2) - not in force

### **Other searches with warrant**

**18** (1) An inspector may obtain a search warrant under Part VIII of the *Provincial Offences Act* in respect of an offence under this Act. 2001, c. 20, s. 18 (1).

### **Police assistance**

(2) An inspector may call upon police officers as necessary to execute a search warrant issued under Part VIII of the *Provincial Offences Act*. 2001, c. 20, s. 18 (2).

### **Duty to assist**

(3) It is the duty of every police officer called upon under subsection (2) to assist in executing the warrant. 2001, c. 20, s. 18 (3).

### **Access to premises**

(4) When executing the warrant, an inspector may pass through or over any land, other than the curtilage surrounding a dwelling, without being liable to trespass or any other action in relation to that land, in order to gain access to the premises that are subject to inspection under this section, if,

- (a) it is necessary to do so in order to gain the access or to gain the access in a timely manner; and
- (b) it is impractical to use any other means to gain the access. 2001, c. 20, s. 18 (4).

### **Use of force**

(5) A justice who issues a search warrant under Part VIII of the *Provincial Offences Act* in respect of an offence under this Act may authorize the inspector named in the warrant to use as much force as is reasonably necessary to execute the warrant. 2001, c. 20, s. 18 (5).

### **Search without warrant, compliance with preventive order**

**19** (1) An inspector may, without warrant or court order, stop any conveyance or enter and inspect any premises or conveyance in accordance with this section if,

- (a) the inspector has reasonable grounds to believe that the premises or the conveyance,
  - (i) is subject to an order made under section 31,
  - (ii) is owned or occupied by a person who is subject to an order made under section 31 and contains any food, agricultural or aquatic commodity, agricultural input or any other thing that is subject to an order made under section 31, or
  - (iii) is being used by a person, who is subject to an order made under section 31, to carry on any activity or do any thing that is subject to the order or that is reasonably necessary to determining whether there has been compliance with the order; and
- (b) the inspector is conducting the inspection for the purpose of determining whether a person who is subject to the order has complied with it. 2001, c. 20, s. 19 (1).

### **Powers of inspector**

(2) In an inspection under this section, an inspector may,

- (a) demand the production of,
  - (i) any food, agricultural or aquatic commodity, agricultural input or other thing that is or may be relevant to determining whether there has been compliance with the order made under section 31, if the thing is capable of being produced, or
  - (ii) any books, records or other documents that are or may be relevant to determining compliance with the order made under section 31 or copies of extracts from the books, records or other documents;

- (b) in accordance with the regulations and at the risk and expense of the owner, examine, test, analyse, take samples of or dispose of samples of any food, agricultural or aquatic commodity, agricultural input or other thing that is or may be relevant to determining whether there has been compliance with the order made under section 31;
- (c) in accordance with the regulations, delay, for the time necessary to complete the inspection, the transportation of any food, agricultural or aquatic commodity, agricultural input or other thing that is or may be relevant to determining whether there has been compliance with the order made under section 31;
- (d) in accordance with the regulations, seize or detain any food, agricultural or aquatic commodity, agricultural input or other thing that is capable of being seized or detained and that,
  - (i) is or may be a food safety risk,
  - (ii) may be relevant to the existence of a food safety risk, or
  - (iii) is or may be relevant to determining whether there has been compliance with the order made under section 31;
- (e) subject to section 29 and orders if any made under it, require or authorize a person, who had custody of the food, agricultural or aquatic commodity, agricultural input or other things at the time that the inspector seized or detained them under clause (d), to remove them from the place of detention at the person's expense;
- (f) inquire into all information, records and other matters that are or may be relevant to determining whether there has been compliance with the order made under section 31;
- (g) demand the production for inspection of anything described in clause (f);
- (h) use any data storage, processing or retrieval device or system belonging to the persons being inspected in order to produce a record in readable form of information that is or may be relevant to determining whether there has been compliance with the order made under section 31;
- (i) pass through or over any land, other than the curtilage surrounding a dwelling, without being liable to trespass or any other action in relation to that land, in order to gain access to the premises that are subject to inspection under this section, if,
  - (i) it is necessary to do so in order to gain the access or to gain the access in a timely manner, and
  - (ii) it is impractical to use any other means to gain the access. 2001, c. 20, s. 19 (2).

#### **Entry to dwellings**

(3) An inspector shall not, without the consent of the occupier, exercise a power to enter a place that is being used as a dwelling, except under the authority of a search warrant issued under section 158 of the *Provincial Offences Act* or a warrant issued under section 20. 2001, c. 20, s. 19 (3).

#### **Application of other subsections**

(4) Subsections 15 (5) to (12) apply to an inspection under this section. 2001, c. 20, s. 19 (4).

#### **Search with warrant, compliance with preventive order**

**20** (1) A justice may issue a warrant authorizing an inspector named in the warrant to stop any conveyance, enter and inspect any premises or conveyance or exercise any of the powers mentioned in subsection 19 (2) with respect to a place named in the warrant, if the justice is satisfied on information under oath that,

- (a) the premises or the conveyance,
  - (i) is subject to an order made under section 31,
  - (ii) contains any food, agricultural or aquatic commodity, agricultural input or any other thing that is subject to an order made under section 31, or
  - (iii) is being used by a person, who is subject to an order made under section 31, to carry on any activity or do any thing that is subject to the order or relevant to determining whether there has been compliance with the order; and
- (b) it is necessary for the inspector to exercise the powers authorized in the warrant in order to determine whether a person who is subject to the order has complied with it. 2001, c. 20, s. 20 (1).

#### **Application of other subsections**

(2) Subsections 17 (2) to (8) apply to a warrant issued under this section. 2001, c. 20, s. 20 (2).

### **Search without warrant, control areas**

**21** (1) An inspector may, with or without warrant or court order, stop any conveyance or enter and inspect any premises or conveyance within a control area, established under an order made under a regulation made under clause 12 (q), in accordance with this section if,

- (a) the inspector has reasonable grounds to believe that the premises or the conveyance is being used for the purposes of carrying on any of the following regulatable activities carried on as a business:
  - (i) the production, processing, manufacturing or other preparation for consumption of food,
  - (ii) the growing, harvesting, or other preparation for consumption of plants and micro-organisms that may be used as food,
  - (iii) the raising, slaughter or other preparation for consumption of animals that may be used as food,
  - (iv) the storage, transportation, processing, preparation for use, packing, packaging, selling by any means, including on consignment, offering for sale or distribution of food and agricultural or aquatic commodities,
  - (v) the buying, handling, storage, preparation for use, use, selling by any means, including on consignment, or offering for sale of agricultural inputs,
  - (vi) the collection, receiving or identification of deadstock;
- (b) the inspector has reasonable grounds to believe that the premises or the conveyance,
  - (i) is subject to an order made under a regulation made under clause 12 (q) or (r) in relation to the control area,
  - (ii) contains any food, agricultural or aquatic commodity, agricultural input or any other thing that is subject to an order made under a regulation made under clause 12 (q) or (r) in relation to the control area, or
  - (iii) is being used by a person, who is subject to an order made under a regulation made under clause 12 (q) or (r) in relation to the control area, to carry on any activity or do any thing that is subject to the order or relevant to determining whether there has been compliance with the order; and
- (c) the inspector is conducting the inspection for the purpose of determining whether a person, who is subject to an order made under a regulation made under clause 12 (q) or (r) in relation to the control area, has complied with it. 2001, c. 20, s. 21 (1).

### **Same, exigent circumstances**

(2) An inspector may, with or without warrant or court order, stop any conveyance or enter and inspect any premises or conveyance within a control area, established under an order made under a regulation made under clause 12 (q), in accordance with this section if,

- (a) the inspector has reasonable grounds to believe that the premises or the conveyance,
  - (i) is subject to an order made under a regulation made under clause 12 (q) or (r) in relation to the control area,
  - (ii) contains any food, agricultural or aquatic commodity, agricultural input or any other thing that is subject to an order made under a regulation made under clause 12 (q) or (r) in relation to the control area, or
  - (iii) is being used by a person, who is subject to an order made under a regulation made under clause 12 (q) or (r) in relation to the control area, to carry on any activity or do any thing that is subject to the order or relevant to determining whether there has been compliance with the order;
- (b) there are exigent circumstances that make it impractical to obtain a search warrant under section 22; and
- (c) the inspector is conducting the inspection for the purpose of determining whether a person, who is subject to an order made under a regulation made under clause 12 (q) or (r) in relation to the control area, has complied with it. 2001, c. 20, s. 21 (2).

