

# **Hazardous Products Act**

## **CHAPTER H-3**

An Act to prohibit the advertising, sale and importation of hazardous products

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“controlled product” means any product, material or substance specified by the regulations made pursuant to paragraph 15(1)(a) to be included in any of the classes listed in Schedule II;

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## PART II CONTROLLED PRODUCTS

### *Interpretation*

#### Definitions

11. (1) In this Part,

"bulk shipment" « <i>expédition en vrac</i> »	"bulk shipment" has the meaning assigned by regulation;
"container" « <i>contenant</i> »	"container" includes a bag, barrel, bottle, box, can, cylinder, drum or similar package or receptacle but does not include a storage tank;
"hazard symbol" « <i>signal de danger</i> »	"hazard symbol" includes any design, mark, pictogram, sign, letter, word, number, abbreviation or any combination thereof that is to be displayed on a controlled product, or a container in which a controlled product is packaged, in order to show the nature of the hazard of the controlled product;
"hazardous waste" « <i>résidu dangereux</i> »	"hazardous waste" has the meaning assigned by regulation;
"Ingredient Disclosure List" « <i>liste de divulgation des ingrédients</i> »	"Ingredient Disclosure List" means the Ingredient Disclosure List established by the Governor in Council pursuant to subsection 17(1);
"label" <i>Version anglaise seulement</i>	"label" includes any mark, sign, device, stamp, seal, sticker, ticket, tag or wrapper;
"manufactured article" « <i>article manufacturé</i> »	"manufactured article" means any article that is formed to a specific shape or design during manufacture, the intended use of which when in that form is dependent in whole or in part on its shape or design, and that, under normal conditions of use, will not release or otherwise cause a person to be exposed to a controlled product;
"material safety data sheet" « <i>fiche signalétique</i> »	"material safety data sheet" means a document on which words, figures or symbols disclosing the information referred to in subparagraphs 13(a)(i) to (v) may be written, printed or otherwise expressed;
"prescribed" <i>Version anglaise seulement</i>	"prescribed" means prescribed by regulation;
"regulation" « <i>règlement</i> »	"regulation" means a regulation made pursuant to subsection 15(1);
"supplier" « <i>fournisseur</i> »	"supplier" means a person who is a manufacturer, processor or packager of a controlled product or a person who, in the course of business, imports or sells controlled products;
"transmit" <i>Version anglaise seulement</i>	"transmit" means to send or convey by any physical, electronic, optical or other means;
"work place" « <i>lieu de travail</i> »	"work place" has the meaning assigned by regulation.

#### Definition of "applied"

(2) For the purposes of this Part, a label is applied to a controlled product or container in which a controlled product is packaged if the label is attached to, imprinted on, stencilled on or embossed on the controlled product or container or, in the case of a bulk shipment of a controlled product, is included with or caused to accompany the bulk shipment in the manner prescribed.

R.S., 1985, c. H-3, s. 11; R.S., 1985, c. 24 (3rd Supp.), s. 1; 1999, c. 31, s. 127(E).

### *Application*

#### Restrictions on application

12. This Part does not apply in respect of the sale or importation of any

- (a) explosive within the meaning of the *Explosives Act*;
- (b) cosmetic, device, drug or food within the meaning of the *Food and Drugs Act*;
- (c) control product within the meaning of the *Pest Control Products Act*;
- (d) nuclear substance, within the meaning of the *Nuclear Safety and Control Act*, that is radioactive;
- (e) hazardous waste;
- (f) product, material or substance included in Part II of Schedule I and packaged as a consumer product;
- (g) wood or product made of wood;
- (h) tobacco or a tobacco product as defined in section 2 of the *Tobacco Act*; or
- (i) manufactured article.

R.S., 1985, c. H-3, s. 12; R.S., 1985, c. 24 (3rd Supp.), s. 1; 1997, c. 9, s. 105, c. 13, s. 62.

#### *Prohibitions*

Prohibition re sale

**13.** Subject to the *Hazardous Materials Information Review Act*, no supplier shall sell to any person a controlled product intended for use in a work place in Canada unless

(a) on the sale of the controlled product, the supplier transmits to that person a material safety data sheet with respect to the controlled product that discloses the following information, namely,

(i) where the controlled product is a pure substance, the chemical identity of the controlled product and, where the controlled product is not a pure substance, the chemical identity of any ingredient thereof that is a controlled product and the concentration of that ingredient,

(ii) where the controlled product contains an ingredient that is included in the Ingredient Disclosure List and the ingredient is in a concentration that is equal to or greater than the concentration specified in the Ingredient Disclosure List for that ingredient, the chemical identity and concentration of that ingredient,

(iii) the chemical identity of any ingredient thereof that the supplier believes on reasonable grounds may be harmful to any person and the concentration of that ingredient,

(iv) the chemical identity of any ingredient thereof the toxicological properties of which are not known to the supplier and the concentration of that ingredient, and

(v) such other information with respect to the controlled product as may be prescribed; and

(b) the controlled product or container in which the controlled product is packaged has applied to it a label that discloses prescribed information and has displayed on it all applicable prescribed hazard symbols.