### **Powers of inspector**

(3) In an inspection under this section, an inspector may,

- (a) demand the production of,
  - (i) any food, agricultural or aquatic commodity, agricultural input or other thing that is or that may be relevant to determining whether there has been compliance with an order made under a regulation made under clause 12 (q) or (r), if the thing is capable of being produced, or

- (ii) any books, records or other documents related to the source, use or disposition of the thing mentioned in subclause (i) or copies of extracts from the books, records or other documents;
- (b) in accordance with the regulations and at the risk and expense of the owner, examine, test, analyse, take samples of or dispose of samples of any food, agricultural or aquatic commodity, agricultural input or other thing that is or may be relevant to determining whether there has been compliance with an order made under a regulation made under clause 12 (q) or (r);
- (c) in accordance with the regulations, delay, for the time necessary to complete the inspection, the transportation of any food, agricultural or aquatic commodity, agricultural input or other thing that is or may be relevant to determining whether there has been compliance with an order made under a regulation made under clause 12 (q) or (r);
- (d) in accordance with the regulations, seize or detain any food, agricultural or aquatic commodity, agricultural input or other thing that,
  - (i) is or may be a food safety risk,
  - (ii) may be relevant to the existence of a food safety risk, or
  - (iii) is or may be relevant to determining whether there has been compliance with an order made under a regulation made under clause 12 (q) or (r);
- (e) subject to section 29 and orders if any made under it, require or authorize a person, who had custody of the food, agricultural or aquatic commodity, agricultural input or other things at the time that the inspector seized or detained them under clause (d), to remove them from the place of detention at the person's expense;
- (f) inquire into all information, records and other matters that are or may be relevant to determining whether there has been compliance with an order made under a regulation made under clause 12 (q) or (r);
- (g) demand the production for inspection of anything described in clause (f);
- (h) use any data storage, processing or retrieval device or system belonging to the persons being inspected in order to produce a record in readable form of information that is or may be relevant to determine whether there has been compliance with an order made under a regulation made under clause 12 (q) or (r);
- (i) pass through or over any land, other than the curtilage surrounding a dwelling, without being liable to trespass or any other action in relation to that land, in order to gain access to the premises or conveyances that are subject to inspection under this section, if,
  - (i) it is necessary to do so in order to gain the access or to gain the access in a timely manner, and
  - (ii) it is impractical to use any other means to gain the access. 2001, c. 20, s. 21 (3).

#### **Entry to dwellings**

(4) An inspector shall not, without the consent of the occupier, exercise a power to enter a place that is being used as a dwelling, except under the authority of a search warrant issued under section 158 of the *Provincial Offences Act* or a warrant issued under section 22. 2001, c. 20, s. 21 (4).

#### **Application of other subsections**

(5) Subsections 15 (5) to (12) apply to an inspection under this section. 2001, c. 20, s. 21 (5).

#### **Search with warrant, control areas**

**22** (1) A justice may issue a warrant authorizing an inspector named in the warrant to stop any conveyance or class of conveyances, enter and inspect any premises or conveyance or any class of premises or conveyances or exercise any of the powers mentioned in subsection 21 (3) with respect to a premises or conveyance named in the warrant or a class of premises or conveyance described in the warrant, if the justice is satisfied on information under oath that,

- (a) the premises, the conveyance or the class of premises or conveyance,
  - (i) is subject to an order made under a regulation made under clause 12 (q) or (r) in relation to the control area,
  - (ii) contains any food, agricultural or aquatic commodity, agricultural input or any other thing that is subject to an order made under a regulation made under clause 12 (q) or (r) in relation to the control area, or
  - (iii) is being used by a person, who is subject to an order made under a regulation made under clause 12 (q) or (r) in relation to the control area, to carry on any activity or do any thing that is subject to the order or relevant to determining whether there has been compliance with the order; and



- (b) it is necessary for the inspector to exercise the powers authorized in the warrant in order to determine whether one or more persons who are subject to the order have complied with it. 2001, c. 20, s. 22 (1).

#### **Application of other subsections**

- (2) Subsections 17 (2) to (8) apply to a warrant issued under this section. 2001, c. 20, s. 22 (2).

#### **Search without warrant, compliance with compliance order**

**23** (1) An inspector may, without warrant or court order, stop any conveyance or enter and inspect any premises or conveyance in accordance with this section if,

- (a) the inspector has reasonable grounds to believe that the premises or the conveyance,
  - (i) is subject to an order made under section 32 or made under a regulation, other than a regulation made under clause 12 (q) or (r),
  - (ii) is owned or occupied by a person who is subject to an order described in subclause (i) and contains any food, agricultural or aquatic commodity, agricultural input or any other thing that is subject to an order described in subclause (i), or
  - (iii) is being used by a person, who is subject to an order described in subclause (i), to carry on any activity or do any thing that is subject to the order or that is reasonably necessary to determining whether there has been compliance with the order; and
- (b) the inspector is conducting the inspection for the purpose of determining whether a person who is subject to the order has complied with it. 2001, c. 20, s. 23 (1).

#### **Powers of inspector**

- (2) In an inspection under this section, an inspector may,
  - (a) demand the production of,
    - (i) any food, agricultural or aquatic commodity, agricultural input or other thing that is or may be relevant to determining whether there has been compliance with the order made under section 32 or made under a regulation, other than a regulation made under clause 12 (q) or (r), if the thing is capable of being produced, or
    - (ii) any books, records or other documents that are or may be relevant to determining compliance with the order described in subclause (i) or copies of extracts from the books, records or other documents;
  - (b) in accordance with the regulations and at the risk and expense of the owner, examine, test, analyse, take samples of or dispose of samples of any food, agricultural or aquatic commodity, agricultural input or other thing that is or may be relevant to determining whether there has been compliance with the order described in subclause (a) (i);
  - (c) in accordance with the regulations, delay, for the time necessary to complete the inspection, the transportation of any food, agricultural or aquatic commodity, agricultural input or other thing that is or may be relevant to determining whether there has been compliance with the order described in subclause (a) (i);
  - (d) in accordance with the regulations, seize or detain any food, agricultural or aquatic commodity, agricultural input or other thing that is or may be relevant to determining whether there has been compliance with the order described in subclause (a) (i) if the thing is capable of being seized or detained;
  - (e) subject to section 29 and orders if any made under it, require or authorize a person, who had custody of the food, agricultural or aquatic commodity, agricultural input or other things at the time that the inspector seized or detained them under clause (d), to remove them from the place of detention at the person's expense;
  - (f) inquire into all information, records and other matters that are or may be relevant to determining whether there has been compliance with the order described in subclause (a) (i);
  - (g) demand the production for inspection of anything described in clause (f);
  - (h) use any data storage, processing or retrieval device or system belonging to the persons being inspected in order to produce a record in readable form of information that is or may be relevant to determining whether there has been compliance with the order described in subclause (a) (i);
  - (i) pass through or over any land, other than the curtilage surrounding a dwelling, without being liable to trespass or any other action in relation to that land, in order to gain access to the premises or conveyances that are subject to inspection under this section, if,

- (i) it is necessary to do so in order to gain the access or to gain the access in a timely manner, and
- (ii) it is impractical to use any other means to gain the access. 2001, c. 20, s. 23 (2).

### **Entry to dwellings**

(3) An inspector shall not, without the consent of the occupier, exercise a power to enter a place that is being used as a dwelling, except under the authority of a search warrant issued under section 158 of the *Provincial Offences Act* or an order made under section 36. 2001, c. 20, s. 23 (3).

### **Application of other subsections**

(4) Subsections 15 (5) to (12) apply to an inspection under this section. 2001, c. 20, s. 23 (4).

### **Regulatory inspection of premises**

- 24** (1) An inspector may, without warrant or court order, enter and inspect any premises in accordance with this section if,
- (a) the inspector has reasonable grounds to believe that the premises is used for the purpose of carrying on a regulated activity; and
  - (b) the inspector is conducting the inspection for the purpose of determining whether a person is carrying on a regulated activity in accordance with this Act and the regulations. 2001, c. 20, s. 24 (1).

### **Powers of inspectors**

- (2) In an inspection under this section, an inspector may,
- (a) demand the production of,
    - (i) any food, agricultural or aquatic commodity, agricultural input or other thing used in carrying on a regulated activity, or
    - (ii) any books, records or other documents relevant to the subject-matter of the inspection or copies of extracts from the books, records or other documents;
  - (b) in accordance with the regulations and at the risk and expense of the owner, examine, test, analyse, take samples of or dispose of samples of any food, agricultural or aquatic commodity, agricultural input or other thing used in carrying on a regulated activity;
  - (c) in accordance with the regulations, delay, for the time necessary to complete the inspection, the transportation of any food, agricultural or aquatic commodity, agricultural input or other thing used in carrying on a regulated activity;
  - (d) in accordance with the regulations, seize or detain any food, agricultural or aquatic commodity, agricultural input or other thing used in carrying on a regulated activity if the inspector has reasonable grounds to believe that the thing being seized or detained does not comply with this Act or the regulations;
  - (e) subject to section 29 and orders if any made under it, require or authorize a person, who had custody of the food, agricultural or aquatic commodity, agricultural input or other things at the time that the inspector seized or detained them under clause (d), to remove them from the place of detention at the person's expense;
  - (f) inquire into all information, records and other matters that are relevant to any food, agricultural or aquatic commodity, agricultural input or other thing used in carrying on a regulated activity;
  - (g) demand the production for inspection of anything described in clause (f);
  - (h) use any data storage, processing or retrieval device or system belonging to the persons being inspected in order to produce a record in readable form of any books, records or other documents relevant to the subject-matter of the inspection;
  - (i) pass through or over any land, other than the curtilage surrounding a dwelling, without being liable to trespass or any other action in relation to that land, in order to gain access to the premises that are subject to inspection under this section, if,
    - (i) it is necessary to do so in order to gain the access or to gain the access in a timely manner, and
    - (ii) it is impractical to use any other means to gain the access. 2001, c. 20, s. 24 (2).

**Entry to dwellings**

(3) An inspector shall not, without the consent of the occupier, exercise a power to enter a place that is being used as a dwelling, except under the authority of a search warrant issued under section 158 of the *Provincial Offences Act* or an order made under section 36. 2001, c. 20, s. 24 (3).

**Application of other subsections**

(4) Subsections 15 (5) to (12) apply to an inspection under this section. 2001, c. 20, s. 24 (4).

**Time for entry**

(5) An inspector shall exercise the power to enter a premises or conveyance under this section only during reasonable hours for the premises or conveyance. 2001, c. 20, s. 24 (5).

**Written demand**

(6) A demand for books, records or documents or copies or extracts from them under subsection (2) shall be in writing and shall include a statement of the nature of the things that are required to be produced. 2001, c. 20, s. 24 (6).

**Regulatory inspection of conveyances**

**25** (1) An inspector may, without warrant or court order, conduct an inspection in accordance with this section if the inspector does so for the purpose of determining whether a person is carrying on a regulated activity in accordance with this Act and the regulations. 2001, c. 20, s. 25 (1).

**Powers of inspector**

(2) In an inspection under this section, an inspector may,

- (a) stop, detain, enter and inspect a conveyance if the inspector has reasonable grounds to believe that it is being used in a regulated activity carried on as a business;
- (b) enter and inspect a conveyance if the inspector has reasonable grounds to believe that it is being used in a regulated activity;
- (c) inspect a conveyance if it is being used in loading or unloading related to carrying on a regulated activity; or
- (d) inspect a conveyance that a director calls in for an inspection at a time and place designated by the director. 2001, c. 20, s. 25 (2).

**Application of other subsections**

(3) Subsections 15 (5) to (12) and 24 (2), (5) and (6) apply to an inspection under this section. 2001, c. 20, s. 25 (3).

**Search without warrant, exigent circumstances**

**26** (1) If an inspector believes on reasonable grounds that there is in a premises or conveyance any thing that will afford evidence of an offence under this Act but that the time required to obtain a search warrant would lead to the loss, removal or destruction of the evidence, the inspector may, without warrant or court order, in accordance with this section, enter and search the premises or stop, detain, enter and search the conveyance. 2001, c. 20, s. 26 (1).

**Entry to dwellings**

(2) An inspector shall not, without the consent of the occupier, exercise a power to enter a place that is being used as a dwelling, except under the authority of a search warrant issued under section 158 of the *Provincial Offences Act*. 2001, c. 20, s. 26 (2).

**Records of information**

(3) An inspector may use any data storage, processing or retrieval device or system belonging to the persons being inspected in order to produce a record in readable form of information located on or contained in the premises or conveyance being inspected. 2001, c. 20, s. 26 (3).

**No obstruction**

(4) No person shall obstruct an inspector who is exercising powers under this section. 2001, c. 20, s. 26 (4).

**Police assistance**

(5) An inspector may call on police officers for whatever assistance the inspector considers necessary to accomplish what the inspector is empowered to do. 2001, c. 20, s. 26 (5).

### **Duty to assist**

(6) It is the duty of every police officer called to render assistance under subsection (5) to render the assistance. 2001, c. 20, s. 26 (6).

### **Access to premises**

(7) When executing the warrant, an inspector may pass through or over any land, other than the curtilage surrounding a dwelling, without being liable to trespass or any other action in relation to that land, in order to gain access to the premises that are subject to inspection under this section, if,

- (a) it is necessary to do so in order to gain the access or to gain the access in a timely manner; and
- (b) it is impractical to use any other means to gain the access. 2001, c. 20, s. 26 (7).

### **Stopping a conveyance**

**27** (1) If an inspector who is authorized to stop a conveyance under this Act or the regulations gives an operator of a conveyance a signal to stop, the operator of the conveyance shall immediately stop. 2001, c. 20, s. 27 (1).

### **Stop signals**

(2) For the purpose of subsection (1), signals to stop include,

- (a) intermittent flashes of red light, in the case of a vehicle;
- (b) intermittent flashes of blue light, in the case of a boat; and
- (c) a hand signal to stop, in the case of a vehicle, boat or any other conveyance. 2001, c. 20, s. 27 (2).

### **Seizures**

**28** (1) An inspector who is lawfully in a premises or conveyance may, without a warrant, seize any thing that the inspector believes on reasonable grounds,

- (a) has been obtained by the commission of an offence under this Act;
- (b) has been used in the commission of an offence under this Act;
- (c) will afford evidence of the commission of an offence under this Act; or
- (d) is intermixed with a thing referred to in clause (a), (b) or (c). 2001, c. 20, s. 28 (1).

### **Warrant**

(2) If the inspector is in the premises or conveyance pursuant to a warrant, subsection (1) applies to any thing, whether or not it is specified in the warrant. 2001, c. 20, s. 28 (2).

### **Disposal of seized goods**

**29** (1) Any food, agricultural or aquatic commodity, agricultural input or other thing that an inspector seizes or detains under any of sections 15 to 25, 28 and 36 shall be disposed of in accordance with the regulations and remains at the risk and expense of the owner until it is disposed of in accordance with the regulations. 2001, c. 20, s. 29 (1).

### **Exception**

(2) Subsection (1) does not apply to any thing that an inspector seizes under section 28 if a warrant issued under Part VIII of the *Provincial Offences Act* requires the thing to be carried before a justice. 2001, c. 20, s. 29 (2).

### **Arrest without warrant, fish**

**30** (1) If the appointment of an inspector specifies that the inspector has the power described in this section, the inspector may arrest without warrant a person that the inspector believes on reasonable grounds is committing, has committed or is preparing to commit an offence with respect to fish that is specified in the regulations. 2001, c. 20, s. 30 (1).

### **Necessary force**

(2) An inspector may use as much force as is reasonably necessary to make an arrest under subsection (1). 2001, c. 20, s. 30 (2).

### **Release**

(3) An inspector who arrests a person under subsection (1) 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 described in subsection (1), 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 offence notice or will not appear in court. 2001, c. 20, s. 30 (3).

#### **Person to be taken before justice**

- (4) Section 150 of the *Provincial Offences Act* applies if the person arrested is not released. 2001, c. 20, s. 30 (4).

### **ORDERS**

#### **Order for preventive measures**

- 31** (1) An inspector may issue an order to any person if the inspector has reasonable grounds to believe that,
  - (a) a food safety risk exists with respect to anything that the person has done or not done; or
  - (b) issuing the order is necessary to prevent, decrease, control or eliminate a food safety risk that,
    - (i) has resulted from or is likely to result from anything that the person has done or not done, or
    - (ii) is likely to result from anything that the person may do or may not do. 2001, c. 20, s. 31 (1).

#### **Oral order**

- (2) If the delay necessary to put the order in writing will or is likely to increase substantially the risk to the health of any person, the inspector may make the order orally. 2001, c. 20, s. 31 (2).

#### **Information in order**

- (3) The order shall,
  - (a) unless the order is made orally, briefly describe the reasons for the order and the circumstances on which the reasons are based; and
  - (b) specify that the person to whom it is directed has the right to request a hearing by a director. 2001, c. 20, s. 31 (3).

#### **Contents of order**

- (4) The order may require the person to whom it is directed to,
  - (a) within the time specified, subject to subsection (6), take or refrain from taking whatever steps are specified in it to prevent, decrease, control or eliminate a food safety risk that has resulted from or is likely to result from anything that the person has done or not done; and
  - (b) report to the inspector, within the time specified, on the steps mentioned in clause (a). 2001, c. 20, s. 31 (4).

#### **Same**

- (5) Without limiting the generality of subsection (4), the order may direct a person to,
  - (a) clean and disinfect premises or equipment;
  - (b) modify equipment;
  - (c) alter production or processing practices for any food, agricultural or aquatic commodity or agricultural input;
  - (d) not to use those pesticides or other agricultural inputs specified in the order during the time period specified in the order;
  - (e) modify or stop operations until the person has taken the remedial action specified in the order. 2001, c. 20, s. 31 (5).

#### **Exception**

- (6) The order shall not require any person to recall any food, agricultural or aquatic commodities or agricultural input to a point from which it has been moved or transported. 2001, c. 20, s. 31 (6).

**Compliance**

(7) A person who is served with an order made under subsection (1) or (2) shall comply with the order within the period of time specified in the order. 2001, c. 20, s. 31 (7).

**Compliance order**

**32** (1) An inspector who has reasonable grounds to believe that a person has contravened a provision of this Act or the regulations or a condition of a licence, permit or certificate may make an order directing the person to comply with this Act, the regulations, licence, permit or certificate, as the case may be, immediately or within the time specified in the order. 2001, c. 20, s. 32 (1).

**Discretionary part of order**

(2) The order may direct the person to modify or stop any thing that the person is doing until the contravention on which the order is based no longer exists. 2001, c. 20, s. 32 (2).

**Oral order**

(3) If the delay necessary to put the order in writing will or is likely to increase substantially the risk to the health of any person, the inspector may make the order orally. 2001, c. 20, s. 32 (3).