R.S., 1985, c. H-3, s. 13; R.S., 1985, c. 24 (3rd Supp.), s. 1; 1999, c. 31, s. 128(F).

Prohibition re

**14.** Subject to the *Hazardous Materials Information Review Act*, no supplier shall

importation

import a controlled product intended for use in a work place in Canada unless

(a) the supplier obtains or prepares, on the importation of the controlled product, a material safety data sheet with respect to the controlled product that discloses the information referred to in subparagraphs 13(a)(i) to (v) and keeps the material safety data sheet available for such purposes as may be prescribed; and

(b) the controlled product or container in which the controlled product is packaged has applied to it a label that discloses prescribed information and has displayed on it all applicable prescribed hazard symbols.

R.S., 1985, c. H-3, s. 14; R.S., 1985, c. 24 (3rd Supp.), s. 1.

### *Regulations*

Regulations

**15.** (1) Subject to section 19, the Governor in Council may make regulations

(a) specifying, for each class listed in Schedule II, products, materials and substances to be included in that class;

(b) establishing, for any class listed in Schedule II, divisions or subdivisions of that class and specifying, for each controlled product included in that class, the division or subdivision into which it falls;

(c) prescribing information to be disclosed on a material safety data sheet or label;

(d) prescribing the form and manner in which information shall be disclosed on a label and the manner in which a label shall be applied to a controlled product or container in which a controlled product is packaged;

(e) prescribing hazard symbols and the manner in which hazard symbols shall be displayed on a controlled product or container in which a controlled product is packaged;

(f) exempting from the application of this Part and the regulations or any provision thereof, on such terms and conditions as may be specified in the regulations, the sale or importation of controlled products in such quantities or concentrations, in such circumstances, at such places, premises or facilities, for such purposes or in such containers as are specified in the regulations;

(g) prescribing the manner of determining any quantities or concentrations of controlled products exempted pursuant to any regulation made under paragraph (f);

(h) prescribing circumstances in which, for the purposes of paragraphs 13(a) and 14(a), a material safety data sheet may disclose, in lieu of the concentration of an ingredient of a controlled product, a range of concentration within which the concentration falls and prescribing the range of concentration that shall be disclosed on the material safety data sheet in such circumstances;

(i) defining the expressions "bulk shipment", "hazardous waste" and "work place" for the purposes of this Part;

(j) requiring any supplier who sells or imports a controlled product intended for use in a work place in Canada to provide, as soon as is practicable in the circumstances, any information referred to in paragraph 13(a) that is in the supplier's possession to any physician or other medical professional specified in the regulations who requests that information for the purpose of making a medical diagnosis of, or rendering medical treatment to, a person in an emergency;

(k) requiring any physician or medical professional to whom information is provided by a supplier pursuant to any regulation made under paragraph (j) to

keep confidential any information specified by the supplier as being confidential, except for the purpose for which it is provided;

(l) subject to the *Hazardous Materials Information Review Act*, requiring any supplier who sells or imports a controlled product intended for use in a work place in Canada to identify, as soon as is practicable in the circumstances, on request of any person within a class of persons specified in the regulations, the source of information for any toxicological data used in the preparation of any material safety data sheet that has been transmitted to any person by the supplier pursuant to paragraph 13(a) or has been obtained or prepared by the supplier pursuant to paragraph 14(a);

(m) prescribing any other matter or thing that by this Part is to be or may be prescribed; and

(n) generally for carrying out the purposes and provisions of this Part.

For greater certainty

(2) For greater certainty, a regulation made pursuant to paragraph (1)(a) may describe a product, material or substance specified thereby to be included in a class listed in Schedule II by reference to any properties or characteristics of the product, material or substance or by reference to any other criteria and any product, material or substance that has those properties or characteristics or meets those criteria shall, for the purposes of this Act, be deemed to have been included in that class by the regulation.

Incorporation by reference

(3) A regulation made pursuant to subsection (1) incorporating a law, standard or specification by reference may incorporate that law, standard or specification as amended from time to time.

R.S., 1985, c. H-3, s. 15; R.S., 1985, c. 24 (3rd Supp.), s. 1; 1999, c. 31, s. 129.

Disclosure of generic chemical identity

16. Where, pursuant to the *Hazardous Materials Information Review Act*, a supplier is exempt from disclosing on a material safety data sheet or label the chemical identity of a controlled product or the chemical identity of any ingredient of a controlled product, the supplier shall disclose on the material safety data sheet or label the generic chemical identity of the controlled product or ingredient with as much precision as is consistent with the exemption.