**Contents of order**

(4) The order shall,

- (a) specify the provisions of this Act or the regulations or the conditions of a licence that the inspector believes the person to have contravened;
- (b) unless the order is made orally, briefly describe the nature and, where applicable, the location of the contravention;
- (c) describe the action that is required to correct the contravention and the time within which the person is required to ensure that the action is taken; and
- (d) specify that the person has the right to request a hearing by a director. 2001, c. 20, s. 32 (4).

**Service**

(5) The inspector shall have the order served on the person. 2001, c. 20, s. 32 (5).

**Exception**

(6) The order shall not require any person to recall any food, agricultural or aquatic commodities or agricultural input to a point from which it has been moved or transported. 2001, c. 20, s. 32 (6).

**Compliance**

(7) A person who is served with an order made under subsection (1) or (3) shall comply with the order within the period of time specified in the order. 2001, c. 20, s. 32 (7).

**Right to hearing**

**33** (1) If an inspector makes an order under section 31 or 32, the person to whom the order is directed may require a hearing by a director by serving a written notice of the requirement on the director within the prescribed time after service of notice of the order. 2001, c. 20, s. 33 (1).

**Extension of time**

(2) The director who receives the notice requiring the hearing shall extend the time in which a person may give the notice if, in the director's opinion, it is just to do so because service of the order on the person did not give the person notice of it. 2001, c. 20, s. 33 (2).

**Contents of notice**

(3) An applicant for a hearing by a director shall state in the notice requiring the hearing,

- (a) the portions of the order in respect of which the hearing is required; and
- (b) the grounds on which the applicant for the hearing intends to rely at the hearing. 2001, c. 20, s. 33 (3).

**Effect of contents of notice**

(4) Except with leave of the director, at a hearing by a director, an applicant is not entitled to appeal a portion of the order, or to rely on a ground, that is not stated in the applicant's notice requiring the hearing. 2001, c. 20, s. 33 (4).

**Leave by director**

(5) The director may grant the leave mentioned in subsection (4) if the director is of the opinion that to do so is proper in the circumstances, and the director may give the directions that the director considers proper consequent upon the granting of the leave. 2001, c. 20, s. 33 (5).

**Hearing by director**

**34** (1) The commencement of a hearing before a director does not stay the operation of the order in respect of which the hearing is required. 2001, c. 20, s. 34 (1).

**Grant of stay**

(2) The director who receives the notice requiring the hearing may, on the application of a party to a hearing before the director, stay the operation of the portion of the order in respect of which the hearing is required. 2001, c. 20, s. 34 (2).

**Parties**

(3) The person requiring the hearing and all other persons whom the director who receives the notice of the hearing specifies are parties to the hearing. 2001, c. 20, s. 34 (3).

**No stay**

(4) The director shall not stay the operation of the portion of the order in respect of which the hearing is required if doing so would result in,

- (a) danger to the health or safety of any person;
- (b) a food safety risk or serious risk of it; or
- (c) injury or damage or serious risk of injury or damage to any property or to any plant or animal life. 2001, c. 20, s. 34 (4).

**Application for removal of stay**

(5) A party to the hearing may apply for the removal of a stay if relevant circumstances have changed or have become known to the party since the stay was granted, and the director may grant the application. 2001, c. 20, s. 34 (5).

**Application by new party**

(6) A person who is made a party to the hearing after a stay is granted may, at the time the person is made a party, apply for the removal of the stay, and the director may grant the application. 2001, c. 20, s. 34 (6).

**Removal of stay**

(7) On the application of a party under subsection (5) or (6) or on his or her own initiative, the director may remove a stay if of the opinion that failure to do so would have one or more of the results mentioned in clauses (4) (a) to (c). 2001, c. 20, s. 34 (7).

**Conditions**

(8) The director may impose conditions on granting or removing a stay under this section. 2001, c. 20, s. 34 (8).

**Powers of director**

(9) A hearing by a director shall be a new hearing and the director may,

- (a) confirm, alter or revoke the order in respect of which the hearing is required;
- (b) by order direct the inspector who made the order in respect of which the hearing is required to take the action that the director considers the inspector should take in accordance with this Act and the regulations;
- (c) for the purposes of clauses (a) and (b), substitute his or her opinion for that of the inspector. 2001, c. 20, s. 34 (9).

**Appeal to Tribunal**

**35** (1) A party to a hearing before a director under section 34 may appeal the director's decision or order to the Tribunal by serving a written notice of appeal on the director and the Tribunal within the prescribed time after service of notice of the decision or order. 2001, c. 20, s. 35 (1).

**Parties**

(2) The director who receives the notice of hearing under subsection (1), the appellant and the other persons that the Tribunal specifies are parties to the proceedings before the Tribunal under this section. 2001, c. 20, s. 35 (2).

### **Conduct of appeal**

(3) Subsections 33 (2) to (5) and section 34 apply to the appeal except that references to a director or an inspector shall be read as references to the Tribunal or the director respectively. 2001, c. 20, s. 35 (3).

### **Enabling order for inspector**

**36** (1) A justice may issue an order authorizing an inspector to do anything that the inspector is empowered to do under sections 23, 24 or 25 or to gain entry to any premises or conveyance for the purpose of doing the thing if the justice is satisfied, on evidence under oath by an inspector, that there are reasonable grounds to believe that it is appropriate for the administration and enforcement of this Act or the regulations for the inspector to do the thing and that the inspector may not be able to effectively carry out his or her duties without an order under this section because,

- (a) no occupier is present to grant access to a place that is locked or otherwise inaccessible;
- (b) a person has prevented the inspector from doing anything that the inspector is empowered to do under those sections;
- (c) there are reasonable grounds to believe that a person may prevent an inspector from doing anything that the inspector is empowered to do under those sections;
- (d) it is impractical, because of the remoteness of the place to be inspected or because of any other reason, for the inspector to obtain an order under this section without delay if access is denied; or
- (e) there are reasonable grounds to believe that an attempt by the inspector to do anything that the inspector is empowered to do under those sections without the order might not achieve the purpose of the thing or might endanger human health or safety or animal welfare. 2001, c. 20, s. 36 (1).

### **Same, non-commercial conveyance**

(2) A justice may issue an order authorizing an inspector to stop, enter and inspect any conveyance in accordance with this section or to exercise any of the powers described in clauses 24 (2) (a) to (i) if,

- (a) the inspector has reasonable grounds to believe that the conveyance is used for the purpose of carrying on a regulated activity; and
- (b) there are reasonable grounds to believe that it is appropriate for the inspector to exercise the powers authorized by the order for the purpose of determining whether a person is carrying on a regulated activity in accordance with this Act and the regulations. 2001, c. 20, s. 36 (2).

### **Powers of inspector**

(3) Subsections 15 (5) to (12) apply to an inspection under an order made under this section. 2001, c. 20, s. 36 (3).

### **Expiry**

(4) Unless renewed, an order under this section expires on the earlier of the day specified for the purpose in the order and the day that is 30 days after the date on which the order is made. 2001, c. 20, s. 36 (4).

### **Renewal**

(5) An order under this section may be renewed in the circumstances in which an order may be made under subsection (1), before or after expiry, for one or more periods each of which is not more than 30 days. 2001, c. 20, s. 36 (5).

### **Police assistance**

(6) An order issued under this section authorizes the inspector named in the order to call upon police officers as necessary to carry out the order. 2001, c. 20, s. 36 (6).

### **Duty to assist**

(7) It is the duty of every member of a police force called to render assistance under subsection (6) to render the assistance. 2001, c. 20, s. 36 (7).

**Note:** On a day to be named by proclamation of the Lieutenant Governor, subsection 36 (7) of the Act is amended by striking out “police force” and substituting “police service”. (See: 2019, c. 1, Sched. 4, s. 20 (3))

### **Time of execution**

(8) An order under this section shall be carried out only during reasonable hours for the place that the inspector has entered, unless the order otherwise authorizes. 2001, c. 20, s. 36 (8).

### **Application without notice**

(9) An order under this section may be issued or renewed on application without notice. 2001, c. 20, s. 36 (9).



#### **Section Amendments with date in force (d/m/y)**

2018, c. 3, Sched. 5, s. 22 (3) - no effect - see 2019, c. 1, Sched. 3, s. 5 - 26/03/2019

2019, c. 1, Sched. 4, s. 20 (3) - not in force

#### **Order to use tracking device**

**37 (1)** In this section,

“device” means a substance or tracking device that, when placed or installed in or on any premises, conveyance or thing, may be used to help ascertain, by electronic or other means, the origin, identity or location of anything. 2001, c. 20, s. 37 (1).

#### **Use by inspector**

(2) On application without notice, a justice may issue an order in writing authorizing an inspector, subject to this section, to use any device, investigative technique or procedure or to do any thing described in the order if the justice is satisfied by evidence under oath that,

- (a) there are reasonable grounds to believe that an offence against this Act has been or will be committed; and
- (b) information concerning the offence will be obtained through the use of the device, technique or procedure or the doing of the thing. 2001, c. 20, s. 37 (2).

#### **Limitation**

(3) An order issued under this section shall not authorize the interception of any private communication. 2001, c. 20, s. 37 (3).

#### **Same**

(4) No person shall use a device, technique or procedure to intercept any private communication under an order issued under this section. 2001, c. 20, s. 37 (4).

#### **Conditions of order**

(5) An order issued under this section shall contain the conditions that the justice considers advisable in the circumstances. 2001, c. 20, s. 37 (5).

#### **Activities under order**

(6) An order issued under this section may authorize the inspector to,

- (a) place, install, maintain or remove a device in or on any premises, conveyance or thing; or
- (b) monitor, or have monitored,
  - (i) a device placed or installed in or on any premises, conveyance or thing, or
  - (ii) information from the device described in subclause (i). 2001, c. 20, s. 37 (6).

#### **Duration of order**

(7) An order issued under this section is valid for a period of 60 days or for whatever shorter period that the order specifies. 2001, c. 20, s. 37 (7).

#### **Further orders**

(8) A justice may issue further orders under subsection (2). 2001, c. 20, s. 37 (8).

#### **Other powers of inspector**

(9) Nothing in this section has the effect of limiting the powers given to an inspector by any other provision of this Act or the regulations. 2001, c. 20, s. 37 (9).

### **PART V ENFORCEMENT**

#### **Exemptions for inspectors**

**38** Subject to the conditions that the Minister considers necessary, the Minister may exempt, from the application of any provision of this Act or the regulations, an inspector who is exercising powers under this Act or any other person who is exercising those powers and who is authorized to do so. 2001, c. 20, s. 38.

### **Inquiry about food safety risk**

**39** (1) The Minister or a person authorized in writing by the Minister may,

- (a) make inquiries of any person into information, records and other matters in the person's custody that are relevant to any thing that,
  - (i) is or may become a food safety risk that constitutes a significant risk to public health or safety, or
  - (ii) may contribute to the prevention, decreasing or elimination of that risk; or
- (b) demand the production for inspection of any thing described in clause (a). 2001, c. 20, s. 39 (1).

### **Demand**

(2) A demand mentioned in clause (1) (b) shall include particulars of the nature of the things that are required to be produced. 2001, c. 20, s. 39 (2).

### **Obligation to respond**

(3) If a person makes an inquiry about information or things under subsection (1), the person having custody of the information or things shall respond immediately, fully and accurately to the inquiry. 2001, c. 20, s. 39 (3).

### **Obligation to produce**

(4) If a person makes a demand for things under subsection (1), the person having custody of the things shall produce them. 2001, c. 20, s. 39 (4).

### **Records**

(5) A person who is required under this Act to produce a record shall, on request, provide whatever assistance is reasonably necessary, including using any data storage, processing or retrieval device or system to produce a record in readable form. 2001, c. 20, s. 39 (5).

### **Freedom of Information Acts**

(6) If a person, under subsection (1), requires personal information within the meaning of the *Freedom of Information and Protection of Privacy Act* or things related to it, the head of an institution within the meaning of that Act or the *Municipal Freedom of Information and Protection of Privacy Act* shall disclose the information or things under that subsection unless the privacy interest outweighs the public safety interest. 2001, c. 20, s. 39 (6).

### **Same**

(7) Despite section 17 of the *Freedom of Information and Protection of Privacy Act* and section 10 of the *Municipal Freedom of Information and Protection of Privacy Act*, if a person, under subsection (1), requires information that is not personal information within the meaning of either of those Acts, the head of an institution within the meaning of either of those Acts shall disclose the information or things under that subsection unless the confidentiality interest outweighs the public safety interest. 2001, c. 20, s. 39 (7).

### **Same, collection**

(8) The person may collect the information or things disclosed even from persons other than the persons to whom the information and things relate. 2001, c. 20, s. 39 (8).

### **Disclosure of information or things**

**40** (1) The Minister or a person authorized in writing by the Minister for that purpose who receives information or things in response to an inquiry or a demand under subsection 39 (1) shall not disclose them except in accordance with this section. 2001, c. 20, s. 40 (1).

### **Mandatory disclosure**

(2) A person who receives information or things in response to an inquiry or a demand under subsection 39 (1) or a director who receives them in the exercise of duties under this Act shall disclose them in accordance with the limitations, if any, specified in the regulations to any of the persons or bodies specified in subsection (3) if the person or director who received them is of the opinion that,

- (a) they relate to a food safety risk; and
- (b) their disclosure to any of those persons or bodies is necessary to protect the health or safety of the public or any person. 2001, c. 20, s. 40 (2).

**Recipient**

- (3) A person shall make the disclosure under subsection (2) to,
- (a) a Minister for the purpose of the administration of any other Act dealing with public health or safety;
  - (b) the Government of Canada or any province or municipality;
  - (c) the medical officer of health in the locality in which the food safety risk occurs or the Chief Medical Officer of Health under the *Health Protection and Promotion Act*; or
  - (d) any person whom the Minister or the person authorized in writing by the Minister considers is or may be affected by the risk or who may contribute to the prevention, decreasing or elimination of the risk. 2001, c. 20, s. 40 (3).

**Disclosure under the *Regulatory Modernization Act, 2007***

- (4) A person who receives information in response to an inquiry under subsection 39 (1) may disclose the information in accordance with an authorization under the *Regulatory Modernization Act, 2007*. 2007, c. 4, s. 31.

**Section Amendments with date in force (d/m/y)**

2007, c. 4, s. 31 - 17/01/2008

**Administrative penalties****41 (1) If,**

- (a) a director is of the opinion that a person has contravened a provision of this Act or the regulations, has failed to comply with an order under this Act or has failed to comply with a condition of a licence, certificate or permit; and
- (b) the contravention or failure is not one in respect of which a director is required by a regulation made under subsection (16) to issue a notice described in this subsection,

the director may, subject to the regulations under subsection (16), issue a notice in writing requiring the person to pay an administrative penalty in the amount set out in the notice for each day or part of a day on which the contravention or failure occurred or continues. 2001, c. 20, s. 41 (1).

**Mandatory administrative penalties****(2) If,**

- (a) a director is of the opinion that a person has contravened a provision of this Act or the regulations, has failed to comply with an order under this Act or has failed to comply with a condition of a licence, certificate or permit; and
- (b) the contravention or failure is one in respect of which a director is required by a regulation made under subsection (16) to issue a notice described in this subsection,

the director shall, subject to the regulations under subsection (16), issue a notice in writing requiring the person to pay an administrative penalty in the amount set out in the notice for each day or part of a day on which the contravention or failure occurred or continues. 2001, c. 20, s. 41 (2).

**Limitation**

- (3) A director shall not issue a notice under subsection (1) or (2) in respect of a contravention or failure later than two years after the later of,

- (a) the day the contravention or failure occurred; and
- (b) the day on which the evidence of the contravention or failure first came to the attention of the director. 2001, c. 20, s. 41 (3).

**Amount of penalty**

- (4) The amount of an administrative penalty in respect of a contravention or failure,

- (a) shall not exceed \$15,000 for each day or part of a day on which the contravention or failure occurs or continues, if the contravention or failure is one in respect of which a director may issue a notice under subsection (1);
- (b) shall be the amount specified in the regulation made under subsection (16), if the contravention or failure is one in respect of which a director is required by that regulation to issue a notice under subsection (2) and the regulation sets a specific amount for the penalty;

- (c) shall be within the range of amounts specified in the regulation made under subsection (16), if the contravention or failure is one in respect of which a director is required by that regulation to issue a notice under subsection (2) and the regulation sets a range of amounts for the penalty. 2001, c. 20, s. 41 (4).

#### **Contents of notice**

- (5) The notice of an administrative penalty served on the person who is required to pay the penalty shall,
  - (a) contain a description of the contravention or failure to which the notice relates, including, where appropriate, the date and location of the contravention or failure;
  - (b) specify the amount of the penalty determined by the director in accordance with the regulations under subsection (16);
  - (c) give particulars respecting the time for paying the penalty and the manner of payment; and
  - (d) provide information to the person as to the person's right to require the director who issued the notice to hold a hearing of the matter under subsection (6). 2001, c. 20, s. 41 (5).

#### **Right to hearing**

- (6) The person who is required by a notice to pay an administrative penalty may, within the prescribed time after service of the notice on the person, by a written notice served on the director who issued the notice, require the director to hold a hearing with respect to,
  - (a) whether the contravention or failure to which the notice relates occurred; and
  - (b) whether the amount of the penalty is justified in the circumstances, if a regulation made under subsection (16) does not set out a specific amount for the penalty. 2001, c. 20, s. 41 (6).

#### **Stay**

- (7) If the person requests a hearing by the director, the requirement to pay is stayed until the disposition of the matter. 2001, c. 20, s. 41 (7).

#### **Director's decision**

- (8) After the hearing, the director may confirm, rescind or amend the notice according to what he or she considers reasonable in the circumstances, but the director shall not vary the amount of the penalty unless he or she considers the amount to be unreasonable. 2001, c. 20, s. 41 (8).

#### **Regulations**

- (9) For greater certainty, the regulations made under subsection (16) apply to the director's decisions under subsection (8). 2001, c. 20, s. 41 (9).

#### **Appeal to Tribunal**

- (10) The person who is required by the director's decision to pay an administrative penalty may appeal the director's decision to the Tribunal by serving a written notice on the director and the Tribunal within the prescribed time after service of the notice of the director's decision on the person, in which case the decision is stayed until the disposition of the matter. 2001, c. 20, s. 41 (10).