R.S., 1985, c. H-3, s. 16; R.S., 1985, c. 24 (3rd Supp.), s. 1.

#### *Ingredient Disclosure List*

Ingredient Disclosure List

17. (1) Subject to section 19, the Governor in Council may, by order,

(a) establish a list, to be known as the Ingredient Disclosure List, of products, materials and substances, any of which may be an ingredient of a controlled product; and

(b) specify, for the purposes of paragraphs 13(a) and 14(a), a concentration for each product, material or substance included in the list.

Additions, etc.

(2) Subject to section 19, the Governor in Council may, by order, amend the Ingredient Disclosure List

(a) by adding thereto any product, material or substance;

(b) by specifying, for the purposes of paragraphs 13(a) and 14(a), a concentration for each product, material or substance added thereto pursuant to paragraph (a); and

(c) by substituting a concentration for a concentration specified for any product, material or substance included therein.

Deletions

(3) Subject to section 19, the Governor in Council may, by order, amend the Ingredient Disclosure List by deleting therefrom any product, material or substance, and the concentration specified for that product, material or substance, if the Governor in Council is satisfied that the inclusion of the product, material or substance in the Ingredient Disclosure List is no longer necessary.

Criteria

(4) The Governor in Council shall, in making any order pursuant to subsection (1), (2) or (3), be guided by the health and safety criteria for ingredient disclosure established by the Minister after consultation by the Minister with the government of each province and with such organizations representative of workers, organizations representative of employers and organizations representative of suppliers as the Minister deems appropriate.

R.S., 1985, c. H-3, s. 17; R.S., 1985, c. 24 (3rd Supp.), s. 1.

#### *Amendments to Schedule II*

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Schedule II

**18.** (1) Subject to section 19, the Governor in Council may, by order, amend Schedule II.

Tabling of orders

(2) The Minister shall cause a copy of each order made pursuant to subsection (1) to be laid before each House of Parliament on any of the first fifteen days on which that House is sitting after the day the order is made.

Revocation of order  
by resolution

(3) If both Houses of Parliament resolve that an order or any part of an order made pursuant to subsection (1) should be revoked, the order or that part thereof is thereupon revoked.

R.S., 1985, c. H-3, s. 18; R.S., 1985, c. 24 (3rd Supp.), s. 1.

#### *Consultation*

Consultation

**19.** A regulation under subsection 15(1) or an order under section 17 or 18 may be made by the Governor in Council only on the recommendation of the Minister made after consultation by the Minister with the government of each province and with such organizations representative of workers, organizations representative of employers and organizations representative of suppliers as the Minister deems appropriate.

R.S., 1985, c. H-3, s. 19; R.S., 1985, c. 24 (3rd Supp.), s. 1.

#### *Disclosure*

Minister's request for  
disclosure

**20.** (1) Where the Minister has reason to believe that a product, material or substance is a product, material or substance that may be included in a class listed in Schedule II by a regulation made pursuant to paragraph 15(1)(a), the Minister may, by registered mail, send a written notice to any person who is engaged in the business of manufacturing, processing, importing, packaging or selling the product, material or substance requesting the disclosure of information relating to the formula, composition, chemical ingredients or hazardous properties of the product, material or substance and such other information as the Minister deems necessary for the purpose of determining whether the product, material or substance is or may be a danger to the health or safety of any person who may handle it in a work place or be exposed to it in a work place.

Disclosure

(2) Every person to whom a notice referred to in subsection (1) is sent shall disclose to the Minister, in the manner and within the period specified by the Minister in the notice, any information described in that subsection that is requested in the notice and is in the possession of the person.

Information privileged

(3) Subject to subsection (4), information received by the Minister from a person pursuant to subsection (1) is privileged and, notwithstanding the *Access to Information Act* or any other Act or law, shall not be disclosed to any other person except as may be necessary for the administration or enforcement of this section or

for the purposes of section 15.

Idem

(4) The Minister shall not, when consulting with the government of a province or an organization of workers, organization of employers or organization of suppliers pursuant to section 19, for the purposes of section 15, disclose the name of any person from whom the Minister has received information pursuant to subsection (1) or any of such information that is specified, in writing, by the person as being confidential.

R.S., 1985, c. H-3, s. 20; R.S., 1985, c. 24 (3rd Supp.), s. 1.

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## SCHEDULE II

*(Section 2)*

Class A - Compressed Gas

Class B - Flammable and Combustible Material

Class C - Oxidizing Material

Class D - Poisonous and Infectious Material

Class E - Corrosive Material

Class F - Dangerously Reactive Material

R.S., 1985, c. 24 (3rd Supp.), s. 2.