#### **Application of other subsections**

- (11) Subsections (8) and (9) apply to the appeal except that references in those subsections to the director shall be read as references to the Tribunal. 2001, c. 20, s. 41 (11).

#### **No offence if penalty is paid**

- (12) If the person who is required by the notice, the director's decision or the Tribunal's decision to pay the administrative penalty pays it in accordance with the notice, the director's decision or the Tribunal's decision, as the case may be, the person shall not be charged with an offence in respect of the contravention or failure to which the penalty relates. 2001, c. 20, s. 41 (12).

#### **Failure to pay**

- (13) If the person who is required by the notice, the director's decision or the Tribunal's decision to pay the administrative penalty does not pay it in accordance with the notice, the director's decision or the Tribunal's decision, as the case may be,
  - (a) the Minister may bring an action in a court of competent jurisdiction to recover the penalty imposed under this section and the court shall,
    - (i) determine whether the person is liable to the penalty, and

- (ii) if the person is liable to the penalty, give judgment for the amount of the penalty imposed by the Minister or whatever other amount that the court considers just;
- (b) the director may by order suspend any licence, certificate or permit that has been issued to the person until the penalty is paid; or
- (c) the director may refuse to issue or renew any licence, certificate or permit to the person until the penalty is paid. 2001, c. 20, s. 41 (13).

### **Regulations**

(14) For greater certainty, the regulations made under subsection (16) apply to the determinations made by a court under clause (13) (a). 2001, c. 20, s. 41 (14).

### **Interest**

(15) Section 129 of the *Courts of Justice Act* applies in respect of a notice or decision filed with the Superior Court of Justice under subsection (13) and, for the purpose, the date on which the notice or decision is filed shall be deemed to be the date of the order. 2001, c. 20, s. 41 (15).

### **Regulations**

- (16) The Minister may make regulations,
- (a) specifying the form and content of notices of administrative penalties;
  - (b) specifying persons or classes of persons to whom a director shall not issue a notice under this section;
  - (c) specifying the types of contraventions or failures in respect of which and the circumstances in which a director shall not issue a notice under subsection (1);
  - (d) governing the determination of the amount for the administrative penalty that must be set out in a notice issued under subsection (1) or (2), including the criteria to be considered and including providing for different amounts depending on when an administrative penalty is paid;
  - (e) specifying contraventions or failures or classes of contraventions or failures in respect of which a director is required to issue a notice under subsection (2);
  - (f) setting a specific amount or a range of amounts for the administrative penalty that must be set out in a notice that a director is required to issue under subsection (2);
  - (g) requiring that a person, who is required to pay the administrative penalties specified in the regulations in respect of designated legislation as defined in section 47, shall pay them to the delegate as defined in that section to whom the administration and enforcement of the designated legislation is delegated;
  - (h) specifying the purposes for which the delegate described in clause (g) may use the administrative penalties described in that clause and requiring that the delegate pay all amounts that are not required for the specified purposes to the Minister or a separate account in the Consolidated Revenue Fund established by a regulation made under clause 53 (m);
  - (i) respecting any other matter necessary for the administration of a system of administrative penalties provided for by this section. 2001, c. 20, s. 41 (16).

### **Court order to enforce orders**

**42** If a person fails to comply with an order issued under this Act, the Minister may apply to the Superior Court of Justice for an order requiring the person to comply with the order that the person has not complied with. 2001, c. 20, s. 42.

### **Injunction**

**43** (1) If a person contravenes this Act or the regulations, fails to comply with an order under this Act or fails to comply with a condition of a licence, certificate or permit, the Minister may, in addition to any other remedy and to any penalty imposed by law, apply to the Superior Court of Justice for an order restraining the person from continuing the contravention or failure. 2001, c. 20, s. 43 (1).

### **Court order**

(2) If a court convicts a person of an offence under this Act, it may, on its own initiative or on application by counsel for the prosecutor, in addition to any other remedy and to any other penalty imposed by law, make an order prohibiting the continuation or repetition by the person of the act or omission for which the person is convicted. 2001, c. 20, s. 43 (2).

## **Offences**

**44** (1) A person is guilty of an offence if the person contravenes this Act or the regulations, fails to comply with an order made under this Act, a warrant issued under this Act or a condition of a licence, certificate or permit or fails to pay an administrative penalty that the person is directed to pay under section 41. 2001, c. 20, s. 44 (1).

## **Corporations**

(2) If a corporation commits an offence under this Act, an officer, director, employee or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is 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 for the offence. 2001, c. 20, s. 44 (2).

## **Place of offence**

(3) For the purpose of jurisdiction over an offence, the contravention or failure to comply that gives rise to the offence shall be deemed to have arisen at the place where the contravention or the failure occurred or at the residence, usual place of residence, place of business or usual place of business of the person charged with the contravention or failure. 2001, c. 20, s. 44 (3).

## **Limitation period**

**45** No proceeding for an offence under this Act or the regulations shall be commenced more than two years after the later of,

- (a) the day on which the offence was committed; and
- (b) the day evidence of the offence first came to the attention of a director. 2001, c. 20, s. 45.

## **Penalties**

**46** (1) An individual convicted of an offence under this Act is liable to,

- (a) on a first conviction, a fine of not more than \$25,000 for each day or part of a day on which the offence occurs or continues;
- (b) on each subsequent conviction, a fine of not more than \$50,000 for each day or part of a day on which the offence occurs or continues;
- (c) imprisonment for a term of not more than two years; or
- (d) both the fine mentioned in clause (a) or (b) and the imprisonment mentioned in clause (c). 2001, c. 20, s. 46 (1).

## **Corporation**

(2) A corporation convicted of an offence under this Act is liable to,

- (a) on a first conviction, a fine of not more than \$100,000 for each day or part of a day on which the offence occurs or continues; or
- (b) on each subsequent conviction, a fine of not more than \$200,000 for each day or part of a day on which the offence occurs or continues. 2001, c. 20, s. 46 (2).

## **Subsequent conviction**

(3) For the purposes of determining the penalty to which a person is liable under subsection (1) or (2), a conviction of the person for an offence under this Act is a subsequent conviction if the person has previously been convicted of an offence under this Act or a food-related offence under,

- (0.a) the *Animal Health Act, 2009*;
- (a) the *Dead Animal Disposal Act* before section 56 comes into force;
- (b) the *Farm Products Grades and Sales Act*;
- (c) the *Fish Inspection Act*;
- (d) the *Livestock and Livestock Products Act* or the *Health Protection and Promotion Act*;
- (e) the *Meat Inspection Act (Ontario)* before section 59 comes into force;
- (f) the *Milk Act*; or
- (g) the *Canada Agricultural Products Act*, the *Consumer Packaging and Labelling Act (Canada)*, the *Feeds Act (Canada)*, the *Fertilizers Act (Canada)*, the *Fish Inspection Act (Canada)*, the *Food and Drugs Act (Canada)*, the *Health of*

*Animals Act* (Canada), the *Meat Inspection Act* (Canada), the *Pest Control Products Act* (Canada), the *Plant Protection Act* (Canada), the *Safe Food for Canadians Act* (Canada) or the *Seeds Act* (Canada). 2001, c. 20, s. 46 (3); 2009, c. 31, s. 70 (2); 2019, c. 14, Sched. 3, s. 39.

### **Monetary benefit**

(4) A court that convicts a person of an offence under this Act, in addition to any other penalty imposed by the court, may increase a fine imposed upon the person by an amount equal to the amount of the monetary benefit acquired by or that accrued to the person as a result of the commission of the offence, despite any maximum fine elsewhere provided. 2001, c. 20, s. 46 (4).

### **Section Amendments with date in force (d/m/y)**

2009, c. 31, s. 70 (2) - 21/01/2010

2019, c. 14, Sched. 3, s. 39 - 10/12/2019

## **PART VI GENERAL**

### **Definitions**

**47** In this Part,

“delegate” means the party with whom the Minister enters into a delegation agreement; (“délégué”)

“delegation agreement” means an agreement described in subsection 49 (4); (“accord de délégation”)

“designated legislation” means provisions of this Act or the regulations that the Minister designates under subsection 49 (1). (“texte législatif désigné”) 2001, c. 20, s. 47.

### **Agreements with Canada, etc.**

**48** The Minister may enter into agreements with the Government of Canada, any agency of it, any other province of Canada or agency of it, any other Minister of the Government of Ontario, any agency of that government, any individual, partnership, organization, association, marketing board, board of health as defined in subsection 1 (1) of the *Health Protection and Promotion Act* or corporation providing for,

- (a) the more efficient carrying out within Ontario of the purpose and intent of this Act;
- (b) the exercise by the party contracting with the Minister, on behalf of the Government of Ontario, of powers or duties under this Act of the Minister, a director, an inspector or any person authorized to act in any way on behalf of any of them; or
- (c) the payment of money required for the exercise by the party contracting with the Minister of powers or duties under clause (b). 2001, c. 20, s. 48.

### **Delegation of administration**

**49** (1) Subject to subsection (3), the Minister may,

- (a) by regulation, designate provisions of this Act or a regulation as designated legislation for the purpose of this section;
- (b) in the designation of legislation, specify exemptions and limitations to which the designation is subject. 2001, c. 20, s. 49 (1).

### **Exemptions and limitations**

(2) The exemptions and limitations in the designation of legislation may exempt or limit the designation based on geographic area, food or agricultural or aquatic commodity affected by the legislation, any powers or duties contained in the legislation or any other characteristic. 2001, c. 20, s. 49 (2).

### **Exceptions**

(3) The Minister shall not designate as designated legislation any powers or duties of the Minister, a director or an inspector under this Act with respect to a food safety risk. 2001, c. 20, s. 49 (3).

### **Delegation agreement**

(4) The Minister may enter into an agreement with one of the following parties delegating to the party the administration and enforcement of the designated legislation specified in the agreement: an individual, partnership, organization, association, marketing board, board of health as defined in subsection 1 (1) of the *Health Protection and Promotion Act*, corporation, the

Government of Canada or any agency of the Government of Canada or Ontario, or the Government of any other province or an agency of it. 2001, c. 20, s. 49 (4).

#### **Contents of agreement**

(5) A delegation agreement shall contain the limitations, conditions and requirements applicable to the delegation and all other provisions that the Minister considers advisable in the public interest, including provisions,

- (a) requiring that the delegate comply with applicable Ministry standards and policies, including standards and policies relating to quality assurance and audits;
- (b) setting the financial terms of the delegation;
- (c) requiring the delegate to obtain and maintain specified kinds and amounts of insurance;
- (d) providing that the Minister may appoint persons to the board of directors of the delegate, unless the delegate is a body constituted under an Act. 2001, c. 20, s. 49 (5).

#### **Delegate**

(6) A delegation under a delegation agreement is not effective unless,

- (a) the Minister makes a regulation specifying the party to which the administration and enforcement of the designated legislation is to be delegated; and
- (b) the party so specified is an individual, partnership, organization, association, marketing board, board of health as defined in subsection 1 (1) of the *Health Protection and Promotion Act*, corporation, the Government of Canada or any agency of the Government of Canada or Ontario, or the Government of any other province or an agency of it. 2001, c. 20, s. 49 (6).

#### **Delegation of administration**

(7) If the Minister enters into a delegation agreement with respect to the administration and enforcement of designated legislation and makes a regulation in accordance with subsection (6), all provisions in the legislation relating to its administration and enforcement are delegated to the delegate, subject to the exemptions and limitations that are specifically set out in the designation of the legislation or the regulation. 2001, c. 20, s. 49 (7).

#### **Directors**

(8) The delegate shall appoint one or more directors for the purpose of administering and enforcing the designated legislation. 2001, c. 20, s. 49 (8).

#### **Area of responsibility**

(9) If the delegate appoints more than one director, the delegate shall specify the area of responsibility of each director in the appointment. 2001, c. 20, s. 49 (9).

#### **Powers of director**

(10) A director appointed under subsection (8) shall have those powers of an inspector that are,

- (a) included in the designated legislation, subject to the exemptions and limitations that are specifically set out in the designation of the legislation or the regulation made under clause (6) (a) in respect of the delegate; and
- (b) specified in the appointment. 2001, c. 20, s. 49 (10).

#### **Revocation of delegation**

(11) The Minister may by regulation revoke a delegation under a delegation agreement in whole or in part if, in the opinion of the Minister,

- (a) the delegate has contravened or failed to comply with this Act or the regulations;
- (b) the delegate has contravened or failed to comply with the delegation agreement; or
- (c) it is in the public interest to do so. 2001, c. 20, s. 49 (11).

#### **Effect of regulation**

(12) The delegation is revoked by a regulation made under subsection (11) on the day specified in the regulation or, if no day is specified in the regulation, on the day the regulation comes into force. 2001, c. 20, s. 49 (12).



## **Notice**

(13) The Minister may give the delegate that notice of the Minister's intention to make a regulation under subsection (11) that the Minister considers reasonable in the circumstances. 2001, c. 20, s. 49 (13).

## **Other remedies**

(14) The power to revoke a delegation is in addition to, and does not bar or affect, the Minister's right to exercise any other remedy under the delegation agreement or at law. 2001, c. 20, s. 49 (14).

## **Obligations of delegate**

(15) The delegate shall carry out the administration and enforcement of the designated legislation delegated to the delegate in accordance with the law and, in particular, in accordance with this Act, the designation of the legislation and the delegation agreement. 2001, c. 20, s. 49 (15).

## **Annual report**

(16) A delegate shall report annually to the Minister, in the time and manner specified in the delegation agreement, on its activities over the previous year with respect to the administration and enforcement of the designated legislation delegated to the delegate. 2001, c. 20, s. 49 (16).

## **Contents of report**

(17) The report shall include the particulars specified in the delegation agreement. 2001, c. 20, s. 49 (17).

## **Other reporting**

(18) A delegate shall,

- (a) inform and advise the Minister or a person designated in writing by the Minister with respect to matters that are of an urgent or critical nature and that are likely to require action by the delegate or the Minister to ensure that the administration and enforcement of the designated legislation delegated to the delegate or any other matter that the delegation agreement requires the delegate to carry out is carried out properly; and
- (b) advise or respond to the Minister on any matter that the Minister may refer to the delegate with respect to the delegation under the delegation agreement. 2001, c. 20, s. 49 (18).

## **Regulations**

(19) The Minister may make regulations respecting any matter that the Minister considers advisable to carry out effectively the intent and purpose of this section. 2001, c. 20, s. 49 (19).

## **Crown liability**

**50** (1) In this section,

“Crown appointee” means a person who is appointed under this Act but who is not a public servant employed under Part III of the *Public Service of Ontario Act, 2006* and is not appointed by a delegate or acting under the direction of a delegate. 2001, c. 20, s. 50 (1); 2006, c. 35, Sched. C, s. 46 (1).

## **Not Crown agents**

(2) Unless they are otherwise agents of the Crown, the following persons are not agents of the Crown for any purpose under this Act and shall not hold themselves out as such:

1. Delegates while carrying out the administration and enforcement of designated legislation under a delegation agreement.
2. Persons appointed under this Act by a delegate or acting under the direction of a delegate, while they are acting on behalf of a delegate who is carrying out the administration and enforcement of designated legislation under a delegation agreement. 2001, c. 20, s. 50 (2).

## **No liability**

(3) No action or other proceeding shall be instituted against the Crown, the Minister or any employee in the Ministry,

- (a) for any act done or neglect or default in the execution or intended execution of a power or duty under this Act by,
  - (i) a person who is neither a public servant employed under Part III of the *Public Service of Ontario Act, 2006* nor a Crown appointee,

- (ii) a person who is assisting an inspector in exercising powers under any of sections 15 to 25 and 36, if the inspector is neither a public servant referred to in subclause (i) nor a Crown appointee;
- (b) for any tort committed by a person described in clause (a) or an employee or agent of the person in relation to a power or duty described in that clause;
- (c) for any act done in the execution or intended execution of the administration and enforcement of designated legislation under a delegation agreement or for an alleged neglect or default in the execution of that administration and enforcement; or
- (d) for any tort committed by a delegate or an employee or agent of the delegate in relation to the administration and enforcement of designated legislation under a delegation agreement. 2001, c. 20, s. 50 (3); 2006, c. 35, Sched. C, s. 46 (2, 3).

### **Protection from personal liability**

(4) No action or other proceeding for damages or otherwise lies or shall be instituted against any of the following persons for any act done in good faith in the execution or intended execution of any duty or authority under this Act or for any alleged neglect or default in the execution in good faith of such a duty or authority:

1. A member of the Tribunal.
2. A public servant employed under Part III of the *Public Service of Ontario Act, 2006*.
3. A Crown appointee.
4. A person who is assisting an inspector in exercising powers under any of sections 15 to 25 and 36, if the inspector is a public servant referred to in paragraph 2 or a Crown appointee. 2006, c. 35, Sched. C, s. 46 (4).

### **Exception**

(4.1) Subsection (4) does not apply in the case of an application for judicial review or an action or proceeding that is specifically provided for with respect to a person described in subsection (4) in any Act or in a regulation made under this or any other Act. 2006, c. 35, Sched. C, s. 46 (4).

### **Crown liability**

(5) Subsection (4) does not, by reason of subsection 8 (3) of the *Crown Liability and Proceedings Act, 2019*, relieve the Crown of liability in respect of a tort committed by a person mentioned in subsection (4) to which it would otherwise be subject. 2019, c. 7, Sched. 17, s. 78.

### **Section Amendments with date in force (d/m/y)**

2006, c. 35, Sched. C, s. 46 (1-4) - 20/08/2007

2019, c. 7, Sched. 17, s. 78 - 01/07/2019

### **Reimbursement of costs**

**51** (1) The Minister may require any person to reimburse the Minister or a delegate for any reasonable costs of providing any service that the person requests and that is connected with the administration and enforcement of this Act. 2001, c. 20, s. 51 (1).

### **Same, no request**

(2) The Minister may require any person described in subsection (3) to reimburse the Minister or a delegate for any reasonable costs of doing any thing that is required or authorized to be done in connection with the administration and enforcement of this Act, including,

- (a) the taking of samples of, examining, analysing, testing, grading or inspecting of food, agricultural or aquatic commodities, agricultural inputs or any other thing, as is required or authorized under this Act;
- (b) examining, testing or inspecting of premises, facilities, equipment or conveyances, as is required or authorized under this Act; and
- (c) the detaining, seizing, confiscating, forfeiture, removal, disposal or return of food, agricultural or aquatic commodities, agricultural inputs, equipment or conveyance or any other thing, as is required or authorized under this Act. 2001, c. 20, s. 51 (2).

**Responsibility for costs**

(3) The reasonable costs of doing a thing described in subsection (2) in respect of a premises are recoverable jointly and severally from the owner of the premises and the person who had the possession, care or control of it immediately before the doing of the thing. 2001, c. 20, s. 51 (3).

**Same, food, etc.**

(4) The reasonable costs of doing a thing described in subsection (2) in respect of food, an agricultural or aquatic commodity, an agricultural input, equipment or a conveyance or any other thing are recoverable jointly and severally from the owner of the premises and the person who had the possession, care or control of it immediately before the doing of the thing. 2001, c. 20, s. 51 (4).

**Withholding service**

(5) The Minister may withhold any service that is connected with the administration and enforcement of this Act and that relates to the person if the person has not paid in full all costs that the person is required to pay under this section. 2001, c. 20, s. 51 (5).

**Regulations**

(6) The Minister may make regulations,

- (a) requiring that a person who, under this section, is required to pay the costs that a delegate incurs in administering and enforcing designated legislation and that are specified in the regulations shall pay them to the delegate to whom the administration and enforcement of the designated legislation is delegated;
- (b) requiring a delegate who receives money described in clause (a) to use it to reimburse itself for the costs described in that clause and requiring that the delegate pay all amounts that are not required for the purpose of that reimbursement to the Minister. 2001, c. 20, s. 51 (6).

**Minister's regulations**

**52** The Minister may make regulations,

- (a) prescribing fees described as fees prescribed by the Minister;
- (b) requiring a person to pay fees to reimburse the Ministry for its reasonable costs of providing any service or doing any thing that is connected with the administration and enforcement of this Act and that relates to the person;
- (c) requiring a person to pay fees for the issuance or renewal of a certificate or permit;
- (d) establishing the amount of the fees mentioned in clause (a), (b) or (c) and the manner and time in which the person is required to make payment of those fees;
- (e) requiring a person to pay interest in the amount specified by the Minister on the amount of fees mentioned in clause (a), (b) or (c) that a person is required to pay under that clause and fails to pay as required;
- (f) authorizing the Ministry to withhold any service that is connected with the administration and enforcement of this Act and that relates to the person if the person has not paid in full all fees and amounts of interest that the person is required to pay under this section;
- (g) requiring that a person, who is required to pay the fees that are mentioned in clause (a), (b) or (c) in respect of designated legislation and that are specified in the regulations, shall pay them to the delegate to whom the administration and enforcement of the designated legislation is delegated;
- (h) specifying the purposes for which the delegate described in clause (g) may use the fees described in that clause and requiring that the delegate pay all amounts that are not required for the specified purposes to the Minister or a separate account in the Consolidated Revenue Fund established by a regulation made under clause 53 (n). 2001, c. 20, s. 52.

**LG in C regulations**

**53** The Lieutenant Governor in Council may make regulations,

- (a) prescribing, specifying or designating anything that is described as prescribed, specified or designated in the regulations or described as prepared or done in accordance with the regulations, except for matters that are described as prescribed by the Minister;
- (b) exempting persons or classes of persons from the requirement to have a licence in the circumstances, if any, specified in the regulations and specifying conditions that attach to the exemptions;

- (c) authorizing directors to appoint other officials to assist the director in exercising powers or carrying out duties under this Act and specifying the powers and duties of those officials;
- (d) continuing, with the modifications specified in the regulations, as a licence or certificate under this Act, a licence or certificate issued under any Act that authorizes a person to carry on a regulatable activity;
- (e) specifying criteria that an applicant is required to meet in order to be eligible for the issuance or renewal of a licence;
- (f) specifying conditions that a director may impose on a licence;
- (g) governing the procedure for persons to follow, in addition to the requirements of this Act, with respect to the issuance or renewal of a licence, the refusal to issue or renew a licence, the suspension or revocation of a licence or the conduct of a hearing under this Act;
- (h) requiring applicants for a licence or licensees to post a performance bond or whatever other form of financial security the director requires as a condition for obtaining and holding a licence and governing the rights and obligations of the parties to that financial security;
- (i) specifying powers and duties of directors and inspectors, in addition to those specified in this Act;
- (j) governing the procedure for the following persons to follow, in addition to the requirements of this Act, with respect to exercising their powers under this Act:
  - (i) officials appointed by a regulation made under clause (c),
  - (ii) persons, organizations and facilities designated or approved by a regulation made under clause 12 (z.1),
  - (iii) inspectors,
  - (iv) persons assisting inspectors in exercising powers under any of sections 15 to 25 and 36 and persons designated by a regulation made under clause (k);
- (k) designating persons who are not inspectors and who are to have those powers of an inspector that are specified in the regulations;
- (l) prohibiting persons from interfering in any way specified in the regulations with,
  - (i) any other person who is exercising powers or carrying out duties under this Act, or
  - (ii) any activity that is being carried out in accordance with this Act or the regulations or any thing used in or related to that activity;
- (m) establishing a separate account in the Consolidated Revenue Fund, requiring the payment of administrative penalties under section 41 into that fund and governing the use of that fund for the payment or reimbursement of expenses incurred by the Minister in connection with the administration and enforcement of this Act;
- (n) establishing a separate account in the Consolidated Revenue Fund, requiring the payment of the fees described in section 52 into that fund and governing the use of that fund for the payment or reimbursement of expenses incurred by the Minister in connection with the administration and enforcement of this Act;
- (o) specifying the manner of serving any thing that this Act requires to be served on any person and specifying the time at which the service shall be deemed to have been made;
- (p) defining, for the purposes of this Act and the regulations, any word or expression used in this Act that has not already been expressly defined in this Act;
- (q) exempting persons, activities, matters, things or any class of them from any provision of this Act or the regulations in the circumstances, if any, specified in the regulations and specifying conditions that attach to the exemptions. 2001, c. 20, s. 53.

#### **Powers in regulations**

**54** (1) A regulation may be general or particular in its application, may be limited as to time or place or both and may exclude any place from the application of the regulation. 2001, c. 20, s. 54 (1).

#### **Classes**

(2) A regulation may apply in respect of any class of activity, matter, person or thing. 2001, c. 20, s. 54 (2).

## **Same**

(3) A class under this Act or the regulations may be defined with respect to any attribute, quality or characteristic or combination of those items and may be defined to consist of or to include or exclude any specified member, whether or not with the same attributes, qualities or characteristics. 2001, c. 20, s. 54 (3).

## **Adoption of instruments**

(4) A regulation may adopt by reference, in whole or in part, with the changes that the Lieutenant Governor in Council considers necessary, any Act, regulation, law, code, formula, standard, guideline, protocol or procedure, and may require compliance with any Act, regulation, law, code, formula, standard, guideline, protocol or procedure so adopted. 2001, c. 20, s. 54 (4).

## **Source of instruments**

(5) An Act, regulation, law, code, formula, standard, guideline, protocol or procedure adopted under subsection (4) may be an Act, regulation, law, code, formula, standard, guideline, protocol or procedure from any source, including Canada, any province or territory of Canada or any other jurisdiction or any government, person or organization in Canada, any province or territory of Canada or any other jurisdiction. 2001, c. 20, s. 54 (5).

## **Amendments to instruments**

(6) The power to adopt by reference and require compliance with an Act, regulation, law, code, formula, standard, guideline, protocol or procedure in subsection (4) includes the power to adopt an Act, regulation, law, code, formula, standard, guideline, protocol or procedure as it may be amended from time to time after the adopting regulation is made. 2001, c. 20, s. 54 (6).

## **Review of this Act**

**55** The Minister may conduct a review of this Act after three years have passed since the day this section comes into force. 2001, c. 20, s. 55.

**56., 57** OMITTED (AMENDS OR REPEALS OTHER ACTS). 2001, c. 20, ss. 56, 57.

**58** REPEALED. See: Table of Public Statute Provisions Repealed Under Section 10.1 of the *Legislation Act, 2006* - December 31, 2011.

## **Section Amendments with date in force (d/m/y)**

Table of Public Statute Provisions Repealed Under Section 10.1 of the *Legislation Act, 2006* - 31/12/2011

**59** OMITTED (AMENDS OR REPEALS OTHER ACTS). 2001, c. 20, s. 59.

**60** REPEALED. See: Table of Public Statute Provisions Repealed Under Section 10.1 of the *Legislation Act, 2006* - December 31, 2011.

## **Section Amendments with date in force (d/m/y)**

Table of Public Statute Provisions Repealed Under Section 10.1 of the *Legislation Act, 2006* - 31/12/2011

**61** OMITTED (PROVIDES FOR COMING INTO FORCE OF PROVISIONS OF THIS ACT). 2001, c. 20, s. 61; 2002, c. 35, s. 1; 2004, c. 4, s. 1.

## **Section Amendments with date in force (d/m/y)**

2002, c. 35, s. 1 - 13/12/2002

2004, c. 4, s. 1 - 20/05/2004

**62** OMITTED (ENACTS SHORT TITLE OF THIS ACT). 2001, c. 20, s. 62.

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